



OFFICE OF THE UNDER SECRETARY OF DEFENSE  
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ACQUISITION  
TECHNOLOGY  
AND LOGISTICS

SEP 29 2008

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Peer Reviews of Contracts for Supplies and Services

This memorandum establishes DoD policy for Peer Reviews. The objective of Peer Reviews is threefold: 1) to ensure that Contracting Officers across the Department are implementing policy and regulations in a consistent and appropriate manner; 2) to continue to improve the quality of contracting processes across the Department; and 3) to facilitate cross-sharing of best practices and lessons learned across the Department.

The results and recommendations that are products of Peer Reviews are intended to be advisory in nature. Reviews will be conducted in a manner which preserves the authority, judgment, and discretion of the contracting officer and senior officials of the acquiring organization. Contracting Officers will ensure that they document the disposition of all Peer Review recommendations in the contract file prior to contract award for a particular procurement.

In recent pilot Peer Reviews of proposed contract awards, we have focused on the pre-contract award process. We have found that these reviews provided beneficial results. We need to apply this same approach to examine contract execution in the post-award phase. Section 808 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, established requirements for post-award independent management reviews of contracts for services, and for sharing lessons learned from those reviews. Peer Reviews will serve to address the statutory requirement for independent management reviews of contracts for services.

This Office will organize teams of reviewers and facilitate pre-award Peer Reviews for all contracts with an estimated value of \$1 billion or more (including options) and post-award Peer Reviews for all service contracts with an estimated value of \$1 billion or more (including options). The teams for these Peer Reviews will be comprised of senior contracting leaders from across DoD as well as members of the Office of General Counsel. The team of reviewers will be comprised of civilian employees or military personnel from outside of the military department or other defense agency whose procurement is the subject of the Peer Review.

Pre-award Peer Reviews will be conducted in three phases for competitive procurements: 1) prior to issuance of the solicitation; 2) prior to request for final proposal revisions; and 3) prior to contract award. For continuity, review teams will be comprised of the same members for all three phases, whenever possible.



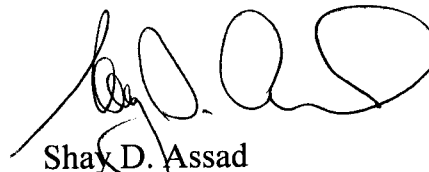
For non-competitive procurements, pre-award Peer Reviews shall be conducted at the pre- and post business clearance phases.

With regard to post-award Peer Reviews of service contracts, if the base contract period of performance is greater than one year, the first post award review should take place at the midpoint of the base period of performance. If the base period of performance is one year or less, the post award review should occur prior to exercise of the first option year. In either case, post award reviews should occur prior to every option period thereafter. Post-award Peer Reviews shall be focused on; 1) the adequacy of competition; 2) an assessment of actual contract performance; and 3) the adequacy of Government surveillance of contractor performance.

The attached instructions list the documents that will be made available to the review team and the specific elements the team will examine. Generally, each review will be conducted at the location of the executing contracting organization. The duration of the Peer Review will be dependent upon the size and complexity of the procurement being reviewed. The review team findings will be communicated to the contracting officer and the senior procurement official immediately upon completion of a review. This policy applies to all solicitations for the procurement of supplies and/or services in excess of \$1 billion issued after 30 September 2008. Implementation of post award service contract Peer Reviews will entail a phased-in approach and will commence with contracts selected by my office and the senior procurement executive responsible for the contract.

The Military Departments, Defense Agencies, and DoD Field Activities will establish their own procedures to conduct pre and post-award Peer Reviews for contracts valued at less than \$1 billion. Your respective plans and Peer Review procedures for contracts valued at less than \$1 billion must be submitted to my office within ninety (90) days of the date of this memorandum. In addition, please provide to my office, on a quarterly basis (i.e. end of September, December, March and June), a rolling annual forecast of planned procurements in excess of \$1 billion.

Please contact Mr. John Tenaglia at [john.tenaglia@osd.mil](mailto:john.tenaglia@osd.mil) or (703) 697-8334 to schedule OSD-facilitated Peer Reviews and to submit your plan to adopt Peer Review procedures within your respective agencies.



Shay D. Assad  
Director, Defense Procurement,  
Acquisition Policy, and  
Strategic Sourcing

Attachments:  
As stated

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<p style="text-align: center;"><b>Pre-Award Peer Reviews Required Documents and Elements</b></p>
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**Required Documents:** At a minimum, Peer Review teams shall have access to the following documents (as applicable):

1. The requirements document;
2. The acquisition strategy, or acquisition plan;
3. The source selection plan;
4. The initial Request for Proposals (RFP) and all amendments to include what, if any, RFP requirements (technical and contractual) were changed and why;
5. The Source Selection Evaluation Board (SSEB) analysis and findings to ensure the evaluation of offers was consistent with the Source Selection Plan and RFP criteria;
6. Any meeting minutes memorializing discussions between the Government and offerors;
7. All evaluation notices generated as a result of deficiencies in the offerors' proposals as well as the offerors' responses to those evaluation notices;
8. All minutes memorializing the conduct of Source Selection Advisory Council (SSAC) deliberations held to date;
9. The offerors' responses to the request for Final Proposal Revision;
10. The final SSAC deliberations;
11. The final SSA determination and source selection decision;
12. Award/incentive fee arrangements, documentation of any required HCA D&Fs regarding non-availability of objective criteria;
13. Justification and Approval for use of non-competitive procedures; and
14. Documentation of pre-negotiation objectives, cost/price negotiation and the assessment of contractor risk in determining profit or fee.

**Elements to be addressed:**

1. The process was well understood by both Government and Industry;
2. Source Selection was carried out in accordance with the Source Selection Plan and RFP;
3. The SSEB evaluation was clearly documented;
4. The SSAC advisory panel recommendation was clearly documented;
5. The SSA decision was clearly derived from the conduct of the source selection process;
6. All source selection documentation is consistent with the Section M evaluation criteria; and
7. The business arrangement.

<p style="text-align: center;"><b>Post-Award Peer Reviews Required Documents and Elements</b></p>
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**Required Documents:** At a minimum, Peer Review teams shall have access to the following documents (as applicable):

1. The requirements document;
2. The business arrangement, including business case analysis;
3. Market research documentation;
4. The business clearance, including documentation of cost/price negotiation and the assessment of contractor risk in determining profit or fee.
5. Contractor surveillance documentation to include metrics, quality assurance surveillance plans; and
6. The contract and modifications thereof.

**Elements to be addressed, at a minimum, in every post-award review:**

1. Contract performance in terms of cost, schedule, and requirements;
2. Use of contracting mechanisms, including the use of competition, the contract structure and type, the definition of contract requirements, cost or pricing methods, the award and negotiation of task orders, and management and oversight mechanisms;
3. Contractor's use, management, and oversight of subcontractors;
4. Staffing of contract management and oversight functions; and
5. Extent of any pass-throughs, and excessive pass-through charges by the contractor (as defined in section 852 of the National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364).

**Elements to be addressed in post-award reviews of contracts under which one contractor provides oversight for services performed by other contractors:**

1. Extent of the DoD component's reliance on the contractor to perform acquisition functions closely associated with inherently governmental functions as defined in 10 U.S.C. 2383(b)(3); and
2. The financial interest of any prime contractor performing acquisition functions described in paragraph (1) in any contract or subcontract with regard to which the contractor provided advice or recommendations to the agency.