

RITES LIMITED
(A Government of India Enterprise)

GUIDELINES ON EMPANELMENT AND APPOINTMENT OF ARBITRATORS

1.0 Empanelment

1.1. There will be two lists of empanelled arbitrators:

- a) RITES' serving officers/ retired officers and
- b) Those having no relationship with RITES, which will include the following categories:
 - i) Retired officers of Central/State Government of the rank of Joint Secretary and above having worked for a period of 5 years as Joint Secretary and having experience of works/large contracts/arbitration;
 - ii) Retired officers of Central or State PSEs having technical/Engineering background (other than RITES) ;
 - iii) Retired Judicial Officers having served in the Higher Judiciary atleast for a period of 5 years;

1.2. Eligibility –

- a. For empanelment on the panel, RITES serving officers must be of GM level (E8) or higher. In case of RITES retired officers, they must have retired from a post of ED level (E9) or above.
- b. In case of retired officers of Central / State Government they should have worked for a period of 5 years as Joint Secretary and
- c. In case of retired officers Central/State PSEs (other than RITES), they should have retired from a post of SAG / E8 level or higher and should have served for minimum of 5 years in SAG / E8 or higher level.
- d. In case of Retired Judicial Officers, they should have served in the Higher Judiciary at least for a period of 5 years.

1.3. No vigilance / disciplinary case should be pending against the serving officers at the time of submission of application for empanelment. In case of retired officers, no vigilance / disciplinary case should be pending against them at the time of superannuation.

1.4. No penalty should have been imposed on the applicant in any vigilance / disciplinary case during past 5 years.

1.5. In case of retired applicants, they should not be employed / engaged on full time basis anywhere at the time of application.

1.6. Such empanelled persons shall be allowed to be on RITES panel upto 70 years of age only. Therefore, the applicant should be less than 70 years of age as on 31.12.2017.

1.7. The applicant should be physically and mentally fit to act as arbitrator.

- 1.8. The applicant should not have been convicted or facing criminal prosecution and should not have been declared insolvent.

2.0 Methodology of Empanelment

- 2.1. The exercise of review of empanelment of arbitrators shall be done annually at the beginning of a calendar year.
- 2.2. The empanelment shall be valid for a period not exceeding three years or till attainment of the age of superannuation (in the case of serving officers) and 70 years in case of retirees, whichever happens first.
- 2.3. After expiry of three years of empanelment, the empanelled persons shall apply for renewal of empanelment by submitting a fresh application.
- 2.4. In case of RITES serving officers, applications shall be invited in the prescribed format from willing and eligible officers through Employees Portal. In case of others, a brief press advertisement shall be given in prominent dailies inviting applications for empanelment in the prescribed format which along with terms and conditions and guidelines will be available on RITES website under the tab 'Tenders'.
- 2.5. The completed applications shall be received by AGM (Legal), RITES Ltd. upto 5.00 PM on the date specified in the press advertisement.
- 2.6. A Screening Committee comprising two EDs and AGM (Legal) shall be constituted with the approval of the CMD RITES for opening and scrutiny of all applications including the applications of RITES serving / retired officers. The Screening Committee shall submit its report / recommendations to the Director (Projects). Director (Projects) shall examine the committee's report / recommendations and make final recommendations to the CMD RITES for his approval. The panel shall be formed with the approval of the CMD. Both lists in the approved panel of arbitrators viz., (a) RITES serving / retired officers and (b) others, shall be displayed on RITES website.
- 2.7. The empanelment is solely at the discretion of RITES and mere submission of the application does not confer any right upon the applicant to be empanelled. The applicant may or may not be empanelled and the present communication is merely an 'Invitation to an Offer'.
- 2.8. Mere empanelment does not confer any right to be assigned any case, which shall be at the sole discretion of RITES and it may or may not assign any case at all to the person empanelled.
- 2.9. Preference will be given to the candidates having technical/Engineering background except where the issue involved is legal or any other matters.

3.0 Allocation of Conciliation / Arbitration Cases

3.1 Conciliation

- i. In accordance with terms and conditions of the contract, the Appointing Authority shall constitute an Expert Committee (EC) for conciliation comprising three members from amongst the empanelled arbitrators. The Appointing Authority shall consider expertise / experience of the empanelled arbitrators while nominating them to the EC to conduct conciliation proceedings.
- ii. The conciliation proceedings shall be carried out by the EC in accordance with the contract and its recommendations submitted to the Appointing Authority about possibility of a settlement agreement under Section 73 of the Arbitration and Conciliation Act, 1996.
- iii. Generally not more than two cases (conciliation + arbitration) shall be allocated to the empanelled persons in one calendar year.

3.2 Arbitration

- i. Appointment of Arbitrator where applicability of Section 12 (5) of Arbitration and Conciliation Act. has been waived off:
 - In cases where the total value of all claims added together does not exceed Rs. 10,00,00,000/- (Rupees Ten Crore only), the Appointing Authority, in accordance with the contract, shall appoint a Sole Arbitrator from the panel who shall be a serving Officer of RITES.
 - In cases where the total value of all claims added together exceeds Rs. 10,00,00,000/- (Rupees Ten Crore only), the Appointing Authority shall constitute an Arbitral Tribunal consisting of a panel of three serving officers of RITES or two serving Officers and a retired Officer of RITES, as per terms of the contract.
 - While nominating the empanelled arbitrators as members of the Arbitral Tribunal, the appointing authority shall give due consideration to expertise / experience of empanelled persons and the nature of disputes
- ii. Appointment of Arbitrator where applicability of section 12 (5) of A&C Act has not been waived off:
 - The Appointing Authority, in terms of the contract, shall constitute an Arbitral Tribunal consisting of three arbitrators from amongst the officers retired from Central/State Government or a Central PSE (other than RITES Ltd.) empanelled in RITES as arbitrators.
 - While nominating the empanelled arbitrators as members of the Arbitral Tribunal, the appointing authority shall give due consideration to expertise / experience of empanelled persons and the nature of disputes.
 - Generally not more than two cases (conciliation + arbitration) shall be allocated to the empanelled persons in one calendar year.
- iii. If the arbitration proceedings are not completed within the stipulated time by an Arbitrator / Arbitral Tribunal without sufficient reasons, the Appointing Authority shall have the right to transfer the case to any other Arbitrator / Arbitral Tribunal and/or forfeit the remaining fee. In such cases, CMD RITES may remove such Arbitrator(s) from its panel.

- iv. Arbitral proceedings are adjudicative proceedings and it is important that Arbitrators perform their functions with utmost honesty, integrity and in the most unbiased, impartial and legitimate manner following the principles of natural justice. Therefore, if the Appointing Authority has strong reasons to believe that the proceedings are not being conducted in unbiased, impartial or legitimate manner then such Appointing Authority shall have the right to transfer the case to any other Arbitrator and / or forfeit the remaining fee. In such cases, CMD RITES may remove such Arbitrator(s) from its panel.
- v. The Appointing Authority shall also have the right to transfer the case to any other Arbitrator and / or forfeit the remaining fee if at any stage it is revealed that the applicant has knowingly submitted a false declaration in his / her application for empanelment as Arbitrator in RITES. In such cases, CMD RITES may remove such Arbitrator(s) from its panel.
- vi. In cases covered in sub-paras (iii), (iv) and (v) above, the Arbitrator shall be liable to return all records pertaining to arbitration proceedings before him / her to RITES.
- vii. The Arbitrator is required to publish the award within one year of the date of his / her appointment in the case.
- viii. The venue of arbitration shall be indicated in the letter appointing the Arbitrator. The Arbitrator may also, with the consent of the parties, carry out arbitration proceedings at his premises. However, RITES shall not bear any expenses in this regard.

4.0 Payment Terms

4.1 Fees and facilities to the EC Members

EC members shall be entitled for the following fees and facilities (All the expenditure incurred in the EC proceedings shall be shared by the Parties in equal proportions. The parties shall maintain account of expenditure and present to the other for the purpose of sharing on conclusion of the EC proceedings) :

Sl. No	Fees/ Facility	Entitlement
1.	Fees (for one member)	Rs. 10,000 per meeting subject to maximum of Rs. 2,00,000 for the whole project. In addition, the Presiding Member shall be paid an additional amount of Rs. 2000/- per meeting towards secretarial expenses in writing minutes / EC recommendations.
2.	Transportation in the city of the meeting	Car as per actual on certification basis subject to a maximum of Rs.2000/- per meeting.
3.	Venue for meeting	RITES conference rooms/Hotels
4.	Facilities to be provided to the out - stationed member -	

4(i)	Travel from the city of residence to the city of meeting	Economy class air tickets/ A.C first class train tickets/ Luxury car/ reimbursement of actual fare.
4(ii).	Transport to and fro airport / railway station in the city of residence	Car as per actual.
4(iii)	Stay for out stationed members	4 Star Hotel.
4(iv)	Transport in the city of meeting	Car as per actual.

4.2 Fees and facilities to Arbitrators

4.2.1 The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include fee of the arbitrator(s) and expenses on facilities as per the following schedule and the fee shall be borne equally by both the parties. Notwithstanding anything contrary provided in any Act, Law or Agreement, the scale of Arbitrators' fee and expenses on facilities shall not exceed the following -

S. No	Particulars	Fee payable per Arbitrator per case
1	Arbitrator's fee	Rs.20,000/- per day or Rs.10,000/- per half day subject to a maximum of Rs.3,00,000/- per case Notes: 1. The assessment of work shall be on the following basis : i. 'A day' means more than 2 1/2 hours continuous work on any date ii. 'A half day' means work of 2 1/2 hours or less on any date. iii. If two or more hearings of more than 2 1/2 hours continuous duration are held on any date, then the work shall be treated as equal to two days. 2. The above fee is for hearings and shall also apply to a maximum of three internal meetings held at RITES office by members of the Arbitral Tribunal for finalization of award without the presence of the parties involved.
2	Studying of documents	Rs. 50,000/-
3	Secretarial assistance and incidental charges (telephone, fax, postage etc.)	Rs. 25,000/-
4	Charges for publishing/ declaration of award/ settlement agreement	Rs. 20,000/-
5	Other expenses	(actuals against bills subject to the prescribed ceiling)

	i) Travelling Expenses for outstationed Arbitrators	Economy Class (by air), First Class AC (by train) and AC Car (by road)
	ii) Lodging and Boarding for outstationed Arbitrators	<p>a) Rs. 12,000/- per day of stay in hotel (in Metro cities)</p> <p>b) Rs. 8,000/- per day of stay in hotel (in other cities)</p> <p>c) Rs. 3000/- per day if any Arbitrator does not stay in hotel as mentioned in a) and b) above.</p> <p>Notes :</p> <p>1) Lodging, Boarding and Travel Expenses shall be allowed for those members who are residing 100 Kms or more from the place of meeting.</p> <p>2) Delhi, Mumbai, Chennai, Kolkata, Bangalore and Hyderabad shall be considered as Metro cities.</p>
6	Local Travel	Rs. 2000/- per day
7	Providing facilities of hearing rooms	To be arranged by Claimant / Respondent for alternate hearings

4.2.2 In case of a serving officer of RITES acting as arbitrator, the fee payable shall be 50% of the fee worked out at the above scale.

4.2.3 Further, the fee payable to the arbitrator (s) would be governed by the above schedule irrespective of the fact whether the arbitrator (s) is/are appointed by the Appointing Authority or by the court of law unless specifically directed by Hon'ble court otherwise on the matter.

4.2.4 Sole Arbitrator shall be entitled for 25% extra fee over the fee prescribed in the schedule given above.

4.2.5 Arbitrator tribunal shall be entitled to 25% extra fee if Award is decided within Six months of appointment.

5.0 General

5.1 These guidelines shall be binding on the empanelled Arbitrators.

5.2 The provisions of Arbitration and Conciliation Act, 1996 as amended upto date, shall be followed in conduct of all arbitral proceedings unless otherwise provided in the contract.

5.3 The fee shall be paid to the concerned Arbitrator as per above schedule only and application should be submitted only if the applicant is agreeable to the schedule mentioned above.

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**APPLICATION FOR EMPANELMENT AS
ARBITRATORS/CONCILIATORS**
(Applicable only to BITES Serving/Retd. Employees)

1. Name
2. Date of Birth
3. Present Designation
4. Address
 - a) Present Office Address with PIN Code
 - b) Present Residential Address with PIN Code
 - c) Permanent Residential Address with PIN Code
 - d) Telephone
 - e) Telefax
 - f) E-mail
5. Educational Qualifications, Degree Level and above

S.No.	Degree	Institution/University	Year of Passing

6. Present Post Held

7. Details of Posts Held for the Last 07 Years -

S. No.	Post Held	From	To	Place of Posting

8. Specialization / Area of Experience

S.No	Field of Specialization /Experience - Procurement/Civil /Electrical/ Mechanical/ Signalling/Law/Finance	Number of Years	Designation / Level	Main Responsibilities

9. Experience in Arbitration

Please indicate the number of arbitration cases in which you have acted as

	Chairman of Arbitral Tribunal	Sole Arbitrator	Co Arbitrator	Claimant / Respondent	Other
Institutional Domestic Arbitration					
Ad-hoc Domestic Arbitration					

10. Other alternative dispute resolution (ADR) experience including Mediation / Conciliation etc.

11. I hereby declare that -

- i. I am in good physical and mental health to carry out arbitration work.
- ii. I submit that there is no vigilance/disciplinary case pending or contemplated against me at present
- iii. No penalty has ever been imposed against me in any vigilance/disciplinary case during my entire career.
- iv. In case I am empanelled in RITES Ltd. and if I wish to resign from RITES panel or to take any job/employment elsewhere, I will intimate the CMD RITES Ltd. atleast one month in advance before taking such employment or resigning.
- v. I also undertake to return all the records pertaining to matters pending before me to the Appointing Authority on transfer of any case from me to any other arbitrator , my resignation from the panel of RITES or on my removal from RITES panel of arbitrators.
- vi. The information given above is true to the best of my knowledge and belief.
- vii. In case the information given by me in the application is found to be false, my empanelment will be liable to be terminated and fee, if any, payable to me will be liable to be forfeited.
- viii. I hereby unconditionally agree to abide by the fee structure and other terms and conditions of RITES guidelines on empanelment and appointment of arbitrators.

Date

Signature

Place

Name

RITES LIMITED
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APPLICATION FOR EMPANELMENT AS
ARBITRATORS/CONCILIATORS

Applications on prescribed format are invited from retired officers of Central/State Government or Central PSEs not below the rank of SAG/E8 officer who should have served for 5 years or more in SAG/E8 or higher grade, for empanelment with RITES as an Arbitrator/Conciliator. The format of application and other terms and conditions may be downloaded from RITES website www.rites.com under 'Tenders'/'Careers' Completed applications shall be received upto 5.00 pm on 19.01.2018 by AGM (Legal), RITES Bhawan, Plot No.1, Sector 29, Gurgaon-122001, Haryana.

Amendments/Corrigendum, if any, would be hosted on the website only.

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APPLICATION FOR EMPANELMENT AS
ARBITRATOR/CONCILIATOR

1. Name
2. Date of Birth (Please attach proof)
3. Address
 - a) Permanent Residential Address with PIN Code

 - b) Telephone
 - c) Telefax
 - d) E-mail
4. Educational Qualifications, Degree Level and above (Please attach copy of certificate/degree)

S.No.	Degree	Institution/University	Year of Passing

5. Grade at the Time of Retirement (Please attach copy of Retirement Order)

6. Last Post Held

7. Details of Posts Held for the Last 07 Years Preceding Retirement -

S. No.	Post Held	From	To	Employer	Place of Posting

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8. Specialization / Area of Experience

S.No	Field of Specialization /Experience - Procurement/Civil /Electrical/ Mechanical/ Signalling/Law/Finance	Number of Years	Designation / Level	Main Responsibilities

9. Experience in Arbitration

Please indicate the number of arbitration cases in which you have acted as

	Chairman of Arbitral Tribunal	Sole Arbitrator	Co Arbitrator	Party's Counsel	Other
International Institutional Arbitration					
International Ad-hoc Arbitration					
Institutional Domestic Arbitration					
Ad-hoc Domestic Arbitration					

10. Other alternative dispute resolution (ADR) experience including Mediation / Conciliation etc.

11. I hereby declare that -

- i. I am in good physical and mental health to carry out arbitration work.

- ii. I have retired on superannuation from (Name of organization) on(date).
- iii. I submit that there was no vigilance/disciplinary case pending against me at the time of my retirement and after retirement, no vigilance / criminal case has been contemplated against me.
- iv. No penalty was ever imposed against me in any vigilance/disciplinary case during my entire career.
- v. Presently, I am not employed anywhere on full time basis.
- vi. In case I am empanelled in RITES Ltd. and if I wish to resign from RITES panel or to take any job/employment elsewhere, I will intimate the CMD Rites Ltd. atleast one month in advance before taking such employment or resigning.
- vii. I also undertake to return all the record pertaining to matters pending before me to the Appointing Authority on transfer of any case from me to any other arbitrator , my resignation from the panel of RITES or on my removal from RITES panel of arbitrators.
- viii. The information given above is true to the best of my knowledge and belief.
- ix. In case the information given by me in the application is found to be false, my empanelment will be liable to be terminated and fee, if any, payable to me will be liable to be forfeited.
- x. I hereby unconditionally agree to abide by the fee structure and other terms and conditions of RITES guidelines on empanelment and appointment of arbitrators.

Date

Signature

Place

Name