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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: May 12, 2005

AAPD 05-05

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: 03-09

Applicable to:

- ☐ Existing awards; ☐ Modification required
☐ 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, IQC
☐ Other or N/A

Precedes change to:

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

☐ New Provision/Clause Provided Herein: If checked, scheduled update to Prodoc:

(signed copy on file)

Michael F. Walsh

1. **PURPOSE:** The purpose of this AAPD is to disseminate new policies and procedures for the conduct of the Contract Review Board (CRB) in USAID/W and overseas Missions, revising the policies and procedures in AAPD 03-09, which is hereby cancelled.
2. **BACKGROUND:** In April of 2001, the Office of Procurement (now the Office of Acquisition and Assistance, M/OAA) 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 Acquisition & Assistance, 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. Given the time demands on limited staff, the CRB process is streamlined as described below.
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 IQCs 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 (RFAs), assistance awards, incremental funding actions for acquisition and assistance instruments, task/delivery orders issued against IQCs, modifications and sole-source actions. The Office of Acquisition & Assistance's Evaluation Division (M/OAA/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.

Composition and Roles of the CRB.

A. Composition of the CRB.

- (1) A Division Chief from one of the Operations divisions;
- (2) A Team Leader from one of the Operations divisions;
- (3) A representative from the Evaluation Division or from the Policy Division;
- (4) Virtual membership from the Field (when feasible): Participation by Senior COs where field comments are sent electronically.
- (5) A representative of the Office of General Counsel (when available);
- (6) A CSIP/NEP note taker/recorder; and,
- (7) An Administrative person to provide logistical support to the CRB.

B. Roles of CRB Members.

(1) The Chief Acquisition Officer, Office of Acquisition & Assistance, assigns the Operational Division and Team Leader to the CRB. The assigned Division Chief from 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 Contracting Officers (COs) and Contract Specialists,
- ensuring that trends are disseminated to the procurement community on a semi-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/or 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 CSIP/NEP to the CRB to record CRB findings. The selected individual will serve on the CRB for a short term rotation (3 months), 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 or advisory. The CO must address mandatory findings. 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 including Pre-Award findings. The Chairperson shall respond within 2 business days to the Cognizant CO whether the corrective actions taken are acceptable to the CRB. If the CO does not receive an e-mail response from the CRB Chairperson within (2) business days, he/she may proceed to the next phase.
- 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 Operations Division will be required to serve on the CRB committee for a minimum one-year period.
- B. The Team Leader from the Operations Division will be required to serve on the CRB committee for a minimum six months (6) month period. For continuity purposes, it is also encouraged, when possible, that the same Team Leader serve on the subsequent CRBs for the same action.
- C. A CSIP will be required to serve on the CRB as a note taker for a short term rotation (3 months).

CRB Scheduled Meetings:

- A. The CRB is available to meet twice a week (every Tuesday from 10:00 AM to 12:00 PM and every Thursday from 1:30 PM to 3:30 PM).
- B. 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.

- C. 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) The cognizant Contracting Officer or senior negotiator is responsible for submitting the documentation to the CRB Chairperson (see below for M/OAA and overseas submission procedures).
- (2) Documents submitted for review must be final while under review (meaning that the CO or negotiator should not continue to revise and "fine-tune" the documents after submitting them to the Chairperson). If updates unavoidable, e.g. as a result of an amendment to the RFP, the CO/negotiator must forward it to the CRB as soon as possible.
- (3) The M/OAA Team Leader or overseas supervising CO must clear the submission of the package to the CRB in order to better ensure the quality of the packages submitted. The CRB's responsibility is meant to be substantive rather than editorial.
- (4) A member of the CRB will conduct a "Go/No Go" review to determine if the package meets minimum objective standards for acceptability (the basic criteria will be established by OAA and provided to all USAID COs before implementing the "Go/No Go" review). If the submission does not pass the "Go/No Go" review, the Chairperson will notify the submitting CO/negotiator of the specific deficiencies in the package that must be corrected before scheduling a full CRB review.
- (5) After accepting the 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).
- (6) For reviews of submissions from overseas, if requested and practical to arrange, the Chairperson will set up teleconferencing with field, to make the process more efficient and useful to the field COs.
- (7) In the event that the CRB identifies the need for serious corrective action, the Chairperson will direct the CO to not proceed until the corrective action is taken and will negotiate with the CO a schedule for resubmitting the action to the CRB.
- (8) 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. At each stage of CRB review, the CRB must ensure compliance by verifying that the CO has addressed the Mandatory findings.
- (9) The Senior Procurement Executive will conduct an annual After Action Review in October to review the CRB process and identify ways of further streamlining the process.
- (10) Gold Star recognition of COs. The Chairperson has the authority

to waive mandated CRB submissions if the circumstances warrant doing so.

B. Procedures for AID/Washington:

(1) The submitting CO/negotiator must provide hard copies of documentation to all members of the CRB.

(2) After the CRB has met and completed its review of the submitted documentation, the CRB Chairperson will forward via memorandum all findings within three (3) business days.

C. Procedures for Overseas:

(1) The submitting CO/negotiator must forward via e-mail copies of documentation to the CRB Chairperson and to the CRB Mailbox. If electronic transmittal is not available, please DHL/FEDEX all materials to Ms. Elena Prince, Office of Acquisition & Assistance, Office of the Director, for distribution to the CRB.

(2) After the CRB has met and completed its review of the submitted documentation, the CRB Chairperson will forward via e-mail all findings within three (3) business days.

(3) If the responsible Contracting Officer does not receive an e-mail response from the CRB Chairperson within four (4) business days, the CO may proceed to the next stage of the acquisition.

D. Stages of Required CRB Review

For both USAID/W and overseas Missions, COs must submit actions to the CRB at 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:

(1) Pre-Solicitation:

A copy of the solicitation, including all amendments.

(2) Competitive Range:

- (a) Copy of the competitive range determination memorandum,
- (b) The detailed technical evaluation memorandum,
- (c) Sections C, L & M of the solicitation, and
- (d) Copy of CRB comments regarding the solicitation and the corrective action the CO took to address the CRB comments.

(3) Pre-Award:

- (a) Copy of the solicitation (if already reviewed by the CRB, only sections C, L & M are required);
- (b) Copy of any previous CRB comments and the corrective action the CO took to address the CRB comments.
- (c) Contract (Award document: Sections A through I);
- (d) Memorandum determining the competitive range;
- (e) Memorandum of Negotiations (showing both the pre-negotiation and negotiated positions);
- (f) Any revisions to the technical evaluation Memorandum;
- (g) OSDBU clearance on subcontracting Plan or reason there is no OSDBU clearance (normally included in the Negotiation Memorandum).

(h) Upon request, the COs may be asked to provide any written discussion questions that were posed to the offerors in the competitive range.

E. 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. 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.

(2) The summary will also include issues/trends for assistance and task orders identified by M/OAA/E reviews.

F. 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) 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/OAA/OD, Aman S. Djahanbani, e-mail adjahanbani@usaid.gov, telephone No. (202) 712-5922.

