



Board of Review

TRICARE Acquisition Directive

01-02 Rev 000

March 2012



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Objective

The objective of this briefing is to provide an overview of recent changes to the policy on Board of Review.



BACKGROUND

The Board of Review is panel of AM&S leaders convened to review significant contracting decisions and contract actions executed by a TMA contracting office

PRIMARY FUNCTION

Ensuring significant contracting decisions and related documentation meet standards for quality, accuracy, and compliance with all applicable regulations, policies, and procedures.

- Confirming the rationale for the action is appropriately documented, supports the decisions, and demonstrates that the CO's determinations are justified.
- Ensuring the CO and TMA implement regulations, policies, and procedures in a consistent and appropriate manner.
- Providing comments and recommendations and identifying deficiencies for the CO's consideration.
- Meets DoD requirements to implement equivalent to a "Peer Review" at the Component level.

THE BOR's RECOMMENDATIONS ARE ADVISORY – THE BOR DOES NOT APPROVE OR DISAPPROVE AN ACTION



BACKGROUND (con'td)

The Board of Review addresses regulatory requirements for Peer Review of contracts

DFARS 201.170 Peer Reviews.

(a) *Acquisitions valued at \$1 billion or more.*

(1) The Office of the Director, Defense Procurement and Acquisition Policy, will organize teams of reviewers and facilitate Peer Reviews for solicitations and contracts valued at \$1 billion or more, as follows:

(i) Pre-award Peer Reviews will be conducted for all solicitations valued at \$1 billion or more (including options).

(ii) Post-award Peer Reviews will be conducted for all contracts for services valued at \$1 billion or more (including options).

(iii) Reviews will be conducted using the procedures at [PGI 201.170 \(DFARS/PGI view\)](#).

(2) To facilitate planning for Peer Reviews, the military departments, defense agencies, and DoD field activities shall provide a rolling annual forecast of acquisitions with an anticipated value of \$1 billion or more (including options) at the end of each quarter ...

(b) *Acquisitions valued at less than \$1 billion.* The military departments, defense agencies, and DoD field activities shall establish procedures for—

(1) Pre-award Peer Reviews of solicitations valued at less than \$1 billion; and

(2) Post-award Peer Reviews of contracts for services valued at less than \$1 billion.

DoDI 5000.02 Operation of Defense Acquisition System, Enclosure 9, Acquisition of Services

6. INDEPENDENT MANAGEMENT REVIEWS (HEREAFTER REFERRED TO AS “PEER REVIEWS”)

The Director, DPAP, shall organize review teams and facilitate pre-award and post-award Peer Reviews for all service contracts with an estimated value of \$1 billion or more (including options). The teams shall be comprised of senior contracting leaders from across the Department of Defense, as well as members of the Office of General Counsel who are civilian employees or military personnel from outside of the military department or other defense agency whose procurement is the subject of the Peer Review.

Senior Officials and DoD Component Decision Authorities under the cognizance of USD(AT&L) shall establish their own procedures to conduct pre and post-award Peer Reviews for contracts valued at less than \$1 billion.

Board of Review

Established by TRICARE Acquisition Practice (TAP) 01-04; the TAP was modified/converted to TRICARE Acquisition Directive (TAD) 01-02 and TMA PGI 201.170-90

Summary of Policy Changes

The BOR TAD 01-02 rescinds TAP 01-04, dated 08/03/09, and updates the policy in the following areas:

APPLICABILITY	⇒ Directive applies to all contracting offices under TMA HCA authority
BOR MEMBERSHIP	⇒ Directive reflects current AM&S organizational titles and responsibilities and achieves BOR participation from each contracting office under TMA HCA authority
QUALITY AND OVERSIGHT	⇒ Directive improves the quality and increases oversight of documentation presented for review
ACTIONS REQUIRING A BOR	⇒ Directive increases the BOR threshold from \$5.5 million to \$6.5 million and has been revised to ensure currency with higher level regulations
PROCEDURES	⇒ Directive aligns with the new TAD and TMA PGI format separating policy from procedure



BOR Membership

The membership was updated to reflect the current AM&S structure

TAP 01-04	CHAIRPERSON	TAD 01-02
Director, Contract Management Division	MEMBER	Director, Acquisition Policy and Compliance Division (AP&CD)
Chief, Acquisition Management Office A Branch	MEMBER	Division Chief, Contracts Operation Division (COD) Aurora
Chief, Acquisition Management Office B Branch	MEMBER	Division Chief, COD Falls Church
Director, Acquisition Policy and Pricing Division	MEMBER	Division Chief, USUHS
N/A	MEMBER	Competition Advocate
	OTHER	At the discretion of the Chairperson, depending on circumstances, i.e., Program Official, SSA, OGC, Small Business Director, etc.



Quality and Oversight

To improve the quality of documentation presented to the BOR and to enable BOR members to focus on strategic issues related to the action under review, the Directive:

- Institutes CP&PB review of the package prior to the BOR meeting;
- Retains the Legal Review requirement, when applicable, by referencing newly created Legal Review Policy (pending signature); and
- Institutes management level (i.e. one level above the CO) review of package prior to BOR meeting.



Requirements

The thresholds for specific actions requiring a BOR were updated to meet regulations and the needs of TMA contracting offices to include:

- Increase in the BOR threshold from \$5.5 million to \$6.5 million*;
- Grouping of actions requiring a BOR by acquisition lifecycle phase for easier understanding;

• Inclusion of a requirement for a BOR on re-solicitations when only one offer is received (USD/AT&L Memo April 2011); and

• Inclusion of a BOR requirement for Change Orders *prior to issuance*, except those reflecting routine changes to the TRICARE Manuals.

* This continues the TMA practice of aligning the threshold with the commercial item test program (FAR 13.5); however, the program was not extended by the 2012 NDAA. The consensus among the COD Chiefs is that \$6.5 is still appropriate; this threshold can be revisited in the future if appropriate.



Documentation

The BOR documentation process was updated with the following:

- Revision of TMA Form 703 to align with the policy changes;
- Increase in the lead time for BOR package distribution from 3 to 5 days in certain circumstances;
- Inclusion of a new requirement that, in the event the CO does not intend to follow a recommendation deemed significant by the BOR, the CO must notify the TMA HCA prior to taking the action (or not taking an action, as applicable); and
- Requirement for CP&PB to establish a central repository for all BOR activity. (The intent is for CP&PB to periodically review outcomes and identify trends.)



Procedures

In accordance with the restructuring of guidance into TADs and/or TMA PGI sections, the BOR procedures were moved to TMA PGI 201.170-90 which:

- Includes a process flow to demonstrate the typical path of an action under review;
- Provides a list of document types that may be included in a BOR package;
- Accommodates geographically dispersed participants by indicating that the location of BOR Members and participants should be considered when arranging meeting facilities; and
- Instructs the CO to distribute a copy of annotated minutes to the responsible Branch Chief, Division Chief/Director, and the BOR Chairperson prior to proceeding with the action (this action was missing from the TAP).



TAD 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

New

(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

New

(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

New



Other Requirements

- Contracting Officers should inform requirements personnel of this requirement upfront during the acquisition planning phase
- Boards of Review are intended to run in parallel, concurrent with other activities during the contracting process
 - Contracting Officers should not consider or use them as impediments or blocks to proceeding to acquisition planning phases
- Boards of Review should be not adversarial in nature, but are intended to ensure that Contracting Officers have considered all reasonable alternatives to ensure TMA's contract actions incorporate quality and best practices
- Contracting Officers and their immediate supervisor should be prepared to address all aspects of their action
- Comments at a Board of Review are not mandatory, however Contracting Officers must document their rationale for not incorporating comments, which are subject to review by the Head of the Contracting Activity

Other Requirements Cont.

- Contracting Officers/Contract Specialist should contact the BOR Chairperson to schedule a BOR
- The CO will compile the BOR documents electronically and obtain the reviews required in section 4.4 of TAD 01-02 prior to requesting the BOR.
- 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).

Additional Information

- TAD 01-02, PGI 201-170-90, TMA Form 703, TMA Form 835, and this briefing will be posted on the AM&S website
- Questions on this briefing and on the Board of Review policy documents may be directed to:

Contract Policy & Pricing Branch

Tel: 303-676-3507

E-mail: policyweb@tma.osd.mil

