

Airports Economic Regulatory Authority of India

No. AERA/Legal/Empanelment of Advocates/2015

Dated:15.10.2015

Advertisement/ Notice

The Airports Economic Regulatory Authority of India (AERA), a statutory body, intends to engage Advocates/ Law firms for representing AERA before different Courts and Tribunal, rendering legal advice, drafting and vetting of petitions, appeals, replies, etc.

The details and terms and conditions of engagement of Advocates/Law firms are contained in the Guidelines (Annexure) below, advertised on the website of AERA, www.aera.gov.in

Eligible and interested advocates/ law firms may send their applications in the proforma prescribed, to The Deputy Chief, Airports Economic Regulatory Authority of India, AERA Building, Administrative Complex, Safdarjung Complex, New Delhi-110003, within thirty days from the date of this Advertisement, i.e., latest by 16.11.2015.

Secretary
Airports Economic Regulatory Authority of India

NOTE: The existing panel of Advocates/ firms need to apply again in pursuance of this Notice/Advt.

ANNEXUREAIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA**Notice for Expression of Interest**

Subject: Empanelment of advocates/ law firms for representing and assisting the Authority before various Courts/ Tribunal etc. – regarding.

The Airports Economic Regulatory Authority of India (AERA) intends to engage Advocate(s)/Law Firm(s) for representing AERA before different Court(s)/Tribunal(s) for rendering legal advice, drafting of petitions, vetting of legal documents etc.

Interested Advocates/Law Firms may submit their application in the attached performa. The details and terms & conditions are as under:

1. General

For the purposes of these Guidelines, the terms used will have the following meaning:

- (i) 'Advocate' means an advocate, entered in any roll of advocates under the provisions of Advocates Act, 1961 (25 1961).
- (ii) The competent authority shall be the Authority or any officer so designated by the Authority.
- (iii) The court shall mean and include any tribunals including Airports Economic Regulatory Authority Appellate Tribunal (AERAAT), High Court, or Supreme Court.
- (iv) 'Effective Hearing' shall mean a hearing in which either one or both or all the parties involved in a case are heard by the court. If the case is only mentioned and adjourned or only directions are given or judgment is pronounced, it would not constitute an effective hearing for the purposes of these guidelines.
- (v) The term 'similar cases' shall mean two or more cases in which identical or substantially similar questions of law or facts are involved.

- (vi) In case of empanelment of Law Firms, all the terms and conditions for empanelment of the individual Advocates shall apply *mutatis mutandis* to them.
- (vii) If required and considered appropriate by the Competent Authority, Attorney General of India/Solicitor-General of India/Additional Solicitor General/Advocate General/Designated Senior Advocates may be engaged to argue the cases on behalf of the Authority keeping in view the urgency and importance of a particular matter. They shall be engaged on case to cases basis with the approval of the Competent Authority.

2. Tenure/terms of Empanelment

The initial empanelment of the Advocate(s)/Law Firm(s) will be for a period of three years. Performance of empanelled advocates shall be reviewed on annual basis. However, on completion of the term and satisfactory performance of the advocate, the empanelment may be renewed for a further period as the Authority may decide. The Authority reserves the right to terminate the empanelment of any Advocate(s)/Law Firm(s) at any time.

3. Eligibility for Empanelment

- (i) The Advocate(s)/Law Firm(s) should be familiar with various branches of law especially those concerning Constitutional law, Civil law, Commercial law, Economic laws, Corporate law, Aviation law and other relevant laws relating to regulation.
- (ii) The Advocates are required to have the minimum professional/court practice experience as under:
 - a) For empanelment for the Supreme Court of India.....15 yrs. experience in Supreme Court.
 - b) For empanelment for the High Court in India/ AERAAT.....10 yrs. experience in High Court.

For considering empanelment, generally those Advocates, who are regularly practising, including Advocates-on-Record of the Supreme Court and High Court, would be considered, if they are otherwise found to be competent and suitable.

However, the Competent Authority reserves the right to relax, any or all of the above conditions, at its discretion.

4. Payment of Fee and other Conditions

(i) The fee payable to the Advocate shall be governed by the Schedule of Fee structure given at **Appendix-1** attached with these guidelines as amended from time to time.

(ii) The advocate empanelled/ engaged may claim full fees for appearance only in cases of effective hearing. For non-effective hearing the Advocates shall be entitled for 1/4th of the fees.

(iii) For case listed before Registrar of Supreme Court and High Court, 1/4th of the fees will be paid, if the Advocate is required to appear.

(iv) Where two or more cases involving substantially identical or similar questions of law or facts, one of such cases will be treated as a lead case and others as identical/connected cases and the advocate/counsel shall be paid full fee for the main case and 10% of the fee of main case for each of the identical or similar/connected case, subject to a maximum of 10 cases only.

(v) When the case is listed for hearing but adjournment is sought by AERA, the Advocate will be entitle for 1/4th of the applicable fee only in one case, irrespective of the number of cases listed for hearing. No fee shall be payable if advance notice of adjournment is received. The fee payable for cases listed for notice or direction shall also be regulated in the similar manner.

(vi) The Advocate will be paid clerkage @ 10% only for effective hearing. The miscellaneous expenses such as typing, photocopy, etc. will be paid on actual basis.

(v) If a Senior Advocate or an Advocate is required to appear in an outstation court/ tribunal, the travelling, hotel and transport arrangement will be made by the Authority as under:

(a) for Senior Advocate – Journey by air (business class) or by train (first class). Boarding and lodging as applicable to the officer of the rank of Secretary to the Government of India.

(b) For other Advocates – Journey by air (Economy class) or by train (first class). Boarding and lodging as applicable to the officer of the rank of Joint Secretary to the Government of India.

(vi) The Competent Authority shall have the right in exceptional cases to order for payment of fee more than the fee mentioned in the schedule, keeping in view the importance of the matter and the labour and effort put in by the advocate in a particular case. It shall also have the power to fix the fee for eventualities which have

not been mentioned in the schedule or till the appropriate amendment is made in these guidelines by the Authority.

(vii) No retainer fee shall be paid to any panel Advocate/law firm merely because such advocate/firm has been empanelled.

5. Procedure for Empanelment

The Competent Authority will consider the bio-data for empanelment only on merit after due notice in this regard is published on the website of the Authority. While considering the request from the advocates, following points shall be considered:

- (i) Length of practice and specialization in the area of law concerning the Authority.
- (ii) Proper and adequate infrastructure of an advocate, such as office premises, number of junior advocates, assistants, clerks and fax, mobile phone, fixed phone, internet connection, etc.
- (iii) Annual income-tax return filed with the Tax Authorities.
- (iv) Track record and integrity.
- (v) If considered necessary, an enquiry in the respective Bar Council/ Bar Association about the claims and conduct of the advocate to be empanelled can also be made, and credentials verified.
- (vi) If the advocate is empanelled by other regulators/ organizations, opinion of those organizations may be obtained.

The above list is illustrative and not exhaustive. The Competent Authority may also consider any other factor relevant for empanelment.

6. Documents to be obtained from the Advocate

The Advocates will be required to furnish their Bio-data as per the format given in **Appendix-2**. The attested copies of the following documents required to be submitted with application:

- i. High School certificate in support of age
- ii. Registration with Bar Council
- iii. Identity card issued by Bar Association/ Bar Council
- iv. Copies of empanelment with other Organizations
- v. Certificates in support of educational qualifications.

- vi. An undertaking from the advocate to the effect that all information furnished is correct.

7. Communication of Empanelment

After a decision to empanel the advocate(s)/ Firm(s) is taken, a communication in writing to this effect shall be sent to the Advocate as per **Appendix-3** with acknowledgement and acceptance due. The process of empanelment shall be complete when Authority receives an acceptance letter from the advocate.

8. Right to Private Practice and Restrictions

- (i) An advocate shall have the right to private practice which should not, however, interfere with or be in conflict with the efficient discharge of his duties as an empanelled advocate of the Authority.
- (ii) An advocate shall not advise any party or accept any case against the Authority in which he has appeared or is likely to be called upon to appear or advice.
- (iii) If the advocate happens to be a partner of a firm of lawyers or solicitors, it will be incumbent upon the firm not to entertain any case against the Authority arising in any court.
- (iv) The advocate or the law firm represented by the advocate should not have any of the regulated entity as their client during any time within the 5 years period from the date of issue of this notice.

9. Disablements

Disablement on the part of the Advocate shall mean and include any of the following:

- (i) Giving false information in the application for empanelment;
- (ii) Handing over the brief or matter to another advocate without prior written permission of the Authority;
- (iii) Failing to attend the hearing of the case without sufficient reason and prior information;
 - a) Not acting as per Authority's instructions or going against specific instructions;

- b) Not returning the brief when demanded or not allowing or evading to allow its inspection on demand;
- (iv) Misappropriation of the Authority's funds or earmarking, using the same towards his fee without Authority's permission;
- (v) Threatening, intimidating or abusing any of the Authority's employees, officers, or representatives;
- (vi) Making any of his associates or juniors to appear on behalf of any of the opposite parties in cases/ appeal related to Authority's without permission;
- (vii) Committing an act tantamounting to contempt of court or professional misconduct;
- (viii) Conviction of the Advocate in any offence resulting into arrest or detention or disbarment by the Bar Council;
- (ix) Passing on information relating to Authority's case on to the opposite parties or their advocates which is likely to cause damage to the Authority's interests;
- (x) Giving false or misleading information to the Authority relating to the proceedings of the case; and
- (xi) Frequent adjournment being obtained or not objecting the adjournment moved by other party without sufficient reason.

Empanelment shall be liable to be cancelled due to occurring of any of the above disablements on the part of the Advocate.

10. Removal of Difficulty

In the matter of implementation of these guidelines, if any, doubt or difficulty arises or doubt regarding the interpretation of any of the clause of these guidelines, the same shall be placed before the Authority and the decision of the Authority thereon shall be final.

SCHEDULE OF FEES**I. FOR ATTORNEY GENERAL, SOLICITOR GENERAL, ADDITIONAL SOLICITOR GENERAL (ASG) AND SENIOR ADVOCATES**

Sl. No.	Category of Service	FEES*	
		SUPREME COURT	HIGH COURT/ AERAAT
(i)	<i>For arguing the matter before the Supreme Court.</i>	Not more than Rs.50,000/- (Rupees Fifty thousand) per day for arguing the case.	For High Court/ AERAAT: not more than Rs.40,000/- (Rupees Forty Thousand) per day for arguing the case.
(ii)	<i>Conference Fee</i>	Not more than Rs.20,000/- per conference	Not more than Rs.15,000/- per conference.
(iii)	<i>Clerkage</i>	Up to 10% of fee subject to a maximum of Rs.2,000/-	

* No fee shall be payable to the counsel if case is adjourned without hearing.

II. FEES FOR ADVOCATE/ ADVOCATE ON RECORD (AOR)/ LAW FIRM CATEGORY OF SERVICE**

Sl. No.	Category of Service	SUPREME COURT	HIGH COURT	AERAAT
(i)	<i>For effective hearing in arguing on behalf of the Authority</i>	Up to Rs.20,000/-	Up to Rs.15,000/-	Up to Rs.15,000/-
(ii)	<i>Conference Fee</i>	Up to Rs.5,000/-	Up to Rs.5,000/-	Up to Rs.5,000/-
(iii)	(a) <i>Drafting/Vetting Charges</i>	SLP/Appeal	WP/LPA	Appeal
		Up to Rs.25,000/-	Up to Rs.25,000/-	Up to Rs.25,000/-
	(b) <i>Drafting/Vetting of reply Affidavit/Counter by AERA</i>	Up to Rs.5,000/-	Up to Rs.5,000/-	Up to Rs.5,000/-
(c) <i>Misc. Application/Misc. Affidavit etc.</i>	Up to Rs. 5,000/-	Up to Rs.5,000/-	Up to Rs.5,000/-	
(iv)	<i>Clerkage</i>	Up to 10% of fee subject to a maximum of Rs.1500/-		

** Fee shall be payable to the counsel only for effective hearing in the matters as defined in this Guidelines.

Appendix-2**FORMAT OF BIO DATA FOR ADVOCATE**

1. Name of the Advocate
2. Date of Birth
(Age as on 01-12-2015)
3. Educational Qualifications
4. Date of Enrolment and name of the Bar Council
(Enclose copy of enrolment certificate)
5. Period of Practice
6. Details of Experience/Practice
7. Area of Practice
8. Specialization, if any
(Details of a few important cases the Advocate has dealt with /handled and reported judgment, if any)
9. Whether a Central Govt. Counsel/Pleader
(indicate period)
10. Brief list of clients, (for e.g., Govt./PSUs/ Commissions/ Autonomous Authorities)
11. Courts where the Advocate is regularly practicing
(Enclose Bar Association Membership Certificate)
12. Date of enrolment as an Advocate-on-record of the Supreme Court of India and Registration Number
13. PAN Number
14. Experience in Aviation Law/ Competition Law (which may contain a brief note on suitability for empanelment)

Declaration

I declare that I have never been penalized by any Bar Council in any disciplinary proceedings. I also undertake to maintain absolute secrecy about the cases of the Authority.

Signature of Advocate

Name

Address (Office/Residence and Chamber)

Mobile No.

Fax No.

E-mail:

FORMAT FOR LAW FIRM

1. Name of the Law Firm
2. Date of registration of the Firm
3. Details of experience
4. Area of Practice
5. Specialization, if any
(Details of a few important cases the firm has dealt with/handled and reported Judgement, if any)
6. Brief list of clients, for e.g., Govt/ PSUs/ Commissions/Autonomous authorities
7. The Courts where the Advocates of the Firm are regularly practicing
8. Date of enrolment as Advocate(s) on-record of the Supreme Court and Registration No. (if having AOR in the Firm)
9. Name of the Advocate, period of practice, details of important cases handled and details of Aviation and other regulatory matters dealt with by Advocate(s)
10. PAN number
11. Details of fees for different professional services (fees may be quoted as per the terms and conditions stipulated in this notice)
12. Experience in Aviation matters (with a brief note on suitability for empanelment)

Appendix-3

To,

Mr./Ms.-----

Advocate

Subject: Empanelment as Authority's Advocate

Dear Sir/Madam,

This is with reference to your application dated-----wherein you have evinced interest for empanelment as an advocate with the Authority. We are pleased to inform that your request has been considered favourably and you are advised to give your assent for empanelment on following terms and conditions (A copy of guidelines enclosed):

1. You will abide by Authority's terms and conditions and you will not claim any retainer fee or employment in Authority's service.
2. You will not accept any case against the Authority.
3. You will take necessary steps to protect the interest of the Authority in matters entrusted to you from time to time.
4. Empanelment does not confer any right or claim that you alone should be entrusted with the Authority's work.
5. You will personally deal with the case assigned to you in addition coordinating and working with designated Senior Advocate, if any, engaged in some matter.
6. The Authority may at any time, as its discretion, withdraw from you any proceedings/matter/brief and may discontinue you as Authority's advocate without assigning any reason thereof and without paying any further fees.
7. You will keep Authority informed about the developments in the matters entrusted to you.
8. Unless a case is specially assigned to you by the Authority, you will not on your own receive Summons/Notices of the Authority's matters and even if you receive, if no Vakalatnama is given to you, you shall not otherwise deal

with such cases. However, you will immediately inform the Authority in this regard.

9. You shall not use Authority's name or symbol, logo in your letter heads, sign boards name plates etc.
10. In case of any misconduct, the Authority will take appropriate action against you which includes filing complaint with Bar Council and recovery of financial loss caused to the Authority due to your misconduct.
11. In case of initiation of any disciplinary proceedings/criminal proceedings against you, the Authority may remove you from the panel even without waiting for the conclusion of such proceedings.
12. Your performance will be reviewed on yearly basis and if your services are not required/ found up to the mark, Authority may remove you from panel and the cases/matters entrusted to you will be taken back from you.
13. You are required to maintain absolute secrecy about the cases of the Authority as required under the Act, relevant rules and regulations and you shall not divulge any details to an outsider or opponent as the case may be without written consent of the Authority.
14. You are requested to return the duly signed duplicate copy of this letter indicating your unconditional consent.

We look forward for better cooperation and hope for good relations with you.

Yours faithfully,

(Authorized Signatory)