



**DEFENSE LOGISTICS AGENCY
DEFENSE ENERGY SUPPORT CENTER
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IN REPLY
REFER TO DESC-CPB (Phoebe Rolen/X8465)

SEP 05 2003

CONTRACTING INSTRUCTION (CI): 03-19
SUBJECT: DEPI Change: New Section 1.690-5(101) DESC Acquisition Strategy
Review Board for Services

The CI establishes the DESC procedure for implementing DLAD Parts 7.1 and 37.5. This new procedure establishes new review and approval dollar thresholds for service acquisitions. The new DLAD requirements establish more extensive and indepth oversight of service acquisitions to be performed by each field activity. The review and oversight process will be conducted using a newly created Acquisition Strategy Review Board (ASRB). DEPI Subpart 1.690-5 is hereby revised to add the new subpart 1.690-5 (101) for service acquisitions (see Attachment 1).

In order for DESC to comply with these new requirements for services acquisitions, a separate DESC Acquisition Plan for Services (DESC Form 15.11) has been created and is available on the Q drive, C folder, Forms subfolder.

This instruction is effective immediately and expires upon incorporation into the next DEPI change. Point of contact is Phoebe Rolen, 767-8465.

A handwritten signature in black ink that reads "Gabriella M. Earhardt".

GABRIELLA M. EARHARDT
Center Senior Procurement Official

Attachment:



DEFENSE ENERGY PROCUREMENT INSTRUCTION

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PART 1

FEDERAL ACQUISITION REGULATIONS SYSTEM

SUBPART 1.1 - PURPOSE, AUTHORITY, ISSUANCE

1.101 Purpose. The DEPI is issued by order of the Center Senior Procurement Official (CSPO), to provide guidance to DESC personnel in the acquisition of supplies and services by DESC. DEPI implements the FAR, the DFARS, and the DLAD. It is not designed to create rights in or provide benefits to third parties. DEPI is not a stand-alone document and must be used in conjunction with FAR, DFARS and DLAD. When used in this manual, DLAD will mean the Defense Logistics Acquisition Directive.

1.104 Applicability.

(a) The DEPI applies to all acquisitions made by the Commodity Business Units (CBUs). Other functions within DESC or the Defense Energy Regions (DERs) may be affected by this regulation to the extent that their coordination is necessary in complying with procedural requirements attendant to the acquisition mission of DESC.

(101) Whenever the DEPI contains policies and procedures that conflict with the FAR, the DFARS, or the DLAD, the policies and procedures in the FAR, the DFARS, or the DLAD will apply.

1.105 Issuance.

1.105-2 Arrangement of instruction.

(b) Numbering.

(1) This instruction is arranged in essentially the same manner as the FAR, the DFARS, and the DLAD. The numbering system in DEPI is in accordance with FAR paragraph 1.104-2. The numbers 101-199 are used to designate new parts, subparts, sections, or subsections when supplementation is required. The implementing coverage uses the same numbers as the FAR, the DFARS, or the DLAD material being implemented.

(c) References and citations.

(2) This instruction will be referred to as the DEPI. Written reference to the manual should be cited as DEPI, followed by the applicable paragraph number. Thus, this paragraph would be cited as DEPI 1.104-2(c)(2).

(101) Appendices and supplements.

Appendices are identified by a capital letter and will generally follow the lettering scheme of the DFARS. Proposals for appendices will be submitted to DESC-CPA for processing.

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SUBPART 1.2 - ADMINISTRATION

1.201 Maintenance of the FAR.

1.201-101 Maintenance of the DEPI.

DESC-CPA will maintain this manual.

1.201-102 Amendment of instruction.

This manual will be amended on a continuing basis by the issuance of a change stating the new month and year of the change to the DEPI. Changes will be made on a quarterly basis. Proposals for amendments will be submitted to DESC-CPA for processing. The cover page(s) of the change will summarize the changes to the DEPI and will identify pen and ink changes or page substitutions.

1.201-103 Dissemination and effective date.

(a) Copies of the FAR, the DFARS, the DLAD and the DEPI are available on the internet. Copies of the FAR can be found at:

<http://www.arnet.gov.far.html>

Copies of the DFARS can be found at: <http://www.acq.osd.mil/dp/dars/dfars.html>

Copies of the DLAD can be found at:

http://www.dla.mil/j-3/j-336/logisticspolicy/procltrspage_2.htm

Copies of this instruction can be found at

<http://www.desc.dla.mil/publicpages/p/policy/policy.cfm>

(b) Revisions to the DEPI are effective upon the date of issuance unless otherwise indicated.

SUBPART 1.3 - AGENCY PROCUREMENT INSTRUCTIONS

1.304 Agency control and compliance procedures.

(6)(i) Federal and Defense Acquisition Circulars.

Unless other guidance has been provided, when a new clause is issued or an existing clause is revised, the following applies:

(a) Solicitations already issued need not be amended solely to include the new or revised clauses. An amendment subsequently issued for any other reason, however, should include the new or revised clauses unless the contracting officer determines that the changes are so insignificant that the benefit of including them would be outweighed by the administrative effort.

(b) Negotiations which have already closed need not be reopened to include the new or revised clauses. If negotiations are reopened for any other reason, inclusion of

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the new or revised clauses should be addressed, unless the contracting officer makes the determination described in (a) above.

(c) Determination not to include a new clause/clause revision of a significant nature shall be documented in the file.

1.390 DEPI.

(a) The authority in DLAD 1.301-90 is redelegated to the CSPO.

(b) Contents. These instructions contain the internal policies, procedures, and instructions covering the acquisition of supplies and services by DESC. To obtain full procedural coverage, all four references must be consulted.

(c) Contracting instructions.

(1) The CSPO issues Contracting Instructions (CIs) to provide interim guidance on procurement policies and procedures. These instructions are identified by the initiator's office symbol and the term, "CONTRACTING INSTRUCTION" followed by the last two digits of the calendar year and a number identifying the sequence of issuance. Thus, the first CI issued during 1998 is identified as follows:

DESC-CPA
CONTRACTING INSTRUCTION (CI): 98-1

(2) All CIs will be routed by the initiating office through DESC-CPA and the Procurement Planning and Support Division, (DESC-CP), for forwarding to the CSPO for signature.

(3) CIs to be incorporated into the DEPI will contain a statement to that effect.

(4) Distribution of CIs will be the same as that for the DEPI and J-336 PROCLTRs.

(5) A listing of CIs which are still current but are not subject to incorporation into the DEPI will be provided electronically.

(d) Procurement operating procedures.

DESC-C issues Procurement Operating Procedures (POPs) to provide guidance concerning administrative matters for contracting personnel. POPs will be routed by the initiating office through DESC-CPA and DESC-CP, for forwarding to the CSPO for signature.

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SUBPART 1.4 - DEVIATIONS FROM THE FAR

1.403 Individual deviations.

(a) Negotiations by the buying division.

The contract specialist is initially responsible for obtaining the offeror's/contractor's acceptance of and compliance with mandatory FAR or other acquisition regulations and instructions. If the contract specialist is unsuccessful in negotiations, he will escalate negotiations to the contracting officer and, if necessary, to the division chief. When an offeror refuses to provide cost or pricing data, the procedures of 15.403-4(a)(2) will be followed.

(b) Procedures for requesting deviations.

(1) When negotiations as referenced in 1.403(a) fail to obtain the contractor's/offeror's acceptance of, or compliance with, mandatory acquisition regulations, approval to deviate from these requirements is necessary prior to award. Requests for approval to deviate will be submitted by Memorandum to DESC-CPA for processing through DESC-G to HQ, DLA. Requests will include a justification with the following:

(i) Identify the acquisition requirement, purchase program, solicitation number, delivery period, products(s), quantity(ies), price(s), total estimated dollar value, offer expiration date, and other pertinent information.

(ii) Identify the applicable regulation or contract provision to which the contractor takes exception. Describe the intended effect of the deviation.

(iii) Describe efforts to obtain the contractor's acceptance of the contract provision or compliance with the applicable acquisition regulation.

(2) DESC-CPA will review and confirm the validity of all requests for deviation and recommend the appropriate action to the CSPO. If appropriate, DESC-CPA will prepare and transmit a request for approval to deviate to DLA. Follow-up on requests will be done by DESC-CPA.

(3) Deviations will not be used until approved by the appropriate authority. In no event will they be approved at a level below the CSPO.

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SUBPART 1.6 - CONTRACTING AUTHORITY AND RESPONSIBILITIES

1.602-3 Ratification of unauthorized commitments.

(b) Policy.

(3) The authority for the ratification of unauthorized commitments valued at or below the simplified acquisition threshold at FAR 13.101 resides with the CSPO/Associate CSPO.

1.603 Selection, appointment, and termination of appointment of contracting officers.

1.603-3 Appointment.

(a) Requests for appointment of a contracting officer will be forwarded by Memorandum, signed by the division chief, to the Procurement Oversight Branch (DESC-CPB) for processing. The Memorandum will be routed through the CSPO, and contain, as enclosures, the Contracting Officer Warrant Program Statement and Request for Appointment of a Contracting Officer as described in DLAD 1.603-2. The Memorandum will also include the following data, which is required for input into the Automated Civilian Personnel Cost and Payroll System (APCAPS) for each contracting officer appointment:

(1) Type of Warrant Requested: ACO, PCO, or TCO.

(2) Professional Certificates Awarded: ALMC, AFIT, CPCM(NCMA), CACM (NCMA), or None.

(3) Civilian Position Description Number.

(101) Processing by DESC.

(a) DESC-CPB will prepare a SF 1402, CERTIFICATE OF APPOINTMENT, which will be forwarded to the Director, DESC, for signature.

(b) After signature by the Director, DESC, DESC-CPB will:

(1) Forward the original SF 1402 to the newly appointed contracting officer.

(2) Retain one copy of the SF 1402 and other supporting documents for administrative purposes.

(3) Maintain a serially numbered register of contracting officer appointments.

(c) Upon receipt of the original certificate of appointment, the newly appointed contracting officer will thoroughly review and become acquainted with DoD Directive 7200.1, ADMINISTRATIVE CONTROL OF APPROPRIATIONS prior to signing any

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document obligating Defense Business Operations Fund monies. Obligating documents signed by persons other than those certified as contracting officers will be in violation of DoD Directive 7200.1 and subject to the penalties described therein.

(d) Although DESC has the flexibility to make and adjust contracting officer appointments to meet mission needs, it also has a responsibility to ensure warrants are controlled and managed appropriately. Division chiefs will ensure that warrants are kept current and are being effectively utilized. Warrants should be reviewed periodically to ensure they are commensurate with division needs (e.g., dollar value or type of actions of expected acquisition workload) and that signature authority is effectively used. When contracting officers are not exercising their authority continuously, consideration should be given to terminating their appointments. No one below the division chief should have a warrant where signature authority is seldom used or is exercised only in the absence of others. DESC-CPB will be advised by Memorandum when changes to existing warrants are necessary or when an appointment is no longer required.

1.603-92 Contracting officer review program.

(a) DESC-CPB (Procurement Oversight Branch) is the focal point for the Contracting Officer Review Program.

(1) Annual assessment.

Every CBU will conduct an annual assessment of the organizational need for contracting officer appointments. These assessments will be forwarded through the CBU Director to DESC-CPB for forwarding to the CSPO prior to October 1 every year. The issues to be examined are those set forth in paragraph 1.603-3(101)(d).

(2) The DESC Contracting Officer Review Board.

(i) The DESC Contracting Officer Review Board will be composed of:

(A) The CSPO will serve as the Chairperson. . This is a permanent position.

(B) The Chief of the Procurement Planning and Support Division. This is a permanent position.

(C) One GM-14 Division Chief from a CBU. This is a rotating position and the appointment will be for a term of one year. This position will be filled by a person in the 1101 or 1102 career field, and will be DAWIA Level III certified in the contracting field.

(ii) Appointments to the DESC Contracting Officer Review Board will be made by the CSPO. The appointment will be in writing. The board will be responsible for the following:

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(A) Reviewing and approving initial contracting officer appointment procedures as prescribed in DEPI 1.603. Recommendations of the Contracting Officer Review Board shall be forwarded for approval by the CSPO.

(B) Conducting reviews of each contracting officer every three years. These reviews will include the evaluations as required by DLAR 1.603-91(a)(2). The Procurement Oversight Branch, DESC-CPB is responsible for maintaining the contracting officer appointment files.

(iii) The Contracting Officer Review Board will make any recommendations necessary to ensure that DESC's contracting officers are well trained, well utilized, and demonstrate professional competence. These recommendations will be made to the CSPO.

(iv) If the contracting officer disagrees with the findings of the Contracting Officer Review Board, he/she will forward a memorandum explaining the basis of the disagreement through the CBU director to the Chairman of the Contracting Officer Review Board. If the disagreement cannot be resolved after discussions with the Contracting Officer Review Board, the matter will be decided by the CSPO.

1.603-93 Selection, appointment, and termination of appointment of contracting officer's representatives and contracting officer's technical representatives.

(a) All appointments and termination of appointments of Contracting Officer's Representatives (CORs) and Contracting Officer's Technical Representatives (COTRs) will be in accordance with DLAD 1.603-93. A copy of COR/COTR appointments will be maintained by the DESC directorate making the appointment.

(b) New appointments shall be made by the director of the CBU or designee. For the purpose of approving specification waivers in extraordinary situations, such appointments shall be limited to personnel in DESC-BP and BQ.

1.690 Review and approval requirements.

1.690-2 Policy.

(c) The Procurement Oversight Branch, Procurement Planning and Support Division (DESC-CPB) is the focal point for contracting oversight.

1.690-5 Types of actions requiring contract clearance.

The criteria for DESC review, pursuant to DLAD 1.690-2, of actions listed in DLAD 1.690-5 are set forth hereunder.

(101) Acquisition Strategy Review for Service Acquisitions.

(a) All service acquisitions regardless of whether they have been selected for review must have a completed Advance Acquisition Strategy Template as required by

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DLAD 90.1103. For all those service acquisitions that are not specifically selected for DLA I-ARB review, the DESC Acquisition Plan for Services (DESC Form 15.11) satisfies this requirement.

(b) All service acquisitions, above \$100,000, are subject to the same review and documentation requirements as those mandated or selected for review by the Acquisition Strategy Review Board (ASRB). Those acquisitions below the \$5,000,000 threshold are subject to be selected for review under the DESC Acquisition Review Board procedures stated below in DEPI Part 1.690-5(102).

(c) All services acquisitions with the total dollar threshold of \$5,000,000 and above must be reviewed by the Acquisition Strategy Review Board (ASRB).

(d) The Decision Authority must be DAWIA Level III certified in Contracting. The table below identifies the Decision Authority for the various dollar thresholds below the \$50 million threshold for DLA review and approval:

Dollar Threshold	Decision Authority
Between \$100,000 and \$1 million	Division Chief or if no Division Chief, the next level above the Contracting Officer. For those offices without a next level that is DAWIA Level III certified in Contracting, the Decision Authority is the CSPO.
Above \$1 million and below \$5 million	CBU Director/Deputy Director or for those offices without a CBU Director/Deputy Director DAWIA Level III certified in Contracting, the Decision Authority is the CSPO.
Between \$5 million and below \$20 million	DESC CSPO
Between \$20 million and below \$50 million	DESC Deputy Director or Director

(e) All service acquisitions with a total dollar value of \$50 million or more require DLA I-ARB approval in accordance with DLAD Subpart 7.104-90 and 90.2503.

(f) ASRB or Decision Authority reviews will be conducted for all of the following stages of the selected procurement: acquisition strategy (acquisition planning before synopsis issuance Milestone A), prenegotiation (Milestone B1), preaward (Milestone B2), and postaward (Milestone C) stages of any procurement.

(g) For service acquisitions selected for review by the ASRB, the DESC CSPO must approve, conditionally approve, or disapprove the strategy before the CBU may proceed with any stage of the procurement. For those service acquisitions below the

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\$5 million threshold or otherwise not selected for an ASRB, the Decision Authority must approve the strategy supported by the documentation in Paragraph (m)(2) below, at each Milestone stage of the procurement. Once a proposed acquisition has been selected for ASRB review, any adjustments to the review schedule require DESC Center Senior Procurement Official approval.

(h) The ASRB will consist of:

(1) The DESC Chief of the Procurement Oversight Branch who will serve as Chairperson of the ASRB. This person will be a voting member of the ASRB.

(2) The Contracting Officer for the procurement. This person will be a voting member of the ASRB.

(3) Outside Contracting Officer from outside the buying division. This person is a voting member of the ASRB.

(4) A Pricing Office representative and/or other person possessing specialized knowledge pertaining to the action being reviewed. This person is a non-voting member of the ASRB.

(5) A Procurement Oversight Branch procurement analyst. This person is a non-voting member of the ASRB.

(i) For actions greater than \$50 million, an ASRB shall be convened prior to the procurement action package being forwarded to the DLA I-ARB for review/approval.

(j) Selection of ASRB members. DESC-CPB shall be responsible for selecting individuals to fill rotating positions at each ASRB session. All potential board members are expected to be available for participation. ASRB member selections will be coordinated with the offices/divisions from which the selection is made and workload will be a primary consideration in all selections.

(k) Scheduling of sessions. DESC-CPB shall be responsible for scheduling ASRB sessions in coordination with the CBU. These sessions will be scheduled well in advance by DESC-CPB to allow adequate preparation by the participants. The buying division shall forward five case files containing the required documentation to DESC-CPB for dissemination to all ASRB members along with the related preaward and contract files as applicable. For all preaward type reviews, the firm ASRB date will be scheduled no sooner than one week after receipt of the case files and preaward file. For any post award type review, the firm ASRB date will be scheduled no sooner than one week after receipt of the case file, preaward file and contract file in DESC-CPB.

(l) Conduct of Sessions. The ASRB sessions will be conducted in a similar manner as the DESC Acquisition Review Board. The ASRB must grant approval

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before the CBU may proceed to the next stage in the acquisition process. No solicitation shall be publicized or issued prior to obtaining approval of the acquisition strategy from the CSPO or appropriate Decision Authority.

(m) Resolution of disagreements between the CBU Division Chief or the Chief, DESC-CPB, and the ASRB. All disagreements concerning an ASRB will be resolved expeditiously, and at the lowest level possible.

(1) If the Division Chief of the buying office disagrees with an ASRB decision, he/she will prepare a written memorandum explaining the basis for the disagreement and will forward it to DESC-CP. If the problem cannot be resolved at this level, the Chief, DESC-CP, may add comments and the matter will be escalated to the CSPO for resolution.

(2) If the Chief, DESC-CPB, disagrees with an ASRB decision, he/she will prepare a written statement and provide a copy to the division chief of the buying office, who may add comments. If the problem cannot be resolved, DESC-CP will escalate the matter to the CSPO for resolution.

(n) Records of sessions. DESC-CPB shall keep a log of ARB sessions showing the date of each session, the milestone reviewed, and the milestone disposition. DESC-CPB shall maintain milestone retain files containing the milestone file documentation, descriptions of any significant deficiencies and required corrective actions, and milestone disposition including any special conditions imposed.

(o) Maintenance of case files for follow on milestones. DESC-CPB will be responsible for maintaining the case files after the initial review for use in follow on reviews. Once case files have been forwarded to DESC-CPB for distribution to the ASRB for a Milestone A review, DESC-CPB will be responsible for maintaining those files for use by the ASRB during the Milestone B1, B2 and C reviews.

(p) ASRB case file documentation.

(1) One ASRB case file shall include a completed original DESC Form 15.1; the other six case files shall include copies. Each file shall contain documents filed under the appropriate tabs (1, 3, 8, 12, 14, 18, 22, 23, 24, 43, 45) and any other documentation dealing with significant special issues (e.g. source selection plans, past performance evaluation plans, etc.). The files will include documentation describing the acquisition strategy, metrics and data collection to be utilized in that procurement. For any service acquisition exceeding \$50 million, the Advance Acquisition Planning Template required by DLAD 90.1103 will be provided.

(2) The acquisition strategy shall address the following criteria: requirement, risks, competition, implications, small business and related considerations, business arrangements, and multiyear contracts. For multi-year actions, the strategy must address DESC's plans for budgeting for termination liability.

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(i) The requirement section of the acquisition strategy shall address the outcomes to be satisfied and whether they are performance based, the measures of success for the acquisition, and how the requirement was previously satisfied.

(ii) The competition section will explain how full and open competition will be provided. For other than using the statutory exception of urgent and compelling, the J&A for less than Full and Open Competition must be provided no later than Milestone A review and approval.

(iii) The implications section addresses how the new acquisition will support the achievement of the DESC small business goals/targets as well as support of any other applicable directed programs.

(iv) The business arrangements section should address the funding, the type of business arrangements anticipated (single contract, multiple award task order contract, etc.), the duration of the contracts, cost estimate for the total acquisition, and pricing arrangements. Task orders executed within a service acquisition reviewed under this policy do not require a separate review by the ASRB provided the task order is issued under the prior approved ASRB.

(3) Metrics shall be established for cost, schedule and performance, as appropriate. The Contracting Officer will conduct reviews at least semiannually to assess progress against these metrics. The frequency of these periodic reviews will be determined by the ASRB. Written assessments will be submitted to DESC-CPB for review and approval by the DESC CSPO after coordination within the CBU

(4) Data collection shall be performed and reported for each acquisition via the DD 350 Reporting System as required by Attachment B of USD Memorandum dated May 31, 2002, subject: Acquisition of Services and DLAD 37.590-2.

(102) DESC Acquisition Review Board (ARB).

(a) Presolicitation, prenegotiation and preaward review of selected procurement actions within DESC shall be accomplished by the ARB for approval by the CSPO. The ARB shall review selected actions for sound business judgment and conformance with law, regulation, and policy.

(b) Composition of the Board. Board members will include:

(1) Chief of the Procurement Oversight Branch, who will act as the Board Chairman (voting member);

(2) Contracting officer for subject procurement (voting member);

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(3) Senior contracting person from outside the buying division (e.g. contracting officer or division/office chief from another division or office) (voting member);

(4) Pricing office representative and/or other person possessing specialized knowledge pertaining to the action to be reviewed (non-voting member; participation may be waived by DESC-CPB when pricing or other issues requiring specialized knowledge are not expected to be discussed); and,

(5) Procurement Oversight Branch analyst (non-voting member; participation may be waived by DESC-CPB).

(c) Selection of Board members. DESC-CPB shall be responsible for selecting individuals to fill rotating positions (e.g. non-buying division senior contracting person, pricing office representative) at each board session. While selections will be coordinated with the offices/divisions from which the selection is made and workload will be a primary consideration in all selections, all potential board members are ordinarily expected to be available for participation. Exceptions shall be approved by the CSPO.

(d) Scheduling of sessions. DESC-CPB shall be responsible for scheduling ARB sessions. Sessions should normally be assigned a projected ARB date well in advance to allow adequate preparation by participants. The buying office shall forward five case files containing the required documentation to DESC-CPB for dissemination to all board members and the preaward and contract files as applicable. The firm ARB date will be scheduled no sooner than three full working days after receipt of the case file. If the required documentation is not received three full working days in advance of the projected date, the ARB session will be rescheduled to a later date.

(e) Conduct of sessions.

(1) The contract specialist(s) presenting the case should be thoroughly familiar with the proposed action, as well as with other salient aspects of the procurement, and should be prepared to support the action proposed. Relevant contract file and other support documentation not made a part of the case file shall be at hand for reference.

(2) The presenter should address the particulars of the action (i.e., solicitation issue date/closing date, quantities involved, and other appropriate background information), and then focus on key issues arising at that stage of the procurement. For prenegotiation reviews, the key issues would normally include those listed under paragraph (103)(b) below. For other reviews, the key issues would normally be addressed in the documentation included under the tabs required in the ARB case file (see paragraph (103) below).

(3) After hearing the presentations and resolving questions and answers, the voting members of the ARB shall approve, disapprove or conditionally approve the action. The Board's decision, including any special conditions, shall be documented on the DESC form 15.1.

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(f) Records of sessions. DESC-CPB shall keep a log of ARB sessions showing the date of each session, the case reviewed, and the case disposition. DESC-CPB shall maintain retain files containing the case file documentation, descriptions of any significant deficiencies and required corrective actions, and case disposition including any special conditions imposed.

(g) Resolution of disagreements between the CBU Division Chief or the Chief, DESC-CPB, and the ARB. All disagreements concerning an ARB will be resolved expeditiously, and at the lowest level possible.

(1) If the Division Chief of the buying office disagrees with an ARB decision, he/she will prepare a written memorandum explaining the basis for the disagreement and will forward it to DESC-CP. If the problem cannot be resolved at this level, the Chief, DESC-CP, may add comments and the matter will be escalated to the CSPO for resolution.

(2) If the Chief, DESC-CPB, disagrees with an ARB decision, he/she will prepare a written statement and provide a copy to the division chief of the buying office, who may add comments. If the problem cannot be resolved, DESC-CP will escalate the matter to the CSPO for resolution.

(h) Complying with ARB decisions. When an action has been conditionally approved, before proceeding with the procurement the contracting officer will comply fully with the terms of the condition. As part of the condition, the Board shall state the mechanism for affirming compliance (DESC-CPB, the ARB, or postaward review). Other recommended changes shall be made, and documentation added to the file, at the appropriate times. If an action is disapproved by either the ARB or the CSPO, deficiencies shall be remedied and a follow-up ARB session scheduled as soon as is practicable.

(i) Significant changes in negotiation objectives. For those actions reviewed and approved by the ARB on a prenegotiation basis, when a significant change [See definition at DLAD 1.690-7(f)(1)] in the negotiation objective(s) occurs, the revised objective(s) shall be reviewed and approved by the Board or DESC-CPB prior to award. The DESC Form 15.7a will be used to document this review and approval. On some purchase programs one PBM may address multiple objectives for different locations, marketing areas, products, etc. On those programs, at the close of negotiations some objectives may experience significant changes while others do not. Actions associated with objectives, which have not significantly changed, may be awarded without delay. Items where competition is maintained are considered not to have experienced a significant change and may also be awarded without delay.

(j) Opening discussions before ARB review and requests for waiver of ARB review for other than service acquisitions.

(1) Although it should not be necessary to open discussions with offerors before ARB review and approval is completed, the Contracting Officer may do

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so when conditions so warrant. The decision to do so shall be approved by the CBU Director with coordination of DESC-CPB. The Memorandum requesting approval shall be routed through DESC-CPB and the CSPO. In such instances, the Contracting Officer shall comply with all ARB recommendations, including adjustment of pricing objectives, before negotiations are closed.

(2) Requests for waiver of ARB review and approval will be sent by a Memorandum signed by the Division Chief and submitted through the CBU Director through DESC-CPB to the CSPO for approval. The request will contain a complete description of the proposed action, a general chronology of events from receipt of the requirement to submission of the request, and the extraordinary circumstances that require the waiver. The granting of a waiver by the CSPO does not constitute approval of the award or any deviations from applicable laws and regulations. Actions for which waiver(s) has/have been obtained will be approved by the CSPO. The document granting the waiver will be included in the preaward and contract file.

(103) Actions requiring ARB/ASRB review and approval.

(a) Selection of actions for ARB or required for ASRB review will be made by the CSPO from a monthly list of procurement actions. The monthly list shall be generated at the beginning of each month by DESC-CPB from submissions received from each buying division. To facilitate generation of this list, DESC-CPB will compile a draft list using data from Plans. Each buying division will review the draft list, add missing data, make any changes necessary to ensure that the report is complete and accurate, and return it to DESC-CPB for final updating.

(b) The monthly list shall include the following actions:

- (1) Solicitations to be issued that month;
- (2) Procurements in which a negotiation is anticipated to open that month or at the beginning of the succeeding month;
- (3) Sealed bid procurements in which awards are projected to be made that month or at the beginning of the succeeding month;
- (4) Actions to exercise options when the option was evaluated at the time of award of the basic contract;
- (5) Emergency, crude oil, and 8(a) procurements and Posts, Camps, and Stations (PC&S) wrap-up IFBs awarded the preceding month. (Emergency procurements, crude oil award actions, and PC&S wrap-up IFBs are subject to postaward review only, under the procedures set forth under 1.690-5(104);
- (6) All FAS related procurement actions;
- (7) Contract Advisory and Assistance Services (CAAS) actions; and

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- (8) All other service acquisitions.
- (c) Selection shall be based upon factors such as the following:
 - (1) Procurement complexity;
 - (2) Unique or unusual features of the procurement;
 - (3) Dollar value (but high dollar value shall not of itself be a reason for selecting a particular action), and
 - (4) Reviews in support of DESC Warrant Review Program.
- (d) In addition to actions selected by the CSPO from the monthly list, the ARB shall review the following actions:
 - (1) All actions selected for review and approval by DLA;
 - (2) Requests for approval to award a letter contract or other undefinitized contractual action (UCA) in which the resulting definite action is expected to exceed \$25,000; modification of a previously approved letter contract or UCA when the modification will affect the unit price or total price ceiling for the definitized action, the limit of the Government's liability, the definitization date, or progress or provisional payments as initially proposed; and definitization of a letter contract or UCA.
- (e) All contracting officers shall have their procurement actions reviewed periodically.

(104) ARB case file documentation.

- (a) Pre-solicitation reviews.
 - (1) One ARB case file shall include a completed, original DESC Form 15.1; the other four files shall include copies. Each file shall contain documents filed under tabs 1, 3, and 14; and any other documentation dealing with significant special issues (e.g., source selection plans, past performance evaluation plans, etc.). For Missile Fuels acquisitions that are reviewed, documents filed under tabs 5, 8, 11, and 12 will also be provided in one of the case files. For all other CBUs the preaward file will also be forwarded along with the five case files mentioned above.
 - (2) When award will be based on factors in addition to price and price-related factors, ARB case file documentation shall include the source selection plan or best overall value plan (including evaluation factors), as well as the documents cited in subparagraph (i) above.
 - (3) When a contract other than a fixed price type contract is anticipated, in addition to the acquisition plan, ARB case file documentation shall include

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information sufficient to support the decision to use the proposed contract type, as well as the documents cited in subparagraph (i) above.

(b) **Prenegotiation reviews.** One ARB case file documentation shall include a completed DESC Form 15.1; copies shall be placed in the other four files. Each file shall contain documents filed under tabs 14, 18, 20 through 23, and such other information as may be necessary to adequately summarize the procurement situation (e.g., source selection plans, past performance evaluation plans, best value plans, etc.). For all programs except those for procurement of bulk fuels, when cost or pricing data has been received it should be included under Tab 20 of the retain file. The CBU Director will sign the Prenegotiation Briefing Memorandum after the ARB has been completed. Prenegotiation reviews will normally focus on the following types of issues:

(1) Extent of competition, including all items on which a sole offer was received;

(2) Fulfillment of Cost or Pricing Data requirements (the case presenter should be prepared to address individual sole offer items);

(3) Fulfillment of Cost Accounting Standards Requirements (the case presenter should be prepared to address individual sole offer items);

(4) Pricing objectives and negotiation strategies, with particular attention to high objectives for sole offer items;

(5) Significant exceptions to the terms and conditions of the solicitation. On major procurements where numerous exceptions are normally received, discussion will be limited to those exceptions which are unacceptable to the Government or which would cause significant hardship to the Government if they were accepted.

(c) **Preaward reviews.**

(1) **Sealed bids:** The ARB case file shall include a completed DESC Form 15.1, documentation filed under tabs 14, and 18, and documentation adequately supporting the disposition (award/non-award) of sole bid items (tab 22/24 documentation.) If the award was made by modification, the retain file shall contain tab 45 and all modification backup.

(2) **Exercise of options.** The ARB case file documentation shall include a completed DESC Form 15.1, documents filed under tab 24 for the basic contract award, documents filed under tab 43, and information to support the contracting officer's determination to effect the exercise of the option.

(d) **ARB follow-up actions.** When a significant change to negotiation objectives occurs during negotiations or when ARB findings result in follow-up actions, the follow-up case file should include a completed DESC Form 15.7a and documentation sufficient to explain/justify the action taken.

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(e) Retain File labeling. One of the five case files forwarded to DESC-CPB shall be labeled for use as a retain file. On this retain file, an identification label shall be placed on the front cover of the manila folder. On the top line of the identification label identify the type of review (presolicitation, prenegotiation, sealed bid). Two lines below that, type the solicitation number. Two lines below the solicitation number, type the program number and name. A file label should be placed at the top right hand side inside the back cover of the file folder. On the top line of the file label type "811.50" followed by the solicitation number. On the second line type the performance period, and on the third line type the destruction date (one year after the end of the performance period).

(105) Postaward assessment reviews.

(a) DESC-CPB shall conduct postaward assessment reviews. These reviews should be submitted to DESC-CPB within 60 days after completion of the procurement. Reviews of the different purchase programs will be conducted frequently enough and involve a sufficiently large percentage of the contracts awarded under a single solicitation to provide reasonable assurance that acquisition issues peculiar to each individual program are being handled properly. Postaward assessment review selection decisions will be based on the criteria set forth in 1.690-5(103)(c).

(b) Postaward assessment reviews will typically be conducted using one of the following approaches:

(1) Small program buys, supplemental buys, and emergency procurements: review of the preaward file(s) and a small number (normally one or two) of the contract files pertaining to a procurement;

(2) Large multiple-award procurements: review of the preaward file(s) and a sizable sample of the contract files awarded under the procurement;

(3) Review of an aspect of the procurement process using a procurement management review (PMR) approach. This approach would usually involve procurement actions from more than one division and would focus only on the aspect of the procurement process being examined.

(c) All procurements are subject to selection for a postaward assessment review. The following procedures apply:

(1) For actions eligible for review under paragraph (b)(1) and (2) of this subsection, contract awards will be reported in the monthly list. For all other procurements, upon request from DESC-CPB, each division shall furnish a list of awards made under a specified solicitation. The list should include contract numbers, contractor names, size of business, total estimated dollar amounts, and the number and dollar values of sole bid/sole offer items awarded under each contract. Existing reports may be collated or annotated to provide the required information, provided that the information can be readily extracted from the existing/annotated reports.

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(2) For actions selected for review under paragraphs (b)(1) and (2) of this subsection, selected contract files will be forwarded to DESC-CPB for review. Reviews of individual contract files will be completed without inordinate delay. Files will be returned promptly after the review is completed and will be made available to the buying offices, as needed for on-going contract actions.

(3) For any action selected for review under paragraphs (b)(1) and (2) of this subsection, the buying office shall submit to DESC-CPB a retain file for each selected contract containing a completed DESC Form 15.3, and documentation filed under tabs 14, 18, 20 through 25, 29 and 43. If the award was made using source selection, best value, or past performance evaluation procedures, those plans and evaluation summaries will also be provided in the retain file. If the award was made by modification, the retain file shall contain tab 45 and all modification backup. On the cover of the retain file, an identification label shall be placed on the front cover of the manila folder. This identification label should contain the following information: type of review (postaward), contractor's name, contract number, solicitation number program number and program name. A file label should be placed at the top right hand side inside the back cover of the manila folder. On the top line of the file label type "811.50" followed by the contract number. On the second line type the performance period, and on the third line type the destruction date (one-year after the end of the performance period).

(4) Upon completion of reviews under paragraphs (b)(1) and (2) above, DESC-CPB will note its comments on a memorandum attached to the DESC Form 15.3 and forward the file for legal review (if applicable) and final approval by the CSPO. For the reviews prepared under paragraph (b)(3) above, DESC-CPB shall prepare a report summarizing its findings. DESC-CPB will provide an informal briefing to the Contracting Officer and Contract Specialist of the proposed comments prior to submission to the CSPO for approval. During this briefing the Contracting Officer and Contract Specialist are permitted to make comments/clarifications on the proposed comments. If documents appear to be missing in the file and the Contracting Officer and Contract Specialist can locate them or if a statement of fact is determined to be incorrect, the review comment will be deleted by DESC-CPB. If the Contracting Officer disagrees with a review comment on a significant issue, the comment will remain and the disagreement will be resolved using the procedures established for resolution of disagreements of ARB/ASRB comments under 1.690-5. After this information briefing is conducted, the report will be sent to the CSPO for approval. After the CSPO has signed the DESC Form 15.1 and approved the review comments, the original DESC Form 15.1 and review comments will be returned to the buying division. A copy of the DESC Form 15.1 and the review comments will be filed in the DESC-CPB retain file.

(106) Division Chief. The contract actions listed below require review and approval by the division chief prior to award:

(a) Sealed bid actions of \$300,000 and over, including small business restricted advertising and the set-aside portion of a sealed bid procurement.

(b) Sole bid items over \$100,000.

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(c) Negotiated actions including the exercise of options, as follows:

(1) Bulk fuels, bulk lubricants, storage, aircraft refueling, laboratory testing, and environmental services: Actions of \$100,000 and over.

(2) Natural gas, coal, and electricity: Actions of \$100,000 and over, but excluding monthly orders for natural gas issued against existing Basic Ordering Agreements.

(3) Ground fuels: Actions of \$300,000 and over.

(4) Bunkers and Into-Plane: Actions of \$500,000 and over.

(5) ESPC: Actions over \$100,000.

(6) Privatization: Actions over \$100,000.

(7) Missile Fuels: all actions (subject to change.)

(d) Service Acquisitions: Actions over \$100,000.

(107) CBU Director or Deputy Director. All service acquisitions \$1 million and below \$5 million threshold require the CBU Director or Deputy Director review and approval.

(108) DESC CSPO. All service acquisitions between \$5 million and \$20 million and for service acquisitions below \$5 million for which there is no Division Chief or CBU Director/Deputy Director that is DAWIA Level III certified in Contracting review and approval by the CSPO is required. In addition, CSPO review and approval is required of all contract review findings for selected supply and service acquisitions regardless of dollar value.

(109) DESC Director/Deputy Director. All service acquisitions between \$20 million and \$50 million.

(110) "Lessons learned" actions.

(a) After the completion of each procurement, the contracting officer should review the procurement with a view toward identifying areas of improvement. This review should be documented apart from the contract file. A copy of the "lessons learned" document shall be furnished to DESC-CPB. Items to be noted in this review can include any information that could be beneficial for future procurements. It might conceivably include notations ranging from a change in the procurement approach, such as using an RFP in lieu of an IFB on the next procurement of the requirement, to simple reminders such as that transportation rates should be requested earlier in the