



TRICARE
MANAGEMENT
ACTIVITY

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE HEALTH AFFAIRS

SKYLINE FIVE, SUITE 810, 5111 LEESBURG PIKE
Falls Church, Virginia 22041-3206

TRICARE ACQUISITION DIRECTIVE

TAD 01-02, Rev. 000
February 29, 2012

SUBJECT: BOARD OF REVIEW

References: See Enclosure 1.

1. PURPOSE. The purpose of this TRICARE Acquisition Directive (TAD) is to establish the Board of Review (BOR). This Directive rescinds Reference (a) and establishes policy in accordance with the Department of Defense Peer Review requirements set forth in References (b), (c), (d), and (e). Further procedures, guidance, and information (PGI) are provided in TMA PGI 201.170-90, Reference (f).

2. APPLICABILITY. This Directive applies to the TRICARE Management Activity (TMA) acquisition workforce participating in the procurement of supplies and services awarded by contracting offices under the authority of the TMA Head of Contracting Activity (HCA).

3. DEFINITIONS.

3.1 BOR. A panel of senior TMA Acquisition Management & Support Directorate (AM&S) members convened to review contracting decisions and contract actions to ensure consistency and quality across AM&S. A BOR reviews the Contracting Officer's (CO) decisions, determinations, and the adequacy of supporting documentation.

3.2 BOR package. The body of documentation assembled by the CO to support the action under review. The package must include TMA Form 703, Acquisition Management and Support Board of Review Action.

3.3 Contract action. A contract as defined in FAR [Subpart 2.1](#) or a contract modification as defined in [FAR Part 43](#).

3.4 Subject Matter Experts (SME). TMA personnel (e.g., Contracting Officer's Representatives, technical experts, cost/price analysts, and Office of General Counsel (OGC) staff, finance) and non-government advisors who may participate in the BOR at the request the BOR Chairperson or the CO.

4. POLICY. It is TMA policy that:

4.1 A BOR shall be convened for contract actions having an aggregate estimated value, inclusive of option periods, equal to or greater than \$6.5 million and for the contracting decisions described in Enclosure 2.

4.2 A BOR shall be comprised of a Chairperson and Members from each contracting office.

4.2.1 The BOR Chairperson shall be the Chief, Acquisition Policy and Compliance Division (AP&CD) or a designee from AP&CD.

4.2.2 In addition to the Chairperson, BOR members shall include the responsible Division Chief and the Branch Chief from the originating contracting office, a Division Chief from each of the other contracting offices and the Competition Advocate.

4.2.3 SME may participate in BOR proceedings at the request of the BOR Chairperson or CO to provide background and supporting detail.

4.3 The BOR package shall contain TMA Form 703, sufficient documentation to support the contract decision or action under review, and any documentation requested by the Chairperson. See Reference (f) for examples of possible supporting documents.

4.3.1 Pre-decisional documents (e.g., source selection decision document, award, modification) presented to the BOR shall be unsigned.

4.3.2 For contract decisions or actions requiring Defense Procurement and Acquisition Policy (DPAP) review, the BOR package shall include the documents and information required by References (b), (c), (d), and (e).

4.3.3 All documentation presented to and assembled in support of the BOR shall be included in the official contract file.

4.4 The CO shall obtain review of the BOR package from OGC (as required by TMA policy), Contract Pricing and Policy Branch (CP&PB) of AP&CD, and from the authority at least one level above the CO prior to requesting a BOR and shall include the results of the reviews in TMA Form 703. Additional information on these reviews is provided in Reference (f).

4.5 The BOR package shall be provided to all BOR Members and participants five (5) business days in advance of the BOR meeting for pre-award actions (e.g., solicitations, documentation related to the solicitation) and three (3) business days in advance for post-award actions (e.g., pre-decisional information, contentious issues).

4.6 The Chairperson may waive a BOR upon written or email request from the CO. Prior to requesting a waiver, the CO shall coordinate with the responsible Branch Chief. Waivers shall be documented on the TMA Form 703.

4.7 The BOR should meet as a group to discuss the proposed contract decision or action, provide comments and recommendations. Three members, the Chairperson and two (2) other BOR Members, are considered a quorum. As determined appropriate by the Chairperson, a BOR may be held without a meeting. In this situation, BOR Members must provide comments directly to the CO in advance of the originally scheduled meeting time.

4.8 The BOR should make every effort to reach consensus on the outcome: concur, concur pending resolution of noted deficiencies and issues, or non-concur. However, if the BOR is unable to reach consensus on the outcome, the Chairperson shall determine the appropriate action. The outcome shall be documented on the TMA Form 703. See Reference (f) for additional information.

4.9 The results and recommendations that are products of the BOR are intended to be advisory in nature; however, in the event the CO does not intend to follow a recommendation deemed significant by the BOR, the TMA HCA shall be notified by the CO prior to taking an action (or not taking an action, as applicable) that is contrary to the recommendation.

4.10 CP&PB shall establish and maintain a central repository of BOR activity.

5. RESPONSIBILITIES. See Enclosure 3.

6. EFFECTIVE DATE. This Directive is effective upon signature.



Michael P. Fischetti
Director, Acquisition Management and Support

Enclosures

- 1 References
- 2 Contracting Decisions and Actions Requiring a Board of Review
- 3 Responsibilities

ENCLOSURE 1

References

- (a) TRICARE Acquisition Practice 01-04, "Board of Review," dated August 3, 2009 (hereby rescinded)
- (b) Defense Federal Acquisition Regulation Supplement (DFARS) 201.170, "[Peer Reviews](#)" current edition
- (c) Under Secretary of Defense Acquisition, Technology and Logistics Memorandum (USD/AT&L), "[Peer Review of Contracts for Supplies and Services](#)," September 29, 2008
- (d) Department of Defense (DOD) Instruction 5000.02, "[Operation of Defense Acquisition System, Enclosure 9, Acquisition of Services](#)," December 8, 2008
- (e) USD/AT&L Memorandum, "[Review Criteria for the Acquisition of Services](#)," February 18, 2009
- (f) TRICARE Management Activity Procedures, Guidance, and Information (PGI) 201.170-90, "Board of Review," current edition
- (g) TRICARE Management Activity (TMA) Form 703 "AM&S Board of Review Action," December 2011
- (h) USD/AT&L Memorandum, "[Improving Competition in Defense Procurements – Amplifying Guidance](#)," April 27, 2011

E2 ENCLOSURE 2
(Revised June 20, 2012)

CONTRACTING DECISIONS AND ACTIONS REQUIRING A BOARD OF REVIEW

E2.1 In accordance with the policy set forth in 4.1, the contracting decisions and actions listed in Table E2.1 require a BOR.

TABLE E2.1 – Contracting Decisions and Actions Requiring a BOR

BOR Timing		Contracting Decision or Action	BOR Threshold
PRE AWARD	Prior To Solicitation Issuance	Acquisition strategies, acquisition plans, and source selection plans.	≥\$6.5M
		Solicitations, re-solicitations when only one offer is received (see USD/AT&L Reference (h), and amendments to solicitations except administrative amendments (e.g., correcting typographical errors)	≥\$6.5M
	Prior to Request for Final Proposal Revisions	Competitive range determinations, approach to discussions (FAR Subpart 15.306 (d)), questions and topic areas to be discussed.	≥\$6.5M
		Requests for final proposal revisions prior to issuance.	≥\$6.5M
	Prior to Contract Award	All source selection decision documents prior to signature of the Source Selection Authority.	≥\$6.5M
		Pre-negotiation objective prior to beginning negotiations (pre/post negotiation environment).	≥\$6.5M
		Pre-negotiation objective and profit objective prior to beginning negotiations (pre/post negotiation environment). A second BOR is required for those actions negotiated above the objective.	≥\$6.5M
		All documents prepared by the CO to support a determination of reasonableness (e.g., PNM, determination of contractor responsibility in accordance with FAR Part 9).	≥\$6.5M
		Contract awards, delivery orders, and task orders, inclusive of options.	≥\$6.5M

BOR Timing		Action or Document	BOR Threshold
POST AWARD	Prior to Executing the Modification	Modifications to contracts, delivery orders and task orders (except incremental funding modifications (i.e., increase in available funding without an increase in contract value)) including: <ol style="list-style-type: none"> 1. Change Orders prior to issuance, except those reflecting routine changes to the TRICARE Manuals (i.e., Operations, Policy, Reimbursement, and Systems Manuals); 2. Supplemental agreements prior to definitization. 	Aggregate increase or decrease \geq \$6.5M
	Prior to Exercising the Option	For service contracts greater than \$1B as described in Reference (c), a BOR shall be convened: <ol style="list-style-type: none"> 1. At the mid-point of the base period of performance if the base period of performance is greater than one year; 2. Prior to exercise of the first option year if the base period of performance is one year or less; 3. Prior to each subsequent option period. 3.4. 	\geq \$1B
		For service contracts less than \$1B, a BOR shall be convened at the discretion of the HCA.	< \$1B
PRE OR POST AWARD	Prior to Executing the Action	Unilateral contract actions of the CO when parties reach an impasse.	Regardless of \$
		Terminations for Default and Terminations for Convenience.	Regardless of \$
		Deviations or waivers (FAR Subpart 1.401 and DFARS 201.4).	N/A
		Any contract action which includes contentious issues or topics with a broad TMA impact, or as otherwise requested by CO.	Regardless of \$
	Prior to DPAP Submission	Any contract action which requires a DPAP review.	Regardless of \$

E3 ENCLOSURE 3

RESPONSIBILITIES

E3.1 BOR Chairperson. The Chairperson is ultimately responsible for BOR activities including:

E3.1.1 Waiving a BOR and granting exceptions to any BOR requirement (unless the CO assumes this responsibility).

E3.1.2 Requesting participation of SMEs to support the action under review (unless the CO assumes the responsibility).

E3.1.3 Ensuring BOR activities are conducted in a manner that preserves the authority, judgment, and discretion of the CO.

E3.2 BOR Members. The BOR Members are responsible for:

E3.2.1 Reviewing the BOR Package and ensuring the rationale is appropriately documented, supports the decisions, and demonstrates that the CO's actions/intended actions are justified.

E3.2.2 Ensuring COs intend to implement regulations, policies, and procedures in a consistent and appropriate manner.

E3.2.3 Confirming the documentation in the BOR package is current, accurate, complete, and supports the action under review.

E3.2.4 Providing comments and recommendations and identifying deficiencies to be addressed and adjudicated by the CO.

E3.3 Contracting Officer. The CO is responsible for:

E3.3.1 Reviewing the BOR package and ensuring all requirements of regulations, policies and procedures have been met prior to requesting a BOR.

E3.3.2 Obtaining the reviews stated in paragraph 4.4 of the TAD.

E3.3.3 Requesting participation of SMEs to support the action under review.

E3.3.4 Scheduling the BOR meeting.

E3.3.5 Attending the BOR meeting to present or assist with the presentation.

E3.3.6 Resolving noted deficiencies and documenting the disposition of all comments.

E3.3.7 Informing the TMA HCA of the intent to proceed with an action, as described in

4.9, which is contrary to a significant BOR recommendation

E3.3.7 Maintaining official contract file documentation.