



ICDR® Guidelines on the use of Arbitral Tribunal Secretaries

Introduction

These guidelines are intended to aid the parties, their counsel, and the arbitrators in determining what duties are appropriate for a tribunal secretary to perform. However, the appointment of arbitral tribunal secretaries should be limited to suitable cases, particularly complex proceedings where the use of the tribunal secretary would improve the arbitration process and lower costs. The exercise of decision-making authority is in all cases reserved for arbitrators and may not be delegated to a tribunal secretary.

The International Centre for Dispute Resolution® (ICDR) of the American Arbitration Association® (AAA®) is committed to the principle that international commercial arbitration should be conducted with a view to maintaining a fair dispute resolution process characterized by efficiency and economy. In preparing these guidelines, the ICDR consulted with arbitrators, counsel, and case administrators from multiple jurisdictions, and also with persons who have served as tribunal secretaries, to capture the best practices in the field. Unless the parties agree otherwise in writing, these guidelines are effective in all cases administered by the ICDR, and may be adopted at the discretion of the tribunal and upon the agreement of the parties in any other cases.

Guidelines

- a. A tribunal secretary may be proposed for appointment for a particular case on the written request of the arbitral tribunal, and after consultation with the parties. All parties must agree to the appointment of a tribunal secretary and may confer with the Administrator regarding whether a tribunal secretary is appropriate for the case.
- b. Prior to the tribunal secretary's appointment, and as early in the process as possible, the arbitral tribunal shall provide the Administrator with the proposed tribunal secretary's role, curriculum vitae and rate of compensation. The parties may review and comment on any aspect of the proposed tribunal secretary's role, rate, and suitability for the case, to the Administrator, who may then consult with the arbitral tribunal.
- c. The tribunal secretary is bound by the same standards of ethical conduct, including disclosure, communication, and confidentiality obligations, which bind the arbitral tribunal under the applicable rules. The parties should be provided with the opportunity to review and comment on the disclosures made by the tribunal secretary. In the event any party objects to the appointment or continued service of a tribunal secretary as a result of a tribunal secretary's disclosure or potential conflict of interest, the Administrator shall make the determination as to whether the proposed candidate may serve. Any objection to the appointment or continued service of a tribunal secretary is to be made solely to the Administrator. If a tribunal secretary is removed or withdraws, the arbitral tribunal may recommend a replacement to the extent necessary.
- d. The tribunal secretary works under the supervision of, and may be dismissed by, the arbitral tribunal. The tribunal secretary's role does not duplicate or replace the responsibilities of the Administrator under the applicable rules and shall coordinate with the Administrator throughout the proceedings.



- e. The tribunal secretary has no decision-making authority. The tribunal secretary's role is to assist the arbitral tribunal with such tasks as scheduling and coordinating hearings, research, preparing and disseminating correspondence, and preparing documents for the arbitral tribunal's review and approval. The arbitral tribunal may invite the tribunal secretary to attend conferences, hearings, and tribunal deliberations. The arbitral tribunal may request the tribunal secretary to draft factual or procedural histories, summaries of the parties' positions, and procedural orders.
- f. The arbitral tribunal and tribunal secretary shall work together throughout the case to increase the efficiency and to reduce the aggregate cost of the arbitration. Invoices for tribunal secretaries must be sufficiently clear and detailed to show the specific amount of time and the nature of the work performed by the tribunal secretary. Unless otherwise agreed to by the parties, the compensation and expenses of the tribunal secretary will be shared by the parties on the same allocation as that of the arbitrators and may be similarly reallocated by the arbitral tribunal in its award. All billing and invoicing guidelines applicable to arbitrators shall also apply to any tribunal secretary.



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