

(b) Describe your approach for evaluating past performance in the solicitation, including your policy for evaluating offerors with no relevant performance history. You should provide offerors an opportunity to identify past or current contracts (including Federal, State, and local government and private) for efforts similar to the current solicitation.

(c) If you elect to request past performance information, the solicitation should also authorize offerors to provide information on problems encountered on the identified contracts and the offeror's corrective actions. You may consider this information, as well as information obtained from any other sources, when evaluating the offeror's past performance. You may use your discretion in determining the relevance of similar past performance information.

(d) The evaluation should take into account past performance information regarding predecessor companies, key personnel who have relevant experience, or subcontractors that will perform major or critical aspects of the requirement when such information is relevant to the current acquisition.

§ 636.206 How do I evaluate offerors who do not have a record of relevant past performance?

In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably on past performance.

§ 636.207 Is there a limit on short listed firms?

Normally, three to five firms are short listed, however, the maximum number specified shall not exceed five unless you determine, for that particular solicitation, that a number greater than five is in your interest and is consistent with the purposes and objectives of two-phase design-build contracting.

§ 636.208 May I use my existing prequalification procedures with design-build contracts?

Yes, you may use your existing prequalification procedures for either

construction or engineering design firms as a supplement to the procedures in this part.

§ 636.209 What items must be included in a phase-two solicitation?

(a) You must include the requirements for technical proposals and price proposals in the phase-two solicitation. All factors and significant subfactors that will affect contract award and their relative importance must be stated clearly in the solicitation. Use your own procedures for the solicitation as long as it complies the requirements of this part.

(b) At your discretion, you may allow proposers to submit alternate technical concepts in their proposals as long as these alternate concepts do not conflict with criteria agreed upon in the environmental decision making process. Alternate technical concept proposals may supplement, but not substitute for base proposals that respond to the RFP requirements.

§ 636.210 What requirements apply to projects which use the modified design-build procedure?

(a) Modified design-build selection procedures (lowest price technically acceptable source selection process) may be used for any project.

(b) The solicitation must clearly state the following:

(1) The identification of evaluation factors and significant subfactors that establish the requirements of acceptability.

(2) That award will be made on the basis of the lowest evaluated price of proposals meeting or exceeding the acceptability standards for non-cost factors.

(c) The contracting agency may forgo a short listing process and advertise for the receipt of proposals from all responsible offerors. The contract is then awarded to the lowest responsive bidder.

(d) Tradeoffs are not permitted, however, you may incorporate cost-plus-time bidding procedures (A+B bidding), lane rental, or other cost-based provisions in such contracts.

(e) Proposals are evaluated for acceptability but not ranked using the non-cost/price factors.

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(f) Exchanges may occur (see subpart D of this part).

§ 636.211 When and how should tradeoffs be used?

(a) At your discretion, you may consider the tradeoff technique when it is desirable to award to other than the lowest priced offeror or other than the highest technically rated offeror.

(b) If you use a tradeoff technique, the following apply:

(1) All evaluation factors and significant subfactors that will affect contract award and their relative importance must be clearly stated in the solicitation; and

(2) The solicitation must also state, at a minimum, whether all evaluation factors other than cost or price, when combined, are—

(i) Significantly more important than cost or price; or

(ii) Approximately equal to cost or price; or

(iii) Significantly less important than cost or price.

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§ 636.212 To what extent must tradeoff decisions be documented?

When tradeoffs are performed, the source selection records must include the following:

(a) An assessment of each offeror's ability to accomplish the technical requirements; and

(b) A summary, matrix, or quantitative ranking, along with appropriate supporting narrative, of each technical proposal using the evaluation factors.

Subpart C—Proposal Evaluation Factors

§ 636.301 How should proposal evaluation factors be selected?

(a) The proposal evaluation factors and significant subfactors should be tailored to the acquisition.

(b) Evaluation factors and significant subfactors should:

(1) Represent the key areas of importance and emphasis to be considered in the source selection decision; and

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(2) Support meaningful comparison and discrimination between and among competing proposals.

§ 636.302 Are there any limitations on the selection and use of proposal evaluation factors?

(a) The selection of the evaluation factors, significant subfactors and their relative importance are within your broad discretion subject to the following requirements:

(1) You must evaluate price in every source selection where construction is a significant component of the scope of work.

(2) You must evaluate the quality of the product or service through consideration of one or more non-price evaluation factors. These factors may include (but are not limited to) such criteria as:

(i) Compliance with solicitation requirements;

(ii) Completion schedule (contractual incentives and disincentives for early completion may be used where appropriate); or

(iii) Technical solutions.

(3) At your discretion, you may evaluate past performance, technical experience and management experience (subject to § 636.303(b)).

(b) All factors and significant subfactors that will affect contract award and their relative importance must be stated clearly in the solicitation.

§ 636.303 May pre-qualification standards be used as proposal evaluation criteria in the RFP?

(a) If you use a prequalification procedure or a two-phase selection procedure to develop a short list of qualified offerors, then pre-qualification criteria should not be included as proposal evaluation criteria.

(b) The proposal evaluation criteria should be limited to the quality, quantity, value and timeliness of the product or service being proposed. However, there may be circumstances where it is appropriate to include prequalification standards as proposal evaluation criteria. Such instances include situations where:

(1) The scope of work involves very specialized technical expertise or specialized financial qualifications; or