

### § 636.303

### 23 CFR Ch. I (4–1–04 Edition)

(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

(2) Where prequalification procedures or two-phase selection procedures are not used (short listing is not performed).

#### **§ 636.304 What process may be used to rate and score proposals?**

(a) Proposal evaluation is an assessment of the offeror's proposal and abil-

ity to perform the prospective contract successfully. You must evaluate proposals solely on the factors and subfactors specified in the solicitation.

(b) You may conduct evaluations using any rating method or combination of methods including color or adjectival ratings, numerical weights, and ordinal rankings. The relative strengths, deficiencies, significant weaknesses, and risks supporting proposal evaluation must be documented in the contract file.

#### **§ 636.305 Can price information be provided to analysts who are reviewing technical proposals?**

Normally, technical and price proposals are reviewed independently by separate evaluation teams. However, there may be occasions where the same experts needed to review the technical proposals are also needed in the review of the price proposals. This may occur where a limited amount of technical expertise is available to review proposals. Price information may be provided to such technical experts in accordance with your procedures.

### **Subpart D—Exchanges**

#### **§ 636.401 What types of information exchange may take place prior to the release of the RFP document?**

Verbal or written information exchanges (such as in the first-phase of a two-phase selection procedure) must be consistent with State and/or local procurement integrity requirements. See § 636.115(a) for additional details.

#### **§ 636.402 What types of information exchange may take place after the release of the RFP document?**

Certain types of information exchange may be desirable at different points after the release of the RFP document. The following table summarizes the types of communications that will be discussed in this subpart. These communication methods are optional.

Type of information exchange	When	Purpose	Parties involved
(a) Clarifications .....	After receipt of proposals .....	Used when award without discussions is contemplated. Used to clarify certain aspects of a proposal (resolve minor errors, clerical errors, obtain additional past performance information, etc.).	Any offeror whose proposal is not clear to the contracting agency.
(b) Communications .....	After receipt of proposals, prior to the establishment of the competitive range.	Used to address issues which might prevent a proposal from being placed in the competitive range.	Only those offerors whose exclusion from, or inclusion in, the competitive range is uncertain. All offerors whose past performance information is the determining factor preventing them from being placed in the competitive range.
(c) Discussions (see Subpart E of this part).	After receipt of proposals and after the determination of the competitive range.	Enhance contracting agency understanding of proposals and offerors understanding of scope of work. Facilitate the evaluation process.	Must be held with all offerors in the competitive range.

**§ 636.403 What information may be exchanged with a clarification?**

(a) You may wish to clarify any aspect of proposals which would enhance your understanding of an offeror's proposal. This includes such information as an offeror's past performance or information regarding adverse past performance to which the offeror has not previously had an opportunity to respond. Clarification exchanges are discretionary. They do not have to be held with any specific number of offerors and do not have to address specific issues.

(b) You may wish to clarify and revise the RFP document through an addenda process in response to questions from potential offerors.

**§ 636.404 Can a competitive range be used to limit competition?**

If the solicitation notifies offerors that the competitive range can be limited for purposes of efficiency, you may limit the number of proposals to the greatest number that will permit an efficient competition. However, you must provide written notice to any offeror whose proposal is no longer considered to be included in the competitive range. Offerors excluded or otherwise eliminated from the competitive range may request a debriefing. Debriefings may be conducted in accordance with your procedures as long as you comply with § 636.514.

**§ 636.405 After developing a short list, can I still establish a competitive range?**

Yes, if you have developed a short list of firms, you may still establish a competitive range. The short list is based on qualifications criteria. The competitive range is based on the rating of technical and price proposals.

**§ 636.406 Are communications allowed prior to establishing the competitive range?**

Yes, prior to establishing the competitive range, you may conduct communications to:

- (a) Enhance your understanding of proposals;
- (b) Allow reasonable interpretation of the proposal; or
- (c) Facilitate your evaluation process.

**§ 636.407 Am I limited in holding communications with certain firms?**

Yes, if you establish a competitive range, you must do the following:

- (a) Hold communications with offerors whose past performance information is the determining factor preventing them from being placed within the competitive range;
- (b) Address adverse past performance information to which an offeror has not had a prior opportunity to respond; and
- (c) Hold communications only with those offerors whose exclusion from, or