



TRICARE
MANAGEMENT
ACTIVITY

**OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
HEALTH AFFAIRS
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TRICARE ACQUISITION DIRECTIVE

TAD 01-05, Rev 000

MAR 5 2012

SUBJECT: LEGAL REVIEW

- References:
- (a) TRICARE Management Activity Policy Alert No. 11-53, "Legal Review," July 22, 2011 (hereby canceled).
 - (b) TMA Procedures, Guidance, and Information 201.602-2(c), "Legal Review," current edition.
 - (c) [Federal Acquisition Regulation, current edition.](#)
 - (d) [Defense Federal Acquisition Regulation Supplement, current edition.](#)

1. **PURPOSE.** This TRICARE Acquisition Directive (TAD) establishes TRICARE Management Activity (TMA) policy for legal review of acquisition, contractual, and procurement-related documentation. Additionally, this TAD cancels Reference (a). Further procedures are provided in Reference (b).
2. **APPLICABILITY.** This Directive applies to all members of the TMA acquisition workforce that participate in the procurement of supplies and/or services under the authority of the TMA Head of the Contracting Activity.
3. **DEFINITIONS.**
 - 3.1 **Legal Review.** A review conducted by legal counsel to advise the contracting office whether the planned action and/or issue is in compliance with general and specific legal requirements prior to reaching an agreement and/or executing a contract action.
4. **POLICY.** It is TMA policy that:
 - 4.1. For acquisitions with an aggregate estimated dollar value (inclusive of options) equal to or greater than \$6.5 million (absolute value), the Contracting Officer (CO) shall obtain legal review prior to the issuance of:
 - 4.1.1. Solicitations and amendments to solicitations (except administrative amendments);
 - 4.1.2. Contract awards;

4.1.3. Contract modifications (except administrative modifications and certain modifications identified in Reference (b)); and

4.1.4. Contract actions and/or issues identified in Section 5 of Reference (b).

4.2. The Director/Chief of the Contracting Office, with guidance from legal counsel, may establish a legal review threshold less than \$6.5 million (absolute value) for those actions identified in Section 4.1 of this Directive for their local contracting office.

4.3. The CO shall obtain legal review for all contract actions and/or issues as required by this Directive, and References (c) and (d), including, but not limited to, those identified in Reference (b).

4.4. Legal review may be obtained, at the discretion of the CO or Director/Chief of the Contracting Office, when there is potential for legal issues to arise, regardless of the dollar value of the acquisition.

4.5. The CO shall document the outcome of the legal review in the contract file.

4.6. The CO shall obtain a second legal review when a substantive change is made to a document after legal counsel has reviewed and determined the document to be legally sufficient.

4.7. The Director/Chief of the Contracting Office, or designee, shall have the authority to:

4.7.1. Non-concur with a legal recommendation other than legal sufficiency; and

4.7.2. Waive a legal review, subject to this Directive and References (b), (c), and (d).

5. RESPONSIBILITIES.

5.1. Director/Chief of the Contracting Office. The Director/Chief of the Contracting Office shall:

5.1.1. Have authority to establish a legal review threshold for the local contracting office for a dollar amount lower than the threshold stated in Section 4.1 of this Directive;

5.1.2. Review and adjudicate all requests for non-concurrence; and

5.1.3. Review and adjudicate all requests to waive legal review.

5.2. Contracting Officers. The Contracting Officers, with assistance from the Contract Specialists, shall:

5.2.1. Review all applicable requirements of law, executive order, regulation, policy and procedure prior to the request for legal review;

5.2.2. Initiate the legal review with legal counsel;

5.2.3. Adjudicate comments from legal counsel, and as necessary, request approval of non-concurrence;

5.2.4. Request a waiver, if appropriate; and

5.2.5. Document the process and results to the contract file.

5.3. Legal counsel. Legal counsel shall be responsible for conducting the legal review.

6. EFFECTIVE DATE. This Directive is effective immediately.



Michael P. Fischetti
Director, Acquisition Management and Support

Enclosure(s)

None