

The image features a large, light gray watermark of the USAID seal in the background. The seal is circular and contains the text "UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT" around the perimeter. In the center, there is a shield with a map of the United States and the word "USAID" in a dark blue box above it. Three stars are positioned at the bottom of the seal.

USAID

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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Procurement

Issued: September 24, 2003

AAPD 03-09

Contract Review Board Guidelines

Subject Category: Acquisition Management
Type: Procedure

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are **EFFECTIVE AS OF THE ISSUED DATE** unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD: Is New Replaces/ Amends
CIB/AAPD No: 01-19, 02-16, an OPAM 01-02

Precedes change to: AIDAR Part(s) Appendix
 USAID Automated Directives System (ADS) Chapter
 Code of Federal Regulations
 Other
 No change to regulations

Applicable to: Existing awards; Modification required:
 Effective immediately
 No later than
 As noted in guidance below
 RFPs/RFAs issued on or after the effective date of this AAPD; all other Pending Awards, i.e., 8(a), sole source...
 Other or N/A

New Provision/Clause Provided Herein: Yes; Scheduled update to Prodoc: (insert date)
 No

TIM BEANS

AAPD 03- -- Contract Review Board Guidelines

1. **PURPOSE:** The purpose of this AAPD is to disseminate new policies and procedures for the conduct of the Contract Review Board in USAID/W and overseas Missions.
2. **BACKGROUND:** In April of 2001, M/OP implemented a pilot contract review board (CRB) program. The CRB was designed to: 1) minimize vulnerabilities leading to potential protests, disputes, claims, and litigation against the Agency; 2) provide senior level advice on contracting actions and support to the Contracting Officer; and, 3) provide consistency of procurement documentation generated by the Office of Procurement. The initial pilot program was limited to USAID/W, but in October 2001 was extended to include the review of overseas contracting actions prior to award. Since October 2001, the Director, Office of Procurement, has required that all acquisition actions with an estimate cost of \$10,000,000 or more will be reviewed by the CRB. The total estimated cost includes the basic period plus any option periods.
3. **GUIDANCE:**

Types of Procurement Actions Requiring CRB Review: The CRB will be responsible for reviewing all new acquisition solicitations estimated to exceed \$10 million or more, including basic IQC's where the total estimated ceiling is expected to exceed \$10 million or more for single or multiple awards in a sector.

Types of Procurement Actions Not Requiring CRB Review: The CRB will not be responsible for reviewing Requests for Applications (RFA's), assistance awards, incremental funding actions for acquisition and assistance instruments, task/delivery orders issued against IQC's, modifications and sole-source actions. The Office of Procurement's Evaluation Division (M/OP/E) will conduct annual file reviews in the Washington Procurement Office for assistance instruments and task/delivery orders issued against existing IQC's and will review assistance instruments and task/delivery orders issued by Field COs during procurement system reviews of overseas Missions.

Clearance of Actions Requiring CRB Review: Solicitations and contracts sent to the CRB for review, must be cleared through the Procurement Support Division (M/OP/PS/SUP) to ensure that all procurement documents are created using the Agency's contract writing system. Concurrent with forwarding copies of the review documents to the CRB for review, Contracting Officers and negotiators must send a copy of the solicitation or contract and a printout of the ProDoc Content Manager used to generate the document to Mr. Terry Payne and Ms. Kim Hupp, M/OP/PS/SUP. When forwarding solicitation/award documentation to M/OP/PS/SUP please "cc" Ms. Kimberly Triplett, M/OP/E.

Composition and Roles of the CRB.

A. Composition of the CRB.

- (1) A Division Chief from the Office of Procurement/Operations;
- (2) A Branch Chief from the Office of Procurement/Operations;
- (3) A representative from the Office of Procurement/Evaluation Division;
- (4) A representative of the Office of Procurement/Policy Division;
- (5) A representative of the Office of General Counsel; and,
- (6) A recorder.

B. Roles of CRB Members.

- (1) The Chief Acquisition Officer, Office of Acquisition & Assistance, assigns the Operational Division and Branch Chief to the CRB. The assigned Division Chief from the Office of Procurement/Operations, will

serve as Chairperson of the CRB. The Chairperson's duties include: ensuring that CRB members are informed of scheduled meetings, ensuring that minutes of CRB meetings are disseminated to responsible COs and Contract Specialists, ensuring that trends are disseminated to the procurement community on an annual basis, serving as recorder in the absence of the recorder or assigns another member of the CRB to record the findings, and settling any disputes.

(2) The Evaluation Division Chief and the Policy Division Chief assigns a Procurement Analyst to represent their respective divisions. There will be an open invitation for a representative from the Office of General Counsel to attend every CRB meeting. However, the CRB will proceed with or without General Counsel representation.

(3) The role of all members of the CRB is to read the documentation submitted to the CRB, noting procedural errors, formatting errors, continuity of sections, mathematical errors, and business decisions which could result in protests or disputes. Board members present all findings at scheduled CRB meetings.

(4) The Director, Office of Acquisition & Assistance, will assign a GS 1102 employee to the CRB to record CRB findings. The selected individual will serve on the CRB for a one-year period, unless extended by the Director. The Recorder attends all meetings, documents findings, disseminates draft findings to all CRB members and prepares the findings in final form for the Chairperson to disseminate.

CRB Findings

- A. CRB findings are categorized as mandatory and advisory. Mandatory findings must be addressed. The Cognizant CO must advise the CRB in writing within 3 business days after receipt of CRB mandatory findings of the corrective action taken for each finding.
- B. The CRB provides advisory findings for serious consideration by the Contracting Officers. The Cognizant CO must annotate the file as to the disposition of advisory findings.
- C. Submittal documentation must include all previous CRB comments including the corrective action the CO took to address all findings.

CRB Period of Service:

- A. The Division Chief from the Office of Procurement/Operations Division, will be required to serve on the CRB committee for a minimum one-year period.
- B. The Branch Chief from the Office of Procurement/Operations Division, will be required to serve on the CRB committee for a minimum six (6) month period. This rotation will allow for faster exposure and participation as a CRB member.
- C. The period of service for all other members will be for a minimum of one year with the exception that their tenure must be staggered to maintain the knowledge base gained through participation in the CRB process.

CRB Scheduled Meetings:

- A. During the first and second quarters, of the Government fiscal year, the CRB is available to meet once a week (every Tuesday from 1:30 PM to 3:30).

B. During the third and fourth quarters, the CRB is available to meet twice a week (every Tuesday from 1:30 PM to 3:30 PM and every Thursday from 1:30 PM to 3:30 PM, as necessary).

C. During the third and fourth quarters, subject to approval by the Board, ad hoc CRB meetings may be scheduled based on the availability of CRB members.

D. Negotiators and contracting officers are advised to include ample lead-time to accommodate CRB review and time to respond to mandatory CRB findings.

Scheduling Actions for CRB Review

A. General Procedures:

- (1) As noted above, clearance through the Procurement Support Division must be obtained.
- (2) Copies of documentation for actions subject to CRB review must be provided to all members of the CRB.
- (3) After receipt of documentation, the Chairperson of the CRB will schedule a meeting of the CRB for the next available time (at least two (2) business days after receipt of the action.)
- (4) The Chairperson will maintain a central sign-up sheet for CRB presentations.
- (5) In the event that the CRB identifies the need for serious corrective action, the CO will be directed not to proceed until the corrective action is taken and a schedule for resubmitting the action will be negotiated with the Chairperson.
- (6) The CO responsible for the particular award will annotate the file to explain the disposition of both mandatory and advisory CRB findings, and inform the CRB of actions taken in response to mandatory findings. Written response to the CRB is required for mandatory findings only. The CO may be required to resubmit all or part of the package as directed by the CRB.

D. Procedures for AID/Washington:

- (1) Hard copies of documentation must be forwarded to all members of the CRB.
- (2) After the CRB has met and reviewed the submitted documentation, the CRB Chairperson will forward via memorandum all findings within three (3) business days after completion of the CRB session.

E. Procedures for Overseas:

- (1) Copies of documentation may be forwarded via e-mail to all members of the CRB.
- (2) After the CRB has met and reviewed the submitted documentation, the CRB Chairperson will forward via e-mail all findings within three (3) business days after completion of the CRB session.

- (3) If the responsible Contracting Officer does not receive an e-mail response from the CRB Chairperson within four (4) business days, contract award may proceed.
- (4) In the event that the CRB identifies the need for serious corrective action, the CO will be directed not to proceed until the corrective action is taken and a schedule for resubmitting the action will be negotiated with the Chairperson.

D. Transmittal of Documentation: It is preferred that Field CO's submit documentation for review electronically to all CRB board members (See Attachment 1.) When forwarding electronic documentation, please "cc" Ms. Kimberly Triplett, Office of Acquisition & Assistance, Evaluation Division, to ensure prompt scheduling and distribution to the CRB. If electronic transmittal is not available, please DHL/FEDEX all materials to Ms. Kimberly Triplett, Office of Acquisition & Assistance, Evaluation Division, for distribution to the CRB.

E. Stages of Required CRB Review

- (1) For both USAID/W and overseas Missions, actions shall be submitted to the CRB during the Pre-Solicitation stage, at the Competitive Range Determination stage, and at the Pre-Award stage of the procurement process. The following summarizes documentation to be provided to each CRB member at each stage of CRB review:

a) Pre-Solicitation:

1. A copy of the solicitation.
2. A printout of the Pro Doc content manager used to generate the solicitation.

b) Competitive Range:

1. Copy of the competitive range determination memorandum;
2. The detailed technical evaluation memorandum; and,
3. Sections L & M of the solicitation.
4. Copy of CRB comments regarding the solicitation and the corrective action the CO took to address the CRB comments.

c) Pre-Award:

1. Copy of the solicitation (if already reviewed by the CRB, only sections L & M are required);
2. Copy of any previous CRB comments and the corrective action the CO took to address the CRB comments.
3. Contract (Award document: Sections A through I);
4. Memorandum determining the competitive range, as required (if not previously reviewed by the CRB);
5. Memorandum of Negotiations (showing both the pre-negotiation and negotiated position);
6. Any revisions to the technical evaluation memorandum not previously reviewed by the CRB; and,
7. OSDBU clearance on subcontracting plan or reason there is no OSDBU clearance (normally included in the Negotiation Memorandum).

F. Debriefings.

- (1) In accordance with FAR 15.5, it is the Agency's strong preference that Contracting Officers provide debriefings to unsuccessful offerors for the following reasons:

- a) To maintain the transparency of the procurement process and minimize miscommunications leading to potential protests, disputes, claims, and litigation against the Agency; and
- b) To provide advice to offerors on the strengths and weaknesses of the proposal, in strict accordance with the evaluation criteria, to assist them in responding to the Agency's needs and help them improve the quality of future submissions.

G. Dissemination of Issues/Trends Identified by CRB Process.

(1) The Chairperson of the CRB in conjunction with M/OP/E, will issue a semi-annual summary to formally disseminate issues/trends identified by the CRB process.

(2) The summary will also include issues/trends for assistance and task orders identified by M/OP/E reviews. However, there may be periods in which no information is disseminated due to lack of reviews before the board, as the overwhelming majority of reviews take place in the third and fourth quarters.

H. Level of Headquarters/W Contracting Officer and Negotiator Participation in the CRB Presentation. (This section applies to Headquarters/W Contracting Officers and Negotiators only.)

(1) While the CO is ultimately responsible for the review, the negotiator responsible for the particular award will present the procurement to the CRB to the maximum extent practical.

(2) Whether the CO or Negotiator is the principal presenter, Contracting Officer attendance at the CRB meeting is mandatory for the following reasons:

- a) The Contracting Officer is ultimately responsible and accountable for the procurement actions he or she signs on behalf of the U.S. Government.
- b) The Contracting Officer should have first hand knowledge of procurement issues/concerns that may develop during a CRB presentation.
- c) Having the Contracting Officer immediately available to address issues/concerns during the CRB presentation saves time and facilitates the CRB presentation process.

4. POINT OF CONTACT: Please direct any questions to M/OP/E, Gwen Little, e-mail glittle@usaid.gov, Telephone No. (202) 712-5473.