


ODOT Project Delivery Guide

PHASE 3: AWARD CONSTRUCTION CONTRACT

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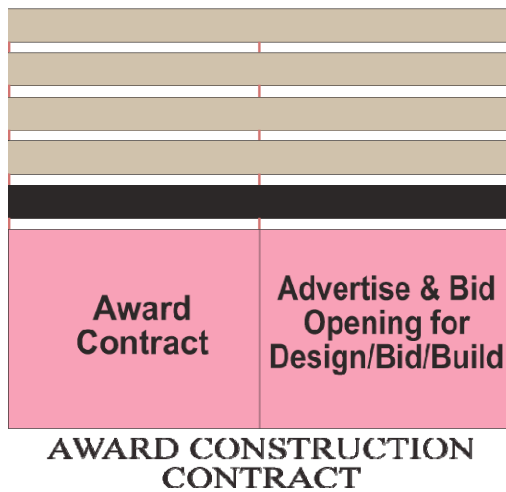
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PHASE 3: AWARD CONSTRUCTION CONTRACT

Awarding a Construction Contract runs from PS&E submittal to award of the contract. It includes the following milestones:

1. [PS&E Submittal to Bid Opening](#)
2. [Bid Opening to Award Contract](#)



The period of construction contract award continues from the start of advertising and ends with the award of the contract.

Note: Unsuccessful bid opening may result in a project moving back into the project development phase. Refer to [Operational Notices](#) PD-07 and PD-08 for more information.

Complete information describing or referencing practices needed to administer contracts under the Oregon Standard Specifications (2001 or newer edition) can be found in the Construction Manual. The manual is online at: <http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/CM.shtml>

Additional information on contract administration is available at the following web site: <http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/CAIndex.shtml>



LIFECYCLE MILESTONE 8: PS&E SUBMITTAL TO BID OPENING

TASK 1 - REVIEW OF PS&E PACKAGE (QUALITY REVIEW)

OPL is responsible for conducting a pre-letting quality overview for each project within 10 calendar days of receipt from the PS&E provider. In addition to reviewing projects, it is their role to assist the PL in successfully delivering the project to bid.

The overview will focus on the plans, specifications, and bid items and identify issues that must be corrected before the project proceeds to bid. When the quality review is complete, all issues are resolved, and the documents are in order, the Quality Engineer will write the advertisement for the project. Advertisements are sent via email to the OPO - Construction, Contractor Plans.



TASK 2 - ANTICIPATED ITEMS

Anticipated Items are used to provide a funding mechanism for non-biddable elements of work that may be needed to complete a project, including work by other agencies and utilities. Anticipated items are normally identified prior to completion of PS&E.

When an anticipated item has been created after PS&E, it must be approved in writing by the AM, the State Roadway Engineer (all projects), and FHWA on full oversight projects. OPL and OPO-Construction need to be notified and copied on that anticipated item, including its approval.



TASK 3 - ENGINEER'S ESTIMATE

Once the PS&E package is submitted to OPL, a review of the final estimate and completion time schedule will be performed. The review of the schedule is to ensure that no fatal flaws or defects exist.

The review of the final estimate is to focus primarily on the unit prices for bid items. The reviewer will make adjustments to unit costs where appropriate or contact and work with the PS&E provider to resolve the problem.

The completed Engineer's Estimate, is sent to the PL/LAL and the PM (PM only on projects with CE done by ODOT) which includes the biddable items, contingencies, construction engineering, anticipated items and total price.

In all cases, it is the policy of ODOT that the Engineer's Estimate is to be kept confidential and is not to be disclosed to any potential bidder in whole or part.



TASK 4 - DUPLICATION OF PLANS AND SPECIAL PROVISIONS

OPL will deliver to OPO - Construction, Contractor Plans a set of print-ready Mylar plans, signed by the ODOT Chief Engineer, and a copy of the special provisions for the project.

OPO - Construction, Contractor Plans is responsible for coordinating the reproduction of these documents with the ODOT Reprographics Unit and the DAS Printing Center prior to advertisement.



TASK 5 - PROJECT ADVERTISEMENT

OPL transmits an electronic copy of the project advertisement to OPO - Construction, Contractor Plans. OPO - Construction, Contractor Plans is responsible for combining the project ads for a given bid opening into a single document. OPO - Construction coordinates the advertising process and projects may be advertised between three and six weeks depending on their complexity.



TASK 6 - MANDATORY PRE-BID MEETING

It is important that pre-bid meetings are used appropriately and effectively. PD - 07 requires the justification to clearly indicate the features or issues of a project that would call for a meeting, the proposed agenda, and a list of the expected outcomes.

The PM is responsible for conducting the mandatory pre-bid and for providing a copy of the pre-bid meeting summary to OPL. OPL will have a copy of the meeting summary posted on the OPO - Construction, Contractor Plans webpage.

Further details of this procedure are presented in the "[A User's Guide to PS&E Delivery](#)," page 4.

To avoid conflicting meetings all proposed scheduling of these meetings will be cleared through the State Roadway Engineer to promote improved contractor completion on projects. The scheduling will be accomplished through OPL. For more information about project lifecycle Emerging Small Business ([ESB](#)) and Disadvantaged Business Enterprise ([DBE](#)) considerations, visit Oregon.gov/ODOT/CS/Civil Rights.



TASK 7 - DISTRIBUTION OF PLANS AND SPECIFICATIONS

OPO - Construction, Contractor Plans is responsible for the distribution of plans and special provisions for projects to ODOT, and local agencies. In addition, they are responsible for filling orders and distribution to contractors, material suppliers and others who want to purchase plans, special provisions and bid documents.



TASK 8 - COMMUNICATION WITH PROSPECTIVE BIDDERS

The PM is the single point of contact for all questions or inquiries related to a project during the project advertisement period. It is critical that the PM document all conversations with or visits from prospective bidders, information that was examined or provided, and discussions or comments between the prospective bidders.

Situations may arise where the PM may choose to issue a Letter of Clarification in response to a question or issue of significance that was raised by one or more prospective bidders. Letters of Clarification are intended to be informational in nature, and are appropriate for situations in which there are no changes being made to the plans, specifications, quantities or bid items. The PM is responsible for providing a signed copy of the Letter of Clarification to the Office of Pre-Letting. The Office of Pre-Letting will post the letter on the [OPO - Construction, Contractor Plans webpage](#) for distribution to all interested parties.



TASK 9 - ADDENDA

Questions or inquiries that could result in an addendum letter should be directed to the PL, LAL, or PM as appropriate. The PS&E provider will be responsible for preparing all addenda and referenced attachments and submitting them to the Office of Pre-Letting for review. Addenda for projects subject to full federal oversight require FHWA approval. OPL will coordinate the review and approval process for addenda with FHWA.

For more information about project lifecycle Equal Employment Opportunity ([EEO](#)), On-the-Job Training ([OJT](#)), Workforce Development Program ([WDP](#)), and [Labor Compliance](#) considerations, visit Oregon.gov/ODOT/CS/Civil Rights.



LIFECYCLE MILESTONE 9: BID OPENING TO CONTRACT AWARD

TASK 1 - BID OPENING

OPO - Construction oversees the bid opening and public reading of the bids. All interested parties are invited to attend the bid opening.



TASK 2 - OPO REVIEW

Within a few hours after bid opening, OPO - Construction posts the Preliminary Bid Results on the website. They review the bid to ensure they are responsive and have met all of the requirements specified in the solicitation documents. This is completed 1-2 working days after the bid opening. OPO - Construction will then notify OPL of the apparent low responsive bidder at which time OPL will analyze the bid items.



TASK 3 - BID ANALYSIS

After OPO - Construction has completed its bid review for bid responsiveness; OPL will perform a "fair value" analysis of the bid items received for each project, using the Engineer's Estimate, and prepare the bid evaluation and recommendation.

Another aspect of the bid analysis is to identify and document possible mathematical or material unbalancing of bid items.

The results of this analysis are summarized in a document called the Bid Evaluation and Recommendation. This recommendation indicates whether or not the low bidder's total bid price is consistent with the fair market value of the work, and whether or not awarding the project to the low bidder would be in the best interest of the ODOT.

The Bid Evaluation and Recommendation is normally completed within a few weeks working-days of the bid opening and is forwarded to OPO - Construction for use in proceeding with award or rejection of all bids.

For more information about project lifecycle Emerging Small Business ([ESB](#)) and Disadvantaged Business Enterprise ([DBE](#)) considerations, visit Oregon.gov/ODOT/CS/Civil Rights.



TASK 4 - NOTICE OF INTENT TO AWARD

When both the bid review performed by OPO - Construction, and the bid analysis performed by OPL are completed and the low responsive bidder is confirmed, the Notice of Intent to Award and Bid Tabulations are posted on the OPO - Construction webpage. OPO - Construction then requests CE Budget from AM/PM/LAL/CPM.

[OAR 731-005-0690](#) provides a 3-day period after posting of Notice of Intent to Award, during which time an aggrieved offer or may file a protest of award. OPO - Construction must resolve the protest before proceeding with award.



TASK 5 - CONSTRUCTION ENGINEERING BUDGET

After the Notice of Intent to Award is posted, OPO - Construction will request the final Construction Engineering (CE) Budget from AM/PM/CPM, or LAL. The CE Budget will be developed following the processes described in PD-08. It will include inspection services, testing and monitoring services, consultant services, preparation of as-constructed drawings, ROW monumentation, [public involvement](#), contract administration functions, surveying, etc. Additionally, each type of project as funded will have a maximum allowable percentage CE. CE performed by consultants normally is in the range of 7.5% to 10%.

- The responsibility for establishing and submitting the CE Budget resides with the ODOT PM, LAL working with the Local Agency PM. The PM or LAL will compile all budget requests and needs into the final CE budget.
- If the proposed CE budget percentage exceeds the Construction Leadership Team Guidelines, the PM/LAL will review the budget request, make any needed modifications, and write a justification for the additional budget amount.
- The PM/LAL submits the proposed budget to the AM for review and approval. The AM then submits the final CE budget to OPO - Construction.

OPO - Construction will include the amount of the CE budget in the Project Authorization and attach a copy of the CE budget as supporting documentation in the award packet that goes to the Chief Engineer/Deputy Director/OTC/FHWA for review and final approval of award.



TASK 6 - PROCESS FOR PROCEEDING WITH AWARD OR REJECTION OF ALL BIDS

Subtask 6.1 ODOT Projects

If the Low Responsive Bid is less than 110% of the Engineer's Estimate:

- The OTC has authorized the Deputy Director of Highways to award projects, with concurrence from FHWA for full-oversight projects, when the low responsive bid is less than 110% of the Engineer's Estimate.
- When OPO - Construction and OPL have completed the bid review and bid analysis and it is determined the low bidder's proposal is responsive, OPO-Construction will proceed with award of the contract.
- OPO - Construction will forward the bid tabulations, anticipated items, Engineer's Estimate and Final Bid Evaluation to the AM, PM/CPM, or MPB/OBDU as appropriate. This transmittal is for informational purposes to aid in preparation of the CE Budget and must be kept confidential.
- Upon receipt of this information, the AM/PM/CPM or authorized party will submit to OPO - Construction the approved CE budget within 3 working days.

If the Low Responsive Bid is greater than 110% of the Engineer's Estimate:

- Upon OPO - Construction and OPL completion of the bid review and bid analysis, OPO - Construction will forward the bid tabulations, anticipated items, Engineer's Estimate and Final Bid Evaluation to the AM/PM/CPM MPB/BDU as appropriate. This transmittal is for informational purposes to aid in preparing the CE Budget and shall be kept confidential.
- If Final Bid Evaluation recommends award and the Region/CPM/BDU concurs:
 - The AM or other authorized representative will provide within 1 working day of receiving the Final Bid Evaluation, written notice to OPO - Construction indicating whether there are funds available for the additional project cost.
 - PM/CPM will submit the final CE Budget to OPO - Construction within 3 working days after receiving the Final Bid Evaluation report.
 - If Final Bid Evaluation is to reject all bids and Region/CPM/BDU concurs:
 - AM or other authorized representative will provide within 1 working day of receiving the Final Bid Evaluation, written notice to OPO - Construction indicating concurrence to reject all bids.
 - OPO - Construction will prepare a Public Interest Finding supporting rejection of all bids and send recommendation to Chief Engineer, Deputy Director, OTC, and FHWA if a full-oversight project.
 - If Final Bid Evaluation is to reject all bids but Region/CPM/BDU does not concur:
 - Region/CPM/BDU will prepare a written justification of why all bids should not be rejected. This justification should be sent to OPO - Construction within 3 days of receiving Final Bid Evaluation.

- OPO - Construction will forward the region's justification to the State Roadway Engineer, whereupon after discussions with Region/CPM/BDU, OPL, and other involved parties, will prepare a final recommendation on behalf of Technical Services to award or reject all bids.
- Roadway Engineer's recommendation will be sent to OPO - Construction within three (3) days of receiving region's justification from OPO - Construction.
- ODOT Support Services Chief Procurement Officer will review background materials and based upon best business practices for the department will forward a recommendation to award or reject to Chief Engineer, Deputy Director, and OTC (also to FHWA if a full-oversight project).

Subtask 6.2 Local Agency Projects (delivered by ODOT)

1. If the Low Responsive Bid is less than 110% of the Engineer's Estimate:

- OPO - Construction will notify the Specifications and OPL of the low responsive bidder.
- OPL will review the low bid in comparison to the Engineer's Estimate and determine whether the low bid reflects a fair market value to the agency. The bid is also checked for errors and mathematical and/or material unbalancing. OPL will prepare the Bid Evaluation and Recommendation and forward to OPO - Construction within 8 working days of bid opening.
- If OPO - Construction determines the low bidder's proposal is responsive, OPO - Construction will proceed with award of the contract.
- OPO - Construction will forward the Final Bid Evaluation, anticipated items, bid tabulations, and Engineer's Estimate to the ODOT AM and LAL (who will forward to the Local Agency PM). This transmittal is for informational purposes only and must be kept confidential.
- Upon receipt of this information, the authorized LAL (in consultation with the Local Agency), will submit to the OPO - Construction the approved CE budget within 3 working days.

2. If the Low Responsive Bid is greater than 110% of the Engineer's Estimate:

- OPO - Construction will notify OPL of the low responsive bidder. OPL will review the low bid in comparison to the Engineer's Estimate and determine whether the low bid reflects a fair market value to the agency. The bid is also checked for errors and mathematical and/or material unbalancing.
- OPO - Construction will forward the Final Bid evaluation, anticipated items, Engineer's Estimate and Bid tabulations to the LGS Manager, ODOT Area Manager, and LAL. This transmittal is for informational purposes only and shall be kept confidential.
- If the Final Bid Evaluation recommends award of project and the local agency concurs:

- The LAL, on behalf of the local agency will submit to OPO - Construction, written confirmation of additional funding within 3 days of receipt of Final Bid Evaluation.
- The LAL, on behalf of the local agency will submit to OPO Construction the CE Budget within 5 working days of receiving the Final Bid Evaluation.
- OPO - Construction will not proceed with award of the contract until concurrence to award and confirmation of funding availability is received from the local agency liaison on behalf of the local agency. If the notice from the local agency cannot be obtained within 5 working days, OPO - Construction, LGS, LAL and local agency will discuss and agree on how to proceed.

3. If the Final Bid Evaluation recommends rejection of all bids and local agency concurs:

- LAL, on behalf of local agency, will provide within 1 working day of receiving the Final Bid Evaluation, written notice to OPO - Construction indicating concurrence to reject all bids.
- OPO - Construction will prepare a Public Interest Finding supporting Rejection of All Bids and send recommendation to Chief Engineer, Deputy Director, OTC, and FHWA if a full-oversight project.
- If the Final Bid Evaluation recommends rejection of all bids and the local agency does not concur:
- The LAL, on behalf of the local agency, will notify OPO - Construction within 3 days of receiving the Final Bid Evaluation if the local agency does not concur with ODOT's recommendation to reject all bids. This notification will include a written justification supporting award of project.
- OPO Construction will forward the justification letter along with other background materials to the State Roadway Engineer. The Roadway Engineer will consult with LAL, local agency, the Office of Pre-Letting, and other involved parties and will prepare a final recommendation on behalf of Technical Services. This final recommendation will be sent to OPO - Construction within three (3) days of receiving justification materials.
- ODOT Support Services Chief Procurement Officer will review materials and based upon best business practices for the department will forward a final recommendation to award or reject all bids to Chief Engineer, Deputy Director, and OTC (to FHWA if a full-oversight project).



TASK 7 - CONSTRUCTION PROJECT AUTHORIZATION

OPO - Construction is responsible for preparing the Construction Project Authorization for each project. The purpose of this document is to provide a summary or overview of the costs that will be incurred during the construction of a project. Some of the information shown in the project summary includes:

- Informational Items:
- The Engineer's Estimate
- The name of the low responsive bidder
- Funding deposits received from local governments or others

Budget Items:

- The amount of the low bid (biddable work) - the lowest responsive bid
- Bid Item Modifiers - Project fund set aside to provide for escalation/de-escalation and bonus specifications.
- CE Budget
- Contingencies - This amount is 3.5% of the low bid plus anticipated items and allows funding to cover normal fluctuation of project quantities as well as changes that are normally implemented on a project. There are rare occurrences where the construction work is of unusual risk that the percentage used warrants change. Documented cause for changing this percentage must be submitted to the State Roadway Engineer for review and approval.
- Anticipated Items
- Credits for salvaged materials

When this document is completed by the OPO - Construction, it is sent to the Chief Engineer for review and concurrence and on to the Deputy Director of Highways/OTC for approval and to FHWA for concurrence on full-oversight projects. Copies of the CE Budget, Anticipated Item Requests, and Final Bid Evaluation are attached to the Project Authorization as supporting documentation.

If the Deputy Director of Highways or the OTC elects to award/reject and FHWA concurs on full-oversight projects, the award/rejection letter included with this packet is signed and the contract award/rejection becomes official at that point.

A version of the Construction Project Authorization without the Engineer's Estimate is transmitted to Region/LAL/BDU, Technical Services, Financial Services, and FHWA personnel after a project is awarded/rejected.



TASK 8 - REVIEW AND EXECUTION OF THE CONTRACT

The OPO - Construction is responsible for reviewing the contract booklets returned from the successful bidder for accuracy and completeness. If the submittals are complete, the OPO Manager, will execute the contract within 7 calendar days of receiving the contract booklets from the successful bidder.

For more information about project lifecycle [Title VI and Environmental Justice](#), Emerging Small Business ([ESB](#)), and Disadvantaged Business Enterprise ([DBE](#)) considerations, visit Oregon.gov/ODOT/CS/Civil Rights.



TASK 9 - NOTICE TO PROCEED

The OPO - Construction will issue a Notice to Proceed to the contractor normally within 5 calendar days of executing the contract.

