

DEPARTMENT OF THE NAVY PEER REVIEW PROGRAM

Peer Review of contracts for services is required by Section 808 of the National Defense Authorization Act for Fiscal Year 2008 and Enclosure 9 to DoD Instruction 5000.02. Peer Reviews of contracts for supplies and services are required by the Director of Defense Procurement memorandum of September 29, 2008. Peer review criteria are addressed in the Director, Defense Procurement memorandum *Review Criteria for the Acquisition of Services* dated February 18, 2009.

Peer Reviews 1] ensure that contracting officers are implementing policy and regulation in a consistent and appropriate manner; 2] improve quality and effectiveness of the contracting process; and 3] facilitate cross-sharing of best practices and lessons learned. Pre-award Peer Reviews are required on acquisitions for supplies, systems and services. Post-award Peer Reviews are required on contracts for services regardless of award procedures employed in placing the contract. Post-award Peer Reviews on contracts for services should be conducted at the midpoint of the period of performance, or in sufficient time to complete the review and disposition of recommendations, prior to exercise of an option.

Pre-award Peer Reviews for competitive acquisitions shall be completed: 1] prior to issuing the formal solicitation; 2] prior to request for final proposal revisions; and 3] prior to contract award. If a competitive range determination results in identification of one qualified offeror and there is no basis for further discussion, the second and third peer review may be conducted concurrently. Pre-award Peer Reviews for non-competitive acquisitions shall be completed not later than the approval of the pre-negotiation and post-negotiation business clearances.

Peer Reviews are advisory in nature and shall be conducted in a manner to preserve the authority, judgment and discretion of the contracting officer. Contracting officers shall document disposition of Peer Review recommendations in the contract file prior to embarking on the next phase of an acquisition.

Pre-award Peer Reviews are prospective in nature, focused on ensuring that:

- a. the process and the nature and intent of the requirement is clearly stated;
- b. the source selection is conducted in accordance with the Source Selection Plan and the solicitation;
- c. contracting mechanisms to incentivize contract performance are appropriate;
- d. the Source Selection Advisory Council recommendations are well documented and included in the contract file;
- e. the Source Selection Authority decision is documented and is derived from the conduct of the source selection; and,
- f. the resulting business arrangement is in the best interests of the Government.

Post-award Peer Reviews on contracts for services measure outcomes and focus on ensuring that:

- a. Government procedures/personnel monitor contract performance to ensure compliance with the terms and conditions of the contract;
- b. contractor performance in terms of cost/schedule/requirements is consistent with terms and provisions of the contract;
- c. contracting mechanisms are effectively incentivizing contract performance;
- d. the contractor demonstrates effective use/management/oversight of subcontractors;
- e. pass-through charges, if any, are reasonable and appropriate;
- f. for multiple award contracts, all contractors are provided fair opportunity or that actions with other than fair opportunity are documented and supported; and,
- g. for contracts where one contractor provides oversight of performance of another, that:
 1. the extent of the activity's reliance on contractor personnel to perform acquisition functions closely associated with inherently Governmental functions is well defined and documented; and
 2. there are appropriate safeguards ensuring that the financial interests of the contractor providing oversight do not conflict with the best interests of the Government.

ROLES AND RESPONSIBILITIES

The Peer Review Authority shall identify a Peer Review Leader; designate Peer Review teams; and facilitate pre-award and post-award Peer Reviews. To the extent practicable, Peer Review team membership will be based on "like acquisitions," that is, service or supply contracts of similar size and complexity. The size and composition of the Peer Review team shall be commensurate with the size and complexity of the contract. Reviewers shall be independent of the contracting officer whose procurement is the subject of the Peer Review. For larger dollar value, complex acquisitions, the Peer Review Authority is encouraged to invite participation of personnel from outside the contracting office if such participation will add value. Peer Reviews should be completed in a reasonable time, normally less than 7 days. Contracting officers must ensure that time for the Peer Reviews and disposition of recommendations is included in the contract award schedule.

DoN Peer Reviews will leverage existing reviews (e.g., acquisition plan/strategy approval process, business clearance review/approval process, contract review boards, etc.) to the maximum extent practicable provided these processes are consistent with the purpose and intent of the DoN Peer Review program. The Peer Review team leader will identify specific documents necessary for conduct of the Peer Review based on the specifics of the contract action.

Participants in DoN Peer Reviews shall include DoN Senior Contracting Leadership, senior contracting officers/specialists and senior procurement analysts. The Peer Review team may be augmented by assist personnel (e.g., counsel, small business) on an “as needed basis” determined by the Peer Review Leader. For continuity, review teams for a specific action shall, to the extent practicable, be comprised of the same members for all reviews.

Peer Reviews shall be conducted on contracts estimated to exceed \$50,000,000, options included. If using multiple award procedures, one Peer Review shall apply for all resulting contracts. DoN Peer Review thresholds and Review Authority are addressed in Table 1.

<i>Type Of Action</i>	<i>Threshold</i>	<i>Review Level</i>	<i>Peer Review Authority</i>
Services/Supplies/ Systems	> \$ 1 billion	OSD	DPAP
DoD Special Interest	Identified by OSD as “Special Interest”	OSD	DPAP
Services	\$250 M to \$1 B	DoN	DASN(A&LM)
DoN Special Interest	Identified by the Peer Review Authority as “Special Interest” or referred from the Contracting Activity	DoN	DASN(A&LM)
Supplies/Systems	\$50 M – \$1 B	HCA	HCA or Senior Official in Charge of Contracting
Services	\$50 M - \$250 M	HCA	HCA or Senior Official in Charge of Contracting

Table 1. DoN Peer Review Thresholds and Authorities

The Peer Review Authority may not delegate review authority for acquisitions over \$50 million to a level any lower than the Chief of the Contracting Office in a subordinate activity.