

§ 636.201

Bacon minimum wage rate requirements, for federally funded construction or design-build contracts under the public-private agreement.

[67 FR 75926, Dec. 10, 2002, as amended at 72 FR 45337, Aug. 14, 2007]

Subpart B—Selection Procedures, Award Criteria

§ 636.201 What selection procedures and award criteria may be used?

You should consider using two-phase selection procedures for all design-build projects. However, if you do not believe two-phase selection procedures are appropriate for your project (based on the criteria in § 636.202), you may use a single phase selection procedure or the modified-design-build contracting method. The following procedures are available:

Selection procedure	Criteria for using a selection procedure	Award criteria options
(a) Two-Phase Selection Procedures (RFQ followed by RFP).	§ 636.202	Lowest price, Adjusted low-bid (price per quality point), meets criteria/low bid, weighted criteria process, fixed price/best design, best value.
(b) Single Phase (RFP).	Project not meeting the criteria in § 636.202.	All of the award criteria in item (a) of this table.
(c) Modified Design-Build (may be one or two phases).	Any project	Lowest price technically acceptable.

§ 636.202 When are two-phase design-build selection procedures appropriate?

You may consider the following criteria in deciding whether two-phase selection procedures are appropriate. A negative response may indicate that two-phase selection procedures are not appropriate.

- (a) Are three or more offers anticipated?
- (b) Will offerors be expected to perform substantial design work before developing price proposals?
- (c) Will offerors incur a substantial expense in preparing proposals?
- (d) Have you identified and analyzed other contributing factors, including:

23 CFR Ch. I (4–1–13 Edition)

- (1) The extent to which you have defined the project requirements?
- (2) The time constraints for delivery of the project?
- (3) The capability and experience of potential contractors?
- (4) Your capability to manage the two-phase selection process?
- (5) Other criteria that you may consider appropriate?

§ 636.203 What are the elements of two-phase selection procedures for competitive proposals?

The first phase consists of short listing based on a RFQ. The second phase consists of the receipt and evaluation of price and technical proposals in response to a RFP.

§ 636.204 What items may be included in a phase-one solicitation?

You may consider including the following items in any phase-one solicitation:

- (a) The scope of work;
- (b) The phase-one evaluation factors and their relative weights, including:
 - (1) Technical approach (but not detailed design or technical information);
 - (2) Technical qualifications, such as—
 - (i) Specialized experience and technical competence;
 - (ii) Capability to perform (including key personnel); and
 - (iii) Past performance of the members of the offeror’s team (including the architect-engineer and construction members);
 - (3) Other appropriate factors (excluding cost or price related factors, which are not permitted in phase-one);
- (c) Phase-two evaluation factors; and
- (d) A statement of the maximum number of offerors that will be short listed to submit phase-two proposals.

§ 636.205 Can past performance be used as an evaluation criteria?

- (a) Yes, past performance information is one indicator of an offeror’s ability to perform the contract successfully. Past performance information may be used as an evaluation criteria in either phase-one or phase-two solicitations. If you elect to use past performance criteria, the currency and relevance of the information, source of the information, context of the data,