**DFARS Case 2019-D037**

**Peer Reviews of Contracts for Supplies and Services**

**Final Rule**

**PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM**

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**SUBPART 201.1—PURPOSE, AUTHORITY, ISSUANCE**

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**201.170 Peer reviews.**

(a) **[*DPC*]***~~DoD~~ peer reviews.*

(1) The Office of the **[Principal ]**Director, Defense **[Pricing and Contracting (DPC)]**~~Proocurement and Acquisition Policy~~, **[using the procedures at PGI 201.170,]** will organize teams of reviewers and facilitate peer reviews for solicitations and contracts~~,~~ as follows**[:]** ~~using the procedures at PGI 201.170—~~

(i) **[DPC will conduct the]** ~~P~~**[p]**reaward peer reviews for competitive procurements ~~will be conducted in~~ **[prior to the]** three phases **[of the acquisition (see PGI 201.170-2(a))]** for all ~~solicitations~~ **[procurements with an estimated value of]** ~~valued at~~ $1 billion or more**[** **under major defense acquisition programs for which the Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)) is the milestone decision authority or USD(A&S) designates as requiring a peer review regardless of value.** **DoD components may request DPC-led peer reviews for acquisitions valued below the $1 billion threshold. DPC will conduct these reviews upon approval by the Director, Defense Pricing and Contracting (Contract Policy).]**

(ii) **[DPC will conduct the]** ~~P~~**[p]**reaward peer reviews for noncompetitive procurements ~~will be conducted in~~ **[prior to the]** two phases **[of the acquisition (see PGI 201.170-2(b))]** for ~~new~~ contract actions**[, e.g., new contracts, modifications to existing contracts, requests for equitable adjustment, claims ]**valued at $**[1 billion]**~~500 million~~ or more**[, or for any other contract action USD(A&S) designates as requiring a peer review regardless of value. DoD components may request DPC-led peer reviews for contract actions valued below the $1 billion threshold. DPC will conduct these reviews upon approval by the Director, Defense Pricing and Contracting (Price, Cost and Finance).**

**(iii) Use the following criteria to identify actions that are subject to peer review (see also FAR 1.108(c), Dollar thresholds):**

**(A) If the not-to-exceed amount for an undefinitized contract action or an unpriced change order exceeds the peer review threshold, then the resultant definitization modification(s) will be subject to peer review regardless of actual performance up to the point of definitization.**

**(B) For indefinite delivery indefinite quantity (IDIQ) contracts that will establish pricing terms that apply to orders, use the total maximum dollar value for purposes of the peer review threshold. IDIQ contracts that will not establish pricing terms in the basic contract are not subject to peer review, but individual orders that exceed the threshold are subject to peer review.**

**(C) For noncompetitive contract actions, use the greater of the following when considering the firm requirement for all supplies or services:**

***(1)*  The approved Government objective amount.**

***(2)*  The contractor proposed amount.]**~~; and~~

~~(iii) Postaward peer reviews will be conducted for all contracts for services valued at $1 billion or more.~~

(2) To facilitate planning for peer reviews, the military departments and defense agencies shall provide a rolling annual forecast of acquisitions **[that will be subject to DPC peer reviews]** at the end of each quarter (i.e., March 31; June 30; September 30; December 31)**[.]**~~, to the Deputy Director, Defense Procurement and Acquisition Policy (Contract Policy and International Contracting) via email to~~ *~~osd.pentagon.ousd-atl.mbx.peer-reviews@mail.mil~~*~~.~~

**[(i) Military departments and defense agencies shall submit quarterly forecasts for competitive peer reviews to the Director, Defense Pricing and Contracting (Contract Policy), at** [***osd.pentagon.ousd-a-s.mbx.dpc-cp@mail.mil***](mailto:osd.pentagon.ousd-a-s.mbx.dpc-cp@mail.mil)**.**

**(ii) Military departments and defense agencies shall submit quarterly forecasts for noncompetitive peer reviews to the Director, Defense Pricing and Contracting (Price, Cost and Finance), at** [***osd.pentagon.ousd-a-s.mbx.dpc-pcf@mail.mil***](mailto:osd.pentagon.ousd-a-s.mbx.dpc-pcf@mail.mil)**].**

(b) *Component peer reviews*. The military departments and defense agencies shall establish procedures for—

(1) Preaward peer reviews of solicitations for competitive procurements **[not subject to 201.170(a)(1)(i)]**~~valued at less than $1 billion~~; **[and]**

(2) Preaward peer reviews ~~for~~**[of]** noncompetitive procurements **[not subject to 201.170(a)(1)(ii).]**~~valued at less than $500 million; and~~

~~(3) Postaward peer reviews of all contracts for services valued at less than $1 billion~~.

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**PART 237—SERVICE CONTRACTING**

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**SUBPART 237.1--SERVICE CONTRACTS--GENERAL**

**237.102-76 [Reserved.] ~~Review criteria for the acquisition of services~~**~~.~~

~~See PGI 237.102-76 for tenets and review criteria to be used when conducting preaward and postaward reviews for the acquisition of services.~~