



TRICARE
MANAGEMENT
ACTIVITY

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

**TAD 33-01, Rev 000
May 15, 2012**

SUBJECT: Agency Level Protests

- References: (a) TAP 33-02, "Agency Level Protests," January 17, 2003 (hereby rescinded)
(b) [Federal Acquisition Regulation Subpart 33.1, "Protests", current edition](#)
(c) [Defense FAR Supplement Subpart 233.1, "Protests", current edition](#)
(d) TMA Procedures, Guidance and Information 233.103-90, "Agency Level Protests," current edition
(e) TAD 01-05, "Legal Review," March 5, 2012

1. PURPOSE. This TRICARE Acquisition Directive (TAD) establishes TRICARE Management Activity (TMA) policy for managing agency level protests in accordance with References (b) through (e). Further procedures, guidance, and information are provided in TMA Procedures, Guidance and Information (PGI) 233.103-90, Reference (d).

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 Head of the Contracting Activity (HCA).

3. DEFINITIONS.

3.1 Independent Review. The review of an agency protest by a TMA official other than the Contracting Officer (CO) responsible for the contract action.

3.2 Independent Review Official (IRO). An individual, other than the CO, appointed by the HCA to provide an Independent Review of a protest. When practicable, individuals designated to conduct the independent review should not have had previous personal involvement in the procurement. It is desired that the IRO have experience in the field of government contracting and knowledge of the FAR.

4. POLICY. It is TMA policy that:

4.1 Potential offerors shall be provided the opportunity to request Independent Reviews:

4.1.1 As an alternative to initial review of a protest by the CO, or

4.1.2 As an appeal of the CO's protest decision.

4.2 The CO shall include language in the solicitation notifying potential offerors of their Independent Review options. The language included in the solicitation shall be substantially similar to the language included at TMA PGI 233.103-90 (3), Reference (d).

4.3 The CO, or IRO where applicable, shall coordinate protest reviews with:

4.3.1 The Chief or Director of the contracting office;

4.3.2 The HCA; and

4.3.3 The Office of General Counsel, in accordance with References (b) and (e).

4.4 When an Independent Review is requested, the HCA shall use the IRO Appointment Letter Template at Enclosure 1 to appoint an IRO to review the protest, unless otherwise directed by Defense Procurement Acquisition Policy (DPAP) .

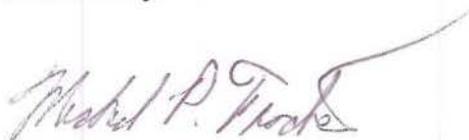
4.5 All justifications and determinations of urgent and compelling reasons to continue with award (if the protest is received pre-award) or to continue with performance (if the protest is received post-award) must be approved by the HCA.

5. RESPONSIBILITIES.

5.1 CO. The CO shall document receipt of the protest, review the protest, and render a final protest decision. Agency decisions shall be written, well documented and explain the agency position. Additionally, the CO shall provide the IRO with any information required to conduct an Independent Review.

5.2 IRO. The IRO shall, as applicable, document receipt of the protest, review the protest, and render a final protest decision.

6. EFFECTIVE DATE. This directive is effective immediately.



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Director, Acquisition Management & Support

Enclosure

E.1. IRO Appointment Letter Template