



## **Risk Tip 14 – Performing a Peer Review in a Professional Manner**

*Provided as a courtesy by the ACEC/MA Risk Management Forum*

**October 2016**

Peer reviews are performed for a wide variety of reasons. Peer reviews are most often requested in the context of public reviews and permitting for development or other projects. Occasionally they are requested because a client wants or needs a second opinion on an issue, for example a recommendation for a very expensive clean-up of a contaminated site may lead to the client looking for a second opinion on a cost.

A firm performing a peer review should keep two key things in mind: the need to remain professional and the need to keep the client's objectives in mind. The latter can be especially difficult when there are multiple clients, as can be common when performing a peer review for public comment.

A list of things a peer review is not:

- An opportunity to steal a project away from a competitor.
- An opportunity to bad mouth a competitor.
- An opportunity to market your own firm.
- The peer reviewer should not be a "hired gun" publicly promoting the client's agenda.

A peer review can be formal or informal and the peer review firm should clearly state in the scope which type is being performed. Read and follow the state code of ethics for professional engineers for requirements for peer reviews. These must be followed for a formal peer review but form a good guideline for developing the scope of an informal peer review as well.

As a technical consultant, the peer review firm should be clear on the role up front. The peer review firm should function as a technical advisor and maintain political neutrality. The client may oppose a project for a whole host of reasons but the peer review firm's sole job is to comment on the technical aspects of a specific part of the project. If those technical aspects are found to be reasonable, the peer review firm needs to say that.

Be clear about who the client is. Municipalities especially like to require a developer of a controversial project to pay for a peer reviewer the town is hiring or even hire the peer review firm themselves. The town and many of the citizens view the peer review firm as their consultant and are directing the peer review firm's actions. But the developer is paying the bill. This can lead to all sorts of confusion about who the client really is. If possible, try to convince the municipality to hire your firm and pay for your firm directly. The municipality can then seek reimbursement from the developer. Never make your firm's fee contingent on reaching a certain conclusion. As with any project, avoid working for a client who will press your firm to do or say things you don't agree with or are unethical.

The peer review firm should also make sure they have an adequate budget for the task. It is usually easier to justify a reasonable budget given a detailed comprehensive scope of work rather than a limited general scope. To perform an adequate peer review, especially on a complex design or analysis, the peer review firm's engineers need to be able to spend enough time to understand what the other firm did and why they did it and did the firm follow industry standards and applicable federal, state and local codes. A quick skim of a couple of reports for \$1,000 usually isn't enough to do that. The "why" can sometimes be especially important. For example was the other firm designing to an unrealistically tight budget and is that the problem rather than the work itself?

Before submitting the written review, be sure of the comments and conclusions, and follow your firm's QA/QC protocol for such reports. If your firm is reviewing and commenting on a specific report, read it. Read all of it. List the documents reviewed. For example, don't criticize the other firm for not collecting data unless you're sure they didn't collect it. Keep in mind the data may be reported in past documents that you also may need to review.

Always remain professional and remember that the firm whose work your firm is reviewing are colleagues. Two reputable engineers or scientists can and often do disagree and they can both be right. A key question the peer review firm needs to answer is whether the other firm did it wrong or just a different, but still acceptable, way.

If your firm's peer review is related to a public process, the results of the review will probably be a public document. The rest of the project files may also be obtainable under the Freedom of Information Act (FOIA) if the client is a public entity. If problems with this are anticipated, for example some confidential information will be reviewed or collected, then an "ownership of documents" clause may be needed in the contract. Also keep in mind that the written results of the peer review may be available for the public to read for years to come. As a result, if it is not something you would want the public to read in the newspapers 5 years from now, don't write it.

A peer review is and should be a professional, thorough review of technical issues presented in a professional, respectful manner. Done correctly, it can be an interesting and informative process and often lead to an overall improved product.

***This ACEC/MA Risk Tip is intended to provide current and accurate information to assist the reader in becoming more familiar with the subject matter. It is informational only and not intended to substitute for technical, legal, or risk management professional advice. The reader is encouraged to consult with an attorney or appropriate professional consultant to explore this information further.***

***For more information on the ACEC/MA Risk Management Forum or on other ACEC/MA activities, call 617-227-5551 or go to: [www.acecma.org](http://www.acecma.org).***