

**A. Overview**

This chapter explains the procedures that non-certified agencies must follow if they wish to use alternative contracting procedures to administer the following types of federal projects.

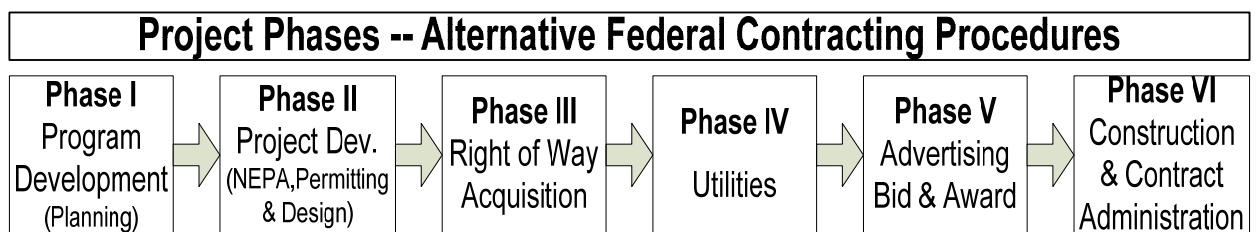
- Roadway Functional Class - rural minor collectors, local roads or projects that are not within a roadway corridor.
- Program or Funding Source - Transportation Enhancement, Scenic Byways, Safe Routes to School, Congestion Mitigation and Air Quality (CMAQ) and others as ODOT may approve.
- Non-Construction – some examples include projects for developing maps, studies, research, enforcement, or planning documents.

*NOTE: Approval for local administration of a specific federally funded project does not qualify a non-certified agency as a certified agency for any future project. Each project is considered individually by request.*

ODOT will consider requests for alternative contracting on other projects not meeting the above criteria, on a case-by-case basis. For assistance with implementing alternative contracting procedures, contact the [Regional Local Agency Liaison](#).

**B. Qualifying Activities**

There are six defined phases in developing and completing a federal project.



Local agencies may request ODOT approval to administer any or all of the following activities in a manner similar to “certified agencies”.

- Project Development – Phase II except NEPA and environmental approval
- Advertising, Bid and Award of Contracts – Phase V

- Construction and Contract Administration – Phase VI

## **C. Approval Process**

### **1. NON-CERTIFIED LOCAL AGENCIES**

A non-certified agency must obtain prior approval, by written request to the ODOT [Regional Local Agency Liaison](#), to administer one or all of the above activities (See Appendix A for template). Local agencies should indicate their intentions to administer any of these activities in the application process or as early in the scoping process as possible, followed by a formal request for approval. Using the alternative contracting procedure does not eliminate any project development processes (Project Scoping, Environmental Determination and Utility/Railroad and Right of Way Clearance). The [Regional Local Agency Liaison](#) will coordinate with ODOT's Local Government Section Team Leader and the appropriate program managers to process the local agency request.

Non-Certified local agencies must complete the following steps to obtain ODOT approval for using alternative contracting procedures.

1. Local agency determines project eligibility based on roadway class or program/funding source
2. Local agency determines project phases and activities it wishes to administer
3. Local agency submits a Letter of Request to the [Regional Local Agency Liaison](#)
4. [Regional Local Agency Liaison](#) determines project eligibility, local agency capability and either approves or denies request
5. ODOT and the local agency execute an intergovernmental agreement (IGA)

### **2. NON-PROFIT ORGANIZATIONS**

Non-profit groups must obtain a public agency sponsor for the project. The sponsor will oversee the administration of design and construction activities and provide the Final Compliance Statement at the completion of the project. ODOT approval will follow the process in above, depending on whether the sponsor agency is certified or non-certified.

*NOTE: ODOT reserves the right to alert the local agency or project sponsor at any time that project authorization and funding could be in jeopardy when it is determined that any aspect of federal-aid or state program requirements are not being observed. The alternative procedure requires local agencies to commit sufficient staff and other resources for project administration to ensure that all applicable state and federal requirements are met and that the work can be accomplished efficiently.*

## **D. Project Administration Steps for Non-Certified Local Agencies**

Once local agencies receive ODOT approval to use the alternative contracting procedure, they shall proceed with the following steps as applicable to the project and the approved

activities. Local agencies should contact their [Regional Local Agency Liaisons](#) for further information and assistance as needed.

### **1. CONSULTANT SELECTION**

If the project requires procuring the services of architects, landscape architects, land surveyors, or engineering consultants, follow [Section B, Chapter 12](#) in the *LAG Manual*. Contact the [Regional Local Agency Liaison](#) for assistance.

### **2. DESIGN STANDARDS AND SPECIFICATIONS**

Projects on the roadway network must conform to AASHTO design standards and any additional standards applicable to the funding program involved. For example, the *Oregon Bicycle and Pedestrian Plan* applies to all bike and pedestrian projects. See the *LAG Manual* [Section C, Chapter 9](#), for additional information. [Oregon Standard Specifications for Construction](#) shall apply to all roadway projects including sidewalks and multi-use paths.

Building and other facility projects shall be designed and constructed in conformance with appropriate industry standards such as the “American Institute of Architects” specifications. The title sheet of the plans shall contain the following information: federal-aid project number, location sketch, title of project, plan sheet index, applicable Oregon standard drawings, provision for approving officials, signatures and dates. The contract specification will include the required provisions as specified in [FHWA 1273](#).

### **3. MINIMUM FEDERAL REQUIREMENTS**

Professional, technical and expert services contracts for the project shall conform to FHWA requirements. The local agency shall maintain all project documentation in keeping with State and FHWA standards and specifications for a minimum of six years following acceptance of the project by ODOT. This shall include, but is not limited to daily work records, quantity documentation, material invoices and quality documentation, certificates of steel and iron origin, process control records, test results, and inspection records to ensure that projects are completed in conformance with approved plans and specifications.

FHWA and ODOT will retain approval authority for the following. For further information, reference the corresponding chapters, for Non-Certified and Certified local agencies, in the *LAG Manual* as well as the [Appendix in Section A, Chapter 2](#).

<b>Activity</b>	<b>LAG Chapter</b>
Authorization of federal funds	<a href="#">Section A, Chapter 3</a>
Environmental compliance including National Environmental Policy Act documentation and the Endangered Species Act	<a href="#">Section B, Chapter 5</a>
Local design standards	<a href="#">Section B, Chapters 9&amp;10</a>
Design exceptions	<a href="#">Section B, Chapters 9&amp;10</a>

Right of way certification and federal utility reimbursement	<a href="#">Section B, Chapter 6 ROW; Section B, Chapter 13</a>
Sole source justification approval	<a href="#">Section B, Chapter 11</a>
Owner force account work	<a href="#">Section B, Chapter 16</a>
Rejection of bids	<a href="#">Section C, Chapter 15</a>
Labor compliance enforcement	<a href="#">Section C, Chapter 15</a>
Project cost eligibility	<a href="#">Section B, Chapter 4</a>
Final inspection and acceptance	<a href="#">Section B, Chapter 17</a>
Federal-aid payments	<a href="#">Section B, Chapter 4</a>

ODOT retains responsibility for right of way certification and environmental classification services that require federal oversight. Additionally, ODOT will administer the following programs on behalf of the local agency:

- Disadvantaged Business Enterprise (DBE)
- Equal Employment Opportunity (EEO)
- On-The-Job Training (OJT)

All projects must meet minimum federal requirements for procurement and environmental compliance, such as [National Environmental Policy Act \(NEPA\)](#), [Davis-Bacon](#), [Brookes Act](#), [Buy America](#) and [Title VI](#). Refer to the appropriate [LAG Manual Chapter](#) for a complete discussion of these items. For additional assistance regarding federal requirements refer to the [FHWA Legislation and Regulations](#) website or contact the [Regional Local Agency Liaison](#).

#### **4. PROJECT PROGRESS BILLINGS**

Local agencies must submit progress billings to ODOT as outlined within the [Section B, Chapter 4](#) of the *LAG Manual*.

ODOT will submit all billings from the local agency to FHWA, according to policy and practice, and compile accurate cost accounting records.

#### **5. ENVIRONMENTAL COMPLIANCE**

Projects that involve federal funds, permits or land must comply with numerous environmental and regulations, including but not limited to:

- [National Environmental Policy Act](#);
- [Council on Environmental Quality Regulations for Implementing NEPA](#);
- [Endangered Species Act](#);
- [Magnuson-Stevens Act](#);
- [Section 106 of the National Historic Preservation Act](#);

- [Section 4\(f\) of the U.S. DOT Act \(23 CFR 771.135\)](#);
- [Section 6\(f\)\(3\) of the Land & Water Conservation Fund Act](#);
- [Clean Air Act](#);
- [Transportation Conformity Rule](#);
- [FHWA Noise Regulation](#);
- [Bald and Golden Eagle Protection Act](#);
- [Resource Conservation and Recovery Act](#);
- [FHWA Major Project \(>\\$500M\) Management Plan Guidance](#);

Contact the ODOT [Regional Local Agency Liaison](#) or refer to [Section B, Chapter 5](#) in the *LAG Manual* for additional details.

## **6. RIGHT OF WAY**

Federal regulations require that ODOT performs the final certification and acceptance of right of way. Therefore, local agency acquisition of right of way may occur per the *LAG Manual* requirements in [Section B, Chapter 6](#) but ODOT must complete the final certification acceptance of right of way for both certified and non-certified local agency projects.

## **7. CONSTRUCTION AND CONTRACT ADMINISTRATION**

There are two options a local agency may use in construction of a project

- advertise for bids in compliance with state law ([ORS 279C](#)) or
- use in-house forces with an approved “Public Interest Finding” document.

The “Public Interest Finding” document shall contain justification including cost estimates that clearly show that it is more cost effective to do the work by agency in-house forces versus competitive bidding. The local agency shall submit its “Public Interest Finding” request to the [Regional Local Agency Liaison](#) for processing and approval. Refer to the *LAG Manual* [Section A, Chapter 5](#) for further discussion regarding construction work by local agency forces. *LAG Manual* [Sections B and C](#) requirements regarding Plans, Specifications and Estimates, will apply to the design, development and approval of local agency force projects.

## **8. PROJECT COMPLETION**

After the completion of the contract and acceptance by the local agency, the local agency completes a Final Compliance Statement and submits it to ODOT. The Final Compliance Statement must state that the work has been completed in accordance with

- the approved project prospectus
- applicable federal, state and local statutes and
- public works contracting requirements
- appropriate plans and specifications as needed for building/facility projects

## **9. FINAL INSPECTION AND APPROVAL**

After contract work has been completed and the Final Compliance Statement has been submitted, ODOT will perform final project inspection and review for final project approval. For building and facility projects, all final building inspector approvals must be completed prior to the final ODOT inspection. Local agencies must contact the [Regional Local Agency Liaison](#) to schedule ODOT's final project inspection prior to approval.

#### **10. FINAL BILLING**

The local agency must submit its final billings for contract work and local agency charges within 90 days after project completion and final acceptance, or as otherwise specified in the project agreement. ODOT may reject billings submitted after the specified submittal period, and the local agency will then be fully responsible for those costs.