



DEFENSE SECURITY COOPERATION AGENCY

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MAR 10 2010

MEMORANDUM FOR OFFICE OF THE UNDER SECRETARY OF DEFENSE,  
ACQUISITION, TECHNOLOGY, AND LOGISTICS  
(ATTN: Mr. John Tenaglia)

SUBJECT: Peer Reviews of Contracts for Supplies and Services

In response to the USD (AT&L) memorandum of September 29, 2008, subject as above, DSCA hereby submits its revised proposed procedures for peer review of contracts less than \$1 billion. This revision amends the dollar threshold for peer reviews from \$550,000 and greater to \$5,000,000 and greater.

Should you have any questions or require additional information, please contact Marybeth Olexy, 703-604-4992, [marybeth.olexy@dsc.mil](mailto:marybeth.olexy@dsc.mil).

Ann Cataldo  
Principal Director  
Business Operations

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As stated

## **DSCA PEER REVIEW PROCESS - CONTRACTS LESS THAN \$1 BILLION**

### **1.0 Overview**

This Defense Security Cooperation Agency (DSCA) guidance is intended to ensure that procurement requirements, submitted to DSCA-DBO-CON either at DSCA Headquarters or at DSCA-DBO-CON field locations, are evaluated consistently and appropriately improving the quality of the contracting process and best practices across the agency. The DSCA Peer Review Process is established to meet the requirements of Office of the Under Secretary of Defense, Acquisition Technology, and Logistics (USD (AT&L)) guidance, September 29, 2008, *Peer Reviews of Contracts for Supplies and Services*. The reviews will be divided into two specific areas:

- Pre-Award Peer Review
- Post-Award Peer Review

### **2.0 Background**

2.1 The Department of Defense (DoD) directed that Defense Agencies establish a Peer Review policy applicable to all solicitations for the procurement of supplies and/or services valued at less than \$1 billion that are issued after 30 September 2008. This direction is from USD (AT&L) and is an extension of requirements contained in Section 808 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181. The Act established requirements for post-award independent management reviews of contracts for services. The reviews will serve to address the statutory requirement for these independent management reviews of contracts for services.

2.2 Peer involvement is the process whereby Agency staff involves subject matter experts (SMEs) from outside their program in one or more aspects of the development/review of the work products leading to a procurement. Peer involvement, therefore, constitutes active outreach to and participation by various DSCA components, including the Regional Centers, and organizations outside of DSCA and DOD.

2.3 Peer Review is conducted by qualified individuals who (or organizations that) are independent of those performing the original work effort, but are collectively equivalent in expertise. The Peer Review is conducted to ensure that activities are technically adequate, competently performed, properly documented, and satisfy established quality requirements.

### **3.0 Applicability**

3.1 All contract actions equal to or exceeding \$5,000,000 in value are subject to Peer Review. The DSCA Principal Director Business Operations, or his/her designee, may assign efforts below this level for Peer Review.

3.2 The objective of Peer Reviews is threefold:

- To ensure that Contracting Officers across the Agency are implementing policy and regulations in a consistent and appropriate manner,
- To continue to improve the quality of contracting processes across the Agency, and
- To facilitate cross-sharing of best practices and lessons learned across the Agency.

### **4.0 Roles and Responsibilities**

4.1 Decision Authority. The DSCA Principal Director Business Operations (DSCA-DBO) serves as Head of Contracting Agency with authority to further delegate responsibilities of this nature to the DSCA Business Deputy, Defense Contracts. The Decision Authority will decide whether a work effort requires a Peer Review and what peer mechanism to use. The Decision Authority identifies the resources needed to ensure proper Peer Reviews are conducted and is responsible for ensuring that the Peer Reviews are properly performed and documented.

4.1.1 In order to ensure greater independence of Peer Reviews, it is necessary to strictly separate management of work efforts from the actual Peer Review of those efforts. Therefore, the Decision Authority and Peer Review Leader (PRL) should never be the same person.

4.1.2 The Decision Authority will establish appropriate training on how to manage the Peer Review process.

4.1.3 Specific responsibilities of the Decision Authority are as follows:

- Determine which acquisition efforts require Peer Review in accordance with Section 5.1;
- Assign a PRL to organize the Peer Review;
- Provide advice, guidance, and support to the PRL in the preparation, conduct, and completion of the Peer Review;
- Establish a realistic Peer Review schedule;

## DSCA Peer Review Process

- Address any issues/concerns of the Peer Reviewers;
- Ensure there is no conflict of interest between a reviewer and the organization that has submitted the work effort; and
- Justify any decision to *not* conduct a Peer Review on a contract action at or exceeding \$5,000,000 in value.
- Keep DSCA-DBO informed about the progress and results of Peer Reviews.

4.2 Peer Review Leader (PRL): This individual, assigned by the Decision Authority, conducts and completes the Peer Review for a specific individual work effort. The PRL will obtain the assistance and support of the Decision Authority, as well as any others within the Agency or outside of the Agency to help perform the Peer Review. [Note: Outside Agency support will be requested on a reciprocal basis due to funding, unless/until sufficient dollars are programmed/budgeted to accommodate outside Agency assistance.] The PRL will be chosen on a case by case basis depending on the work effort needing Peer Review.

4.2.1 The PRL must have appropriate training on how to conduct a Peer Review before conducting it. The Decision Authority can advise the PRL on how to obtain the appropriate training.

4.2.2 Specific responsibilities of the PRL include the following:

- Keep the Decision Authority informed of the status of a given project;
- Organize, conduct, and complete the Peer Review following Agency procedures;
- Establish and maintain the Peer Review Record (PRR) for the specific Peer Review currently being performed, for signature by the DM;
- Select the Peer Reviewers, in consultation with the Decision Authority and ensure that conflict of interest issues are addressed and documented in the PRR;
- Advise Peer Reviewers of their responsibilities;
- Provide information to the Decision Authority (including all appropriate managers in the PRL's chain of command) on the charge, profile of Peer Reviewers, the Peer Review comments, and a proposal on how to address the comments. Obtain Decision Authority approval on the approach to responding to Peer Reviewer comments. Clearly identify for the Decision Authority any Peer Review comments that will not be addressed in the agreed upon approach;

- Notify the Decision Authority when the Peer Review is completed; and
- Archive the PRR in a manner consistent with the Agency's archiving procedures.

4.3 Peer Reviewers (PRs): PRs are individuals who have technical expertise in the subject matter of the work effort undergoing Peer Review. PRs may be tasked from within DSCA, the Regional Centers, other Federal agencies, or from outside the Federal government, as required. Peer Review teams should not exceed three PRs unless approved by the Decision Authority. PRs need to be willing participants in the Peer Review process – they should agree to read all materials, participate fully, and protect confidential information that arises. PRs should maintain the confidentiality of the work, perform the review in a timely manner, and be unbiased and objective.

## 5.0 The Process

5.1 Determination of Need. The Decision Authority may designate a contract action for Peer Review whether: (1) the contract action is equal to or exceeds \$5,000,000 in value; (2) a Peer Review is advisable to ensure that Contracting Officers across the Agency are implementing policy and regulations in a consistent and appropriate manner; (3) a Peer Review is expected to provide opportunities to continue to improve the quality of contracting processes across the Agency, and facilitate cross-sharing of best practices and lessons learned across the Agency; (4) the effort is a one-time requirement or a recurring requirement. (If a Peer Review was conducted within the past two years on a recurring requirement, there may not be a need to conduct a review at this time unless there is a major change to the requirement(s)); (5) the requirement is considered a major acquisition of supplies and/or services. See Attachment 1.

5.2 Peer Review Record (PRR). The PRR should include all materials considered by the individual PRs as well as their written comments and other input. See Sections 6.0 and 7.0.

## 6.0 Pre-Award Peer Review

6.1 Pre-Award Peer Reviews will be conducted in three phases for competitive procurements:

- Prior to issuance of the solicitation,
- Prior to request for final proposal revisions, and
- Prior to contract award

Whenever possible and for continuity, review teams will be comprised of the same members for all three phases.

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

Refer to Attachment 2 for the information required of and to conduct a Pre-Award Peer Review.

### **7.0 Post-Award Peer Review**

For Post-Award Peer Reviews of service contracts, if the base contract period of performance is greater than one year, the first Post-Award Peer 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 Peer Reviews should occur prior to every option period thereafter.

Post-Award Peer Reviews shall focus on:

- The adequacy of competition,
- An assessment of actual contract performance, and
- The adequacy of Government surveillance of contractor performance.

Refer to Attachment 3 for the information required to conduct a Post-Award Peer Review.

**Justification Regarding Peer Review**

**Title of Effort:** \_\_\_\_\_

**What Requirement Does this Effort Support:** \_\_\_\_\_

\_\_\_\_\_

Pre-Award     Post-Award

**Determination of Need** *(to be filled in by the Decision Authority):*

- Requirement is considered a major acquisition of supplies
- Requirement is *not* considered a major acquisition of supplies
- Requirement is considered a major acquisition of services
- Requirement is *not* considered a major acquisition of services

**Rationale:** \_\_\_\_\_

\_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Pre-Award Peer Review Record**

**Title of Effort:** \_\_\_\_\_

**What Requirement Does this Effort Support:** \_\_\_\_\_

\_\_\_\_\_

**Team Composition:**

Peer Review Leader: \_\_\_\_\_

Peer Reviewer: \_\_\_\_\_

Other Team Members: \_\_\_\_\_

**Document Review** (*these documents, at a minimum, should be available to the Peer Review Team*):

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

**Elements to be addressed:**

- The process was well understood by both Government and Industry
- Source Selection was carried out in accordance with the SSP and RFP
- The SSEB evaluation was clearly documented
- The SSAC advisory panel recommendation was clearly documented
- The SSA decision was clearly derived from the conduct of the source selection process
- All source selection documentation is consistent with the Section M evaluation criteria
- The business arrangement

**Findings:**

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*(Use additional sheets, if necessary)*

**Post-Award Peer Review Record**

**Title of Effort:** \_\_\_\_\_

**What Requirement Does this Effort Support:** \_\_\_\_\_

\_\_\_\_\_

**Team Composition:**

Peer Review Leader: \_\_\_\_\_

Peer Reviewer: \_\_\_\_\_

Other Team Members: \_\_\_\_\_

\_\_\_\_\_

**Document Review** (*these documents, at a minimum, should be available to the Peer Review Team*):

- The requirements document
- The business arrangement, including business case analysis
- Market research documents
- The business clearance, including documentation of cost/price negotiation and the assessment of contractor risk in determining profit or fee
- Contractor surveillance documentation to include metrics, quality assurance surveillance plans
- The contract and modifications thereof

**Elements to be addressed, at a minimum, in every Post-Award Peer Review:**

- Contract performance in terms of cost, schedule, and requirements
- 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
- Contractor's use, management, and oversight of subcontractors  
Staffing of contract management and oversight functions

- 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 Peer Reviews of contracts under which one contractor provides oversight for services performed by other contractors:**

- 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)
- The financial interest of any prime contractor performing acquisition functions described in the preceding paragraph in any contract or subcontract with regard to which the contractor provided advice or recommendations to the agency

**Findings:**

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*(Use additional sheets, if necessary)*