

# ODOT Project Delivery Guide

## PHASE 3: AWARD CONSTRUCTION CONTRACT

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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 Contracts Unit (OPO - CCU). Project Leaders to upload bid reference documents to ODOT Electronic Bidding Information Distribution System (eBIDS), see [PS&E User Guide](#).



## *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 and before contract award, the item must be approved in writing by the AM, the State Roadway Engineer (all projects), and FHWA on full oversight projects. OPL and OPO - CCU 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 (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 - CCU a set of print-ready Mylar plans, signed by the ODOT Chief Engineer, and a copy of the special provisions for the project.

OPO - CCU 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 - CCU. OPO - CCU is responsible for combining the project ads for a given bid opening into a single document. OPO - CCU 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 - CCU webpage.

Further details of this procedure are presented in the "[PS&E Delivery Manual](#)".

To avoid conflicting meetings all proposed scheduling of these meetings will be cleared through the State Traffic/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](http://Oregon.gov/ODOT/CS/Civil Rights).



## ***TASK 7 - DISTRIBUTION OF PLANS AND SPECIFICATIONS***

OPO - CCU is responsible for the hard copy distribution of plans and special provisions for projects to ODOT, and local agencies.

OPO - CCU posts bid documents to ODOT Electronic Bidding Information Distribution System (eBIDS) which is an online tool that enables contractors, suppliers and other interested parties to locate, view and download bid-related documents for design-bid-build highway and bridge construction projects that ODOT currently has advertised to bid. ODOT eBIDS provides free downloading of bid booklets, addenda, clarification letters, plans, specifications and bid reference documents. ODOT vendors may also self-register as prime or informational plan holders on these projects.

Click this link to access external eBIDS: <https://ecm.odot.state.or.us/cf/EBIDS/>

In addition, OPO - CCU is responsible for filling paper orders and distribution to contractors, material suppliers and others who want to purchase hard copy plans, special provisions and bid documents through OPO - CCU.

ODOT eBIDS is also available for internal (ODOT) access only. Bid documents are available to internal users during and after the advertisement period.

Click this link to access internal eBIDS: <https://ecmintra.odot.state.or.us/cf/ebidsi/>



## ***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 OPL- [will forward the letter to OPO - CCU](#) for posting on [eBIDS](#).



## ***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 OPL 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. OPL- [will forward the final addendum letter to OPO - CCU](#) for posting on [eBIDS](#).

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](http://Oregon.gov/ODOT/CS/Civil Rights).



# LIFECYCLE MILESTONE 9: BID OPENING TO CONTRACT AWARD

## *TASK 1 - BID OPENING*

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



## *TASK 2 - OPO BID REVIEW*

**Bid Closing** - Immediately following the announcement of bids, Bid Express (BidX) automatically creates the Preliminary Bid results, and OPO - CCU publishes this document to BidX at <https://www.bidx.com/>.

Within a few hours of the bid closing, OPO - CCU develops and publishes the Preliminary Bid Results to the OPO - CCU website and proceeds to review all bids received. The OPO - CCU website is at [http://www.oregon.gov/ODOT/CS/CONSTRUCTION/Preliminary\\_Bid\\_Results.shtml](http://www.oregon.gov/ODOT/CS/CONSTRUCTION/Preliminary_Bid_Results.shtml)

**Bid Review** - OPO - CCU normally completes the bid review process within 4 working days after bid opening (additional days are required and used for projects with a Disadvantaged Business Enterprise (DBE) goal greater than 0%, deposits, Full Federal Oversight (FFO), and totals over 110% of the EE). OPO - CCU will notify the ODOT Office of Project Letting (OPL) of the apparent low responsive bidder (including any non-responsive bidders and determination reasons) at which time OPL will perform the Bid Analysis and write the Bid Evaluation and Recommendation of Award.

- The Bid Review includes but is not limited to entry of all bids (by each bid item) into the Trns\*port® DSS systems for verification of bid totals, review of bids, production of bid tabulation reports, and rejection of non-responsive bidders.



## ***TASK 3 - BID ANALYSIS/BID RECOMMENDATION AND EVALUATION OF AWARD***

After OPO - CCU has completed its bid review for bid responsiveness; OPL will perform an economic analysis of all bids received for each project. OPL uses Trns\*port® DSS systems for the Bid Analysis. OPL forwards the Bid Recommendation and Evaluation of Award to OPO - CCU within 5 working days of the apparent low bidder notification from OPO - CCU (additional days may be needed for projects when the low bid is over 110% of the EE).

- More information on the bid analysis (including unbalanced bids) can be found in the FHWA Contract Administration Core Curriculum Manual at <http://www.fhwa.dot.gov/programadmin/contracts/core03.cfm#s3A14> and in the [ODOT Construction Manual, Chapter 7 - Evaluation for Unbalanced Bids.](#)
- For projects over 110% of the EE, the Bid Evaluation and Recommendation of Award will include the "OPL Manager Comments and Recommendation." It will also include an "Executive Summary" section that states the recommendation and lists a summary of the key findings from the Bid Analysis and any additional considerations forwarded to the OPL Manager by the Region, that serve as the basis for the recommendation.

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



## ***TASK 4 - NOTICE OF INTENT TO AWARD***

When OPO - CCU and OPL have completed their reviews and the low responsive bidder is determined, the Notice of Intent to Award and Bid Tabulations are posted on the OPO - CCU webpage at:

[http://www.oregon.gov/ODOT/CS/CONSTRUCTION/Notice\\_of\\_Intent.shtml](http://www.oregon.gov/ODOT/CS/CONSTRUCTION/Notice_of_Intent.shtml).

After Notice of Intent to Award is posted, an aggrieved bidder has 3 working days in which to file a protest to the award per Specification Section 00130.15 and OAR 731-005-0690 (view OAR language at:

[http://arcweb.sos.state.or.us/pages/rules/oars\\_700/oar\\_731/731\\_005.html](http://arcweb.sos.state.or.us/pages/rules/oars_700/oar_731/731_005.html)). OPO - CCU must respond to the protest in writing before proceeding with award.



## TASK 5 - CONSTRUCTION ENGINEERING BUDGET

Construction Engineering (CE) Budgets are developed to determine the costs that will be incurred during the construction phase of a project.

The scope of the CE Budget may include inspection services, testing and monitoring services, consultant services, preparation of as-constructed drawings, Right of Way (ROW) monumentation, public relations, contract administration functions, BOLI Fees (OAR 839-025), etc. Additionally, each type of project as funded will have a maximum allowable percentage CE.

When Notice of Intent to Award is posted, OPO - CCU will notify the Region or LAL of the project's award or rejection of all bids recommendation and request the final CE Budget. On projects delivered by ODOT, the responsibility for establishing and submitting the CE Budget resides with the ODOT PM, or ODOT LAL with the Local Agency PM. CE budgets are due to OPO - CCU within 3 working days (5 working days for local agency projects).

The CE Budget will be developed following the guidelines and process described below:

### Construction Leadership Team Guidelines for Construction Engineering (CE) Budgets:

$$\text{CE Budget Percentage} = \frac{\text{Construction Engineering Budget}}{((1.035 * \text{Bid amount}) + \text{Additional Anticipated Items})} \times 100$$

CATEGORY	GUIDELINE
Modernization	Not to exceed 10.5%
Preservation	Not to exceed 6.5%
Bridge	Not to exceed 11%
Safety	Not to exceed 10%
Operations	Not to exceed 12%
Other Programs	Not to exceed 11%

CE performed by consultants normally is in the range of 10% to 15%.

CE on state or federally funded Local Agency projects is negotiated with the Local Agency and/or the consultant as part of the consultant work order.

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 - CCU.

### Process for Establishing a CE Budget

A. Each unit performing construction support work on a project must submit a pre-bid budget for that work to the appropriate PM no later than the day prior to the bid opening.

- CE budgets should be prepared and submitted in the format or manner established by the Region or Area.
- The PM and the responsible unit may discuss or negotiate the amount to be budgeted for each unit.
- If a unit performing work on a project does not submit a budget in a timely manner to the PM then an estimated amount should be included in the pre-bid budget.

B. The PM/LAL compiles all budget requests and needs into the final CE budget, determines the appropriate project categories for inclusion into the budget, and calculates the CE budget percentage.

- If the proposed CE budget percentage exceeds the Construction Leadership Team Guidelines indicated above, the PM/LAL should review the budget request, make any needed modifications, and write a justification for the additional budget amount.
- The PM submits the proposed budget, with justification for the amount exceeding the Construction Leadership Team Guidelines, to the AM for review. The AM may negotiate the budget request with the PM/LAL or responsible unit, make any needed revisions to the budget request, and must agree to the reasons for any request that exceeds the Guidelines. The AM must sign off approval on the CE Budget and justification.

OPO - CCU will include the amount of the CE budget in the Summary of Bids Received and Construction Authorization and attach a copy of the CE budget as supporting documentation in the award recommendation packet that goes to the Chief Engineer, Highway Division Administrator and FHWA (if FFO project) for review and final approval.

Attached is an example CE Budget and Justification Letter.



ExBudgetJustifaction  
.pdf

Attached is a CE Budget template (for optional use). Update the template with Region and project information.



CE\_WORKSHEET.xls

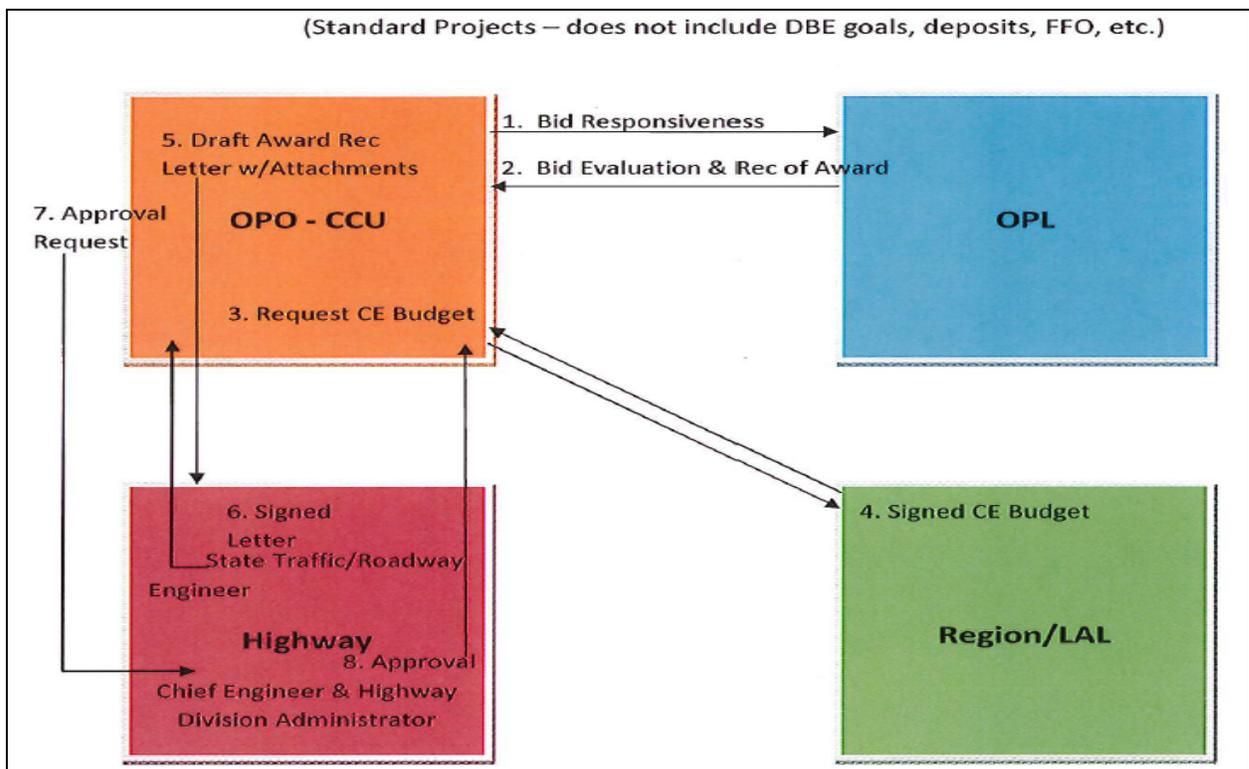


## TASK 6 - PROCESS FOR PROCEEDING WITH AWARD OR REJECTION OF ALL BIDS

### Low Responsive Bid is 110% or less of the EE:

Scenario 1: OPO - CCU will proceed with award of the contract only after all of the following have occurred:

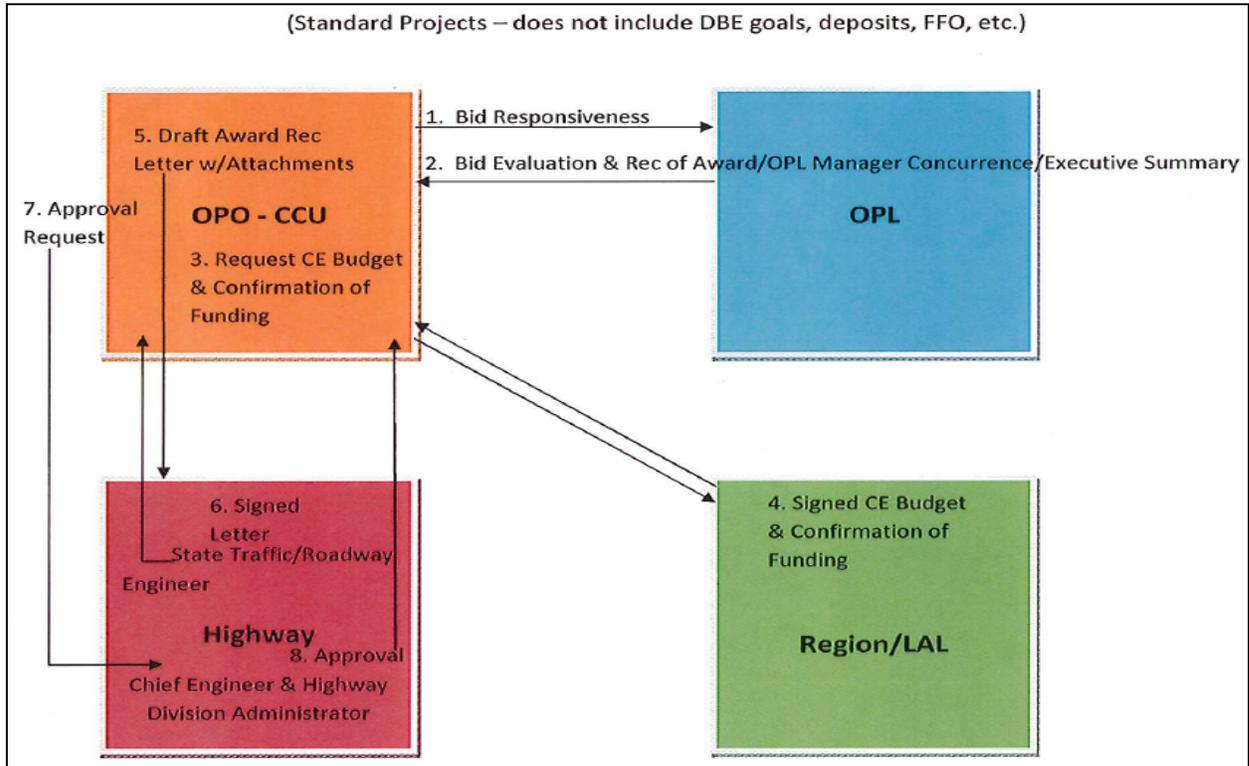
- OPO - CCU has completed the Bid Review, and the low bidder's proposal is determined responsive; and
- OPL has completed the Bid Analysis, and the Bid Evaluation and Recommendation of Award states the recommendation is to award to the low bidder.



### Low Responsive Bid is over 110% of the EE:

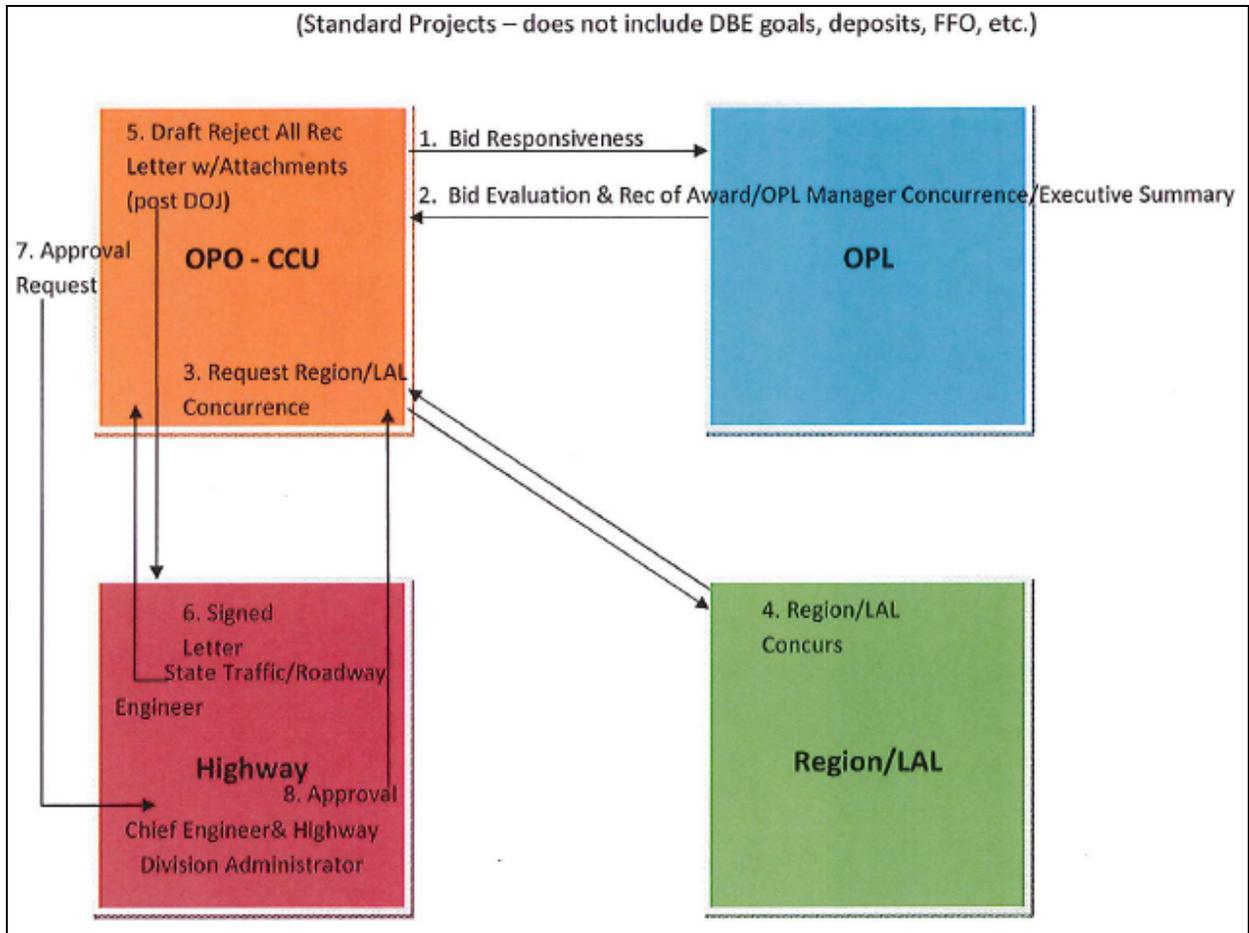
Scenario 2: If OPO - CCU and OPL recommend award and the Region or Local Agency concurs:

- Confirmation of funding is required before publishing Notice of Intent to Award.
- The ODOT Area Manager (AM), ODOT Local Agency Liaison (LAL), or other authorized representative will confirm whether the funds are available for the additional project cost within approximately working one day (three working days for Local Agency Projects) upon receiving the notice from OPO - CCU.



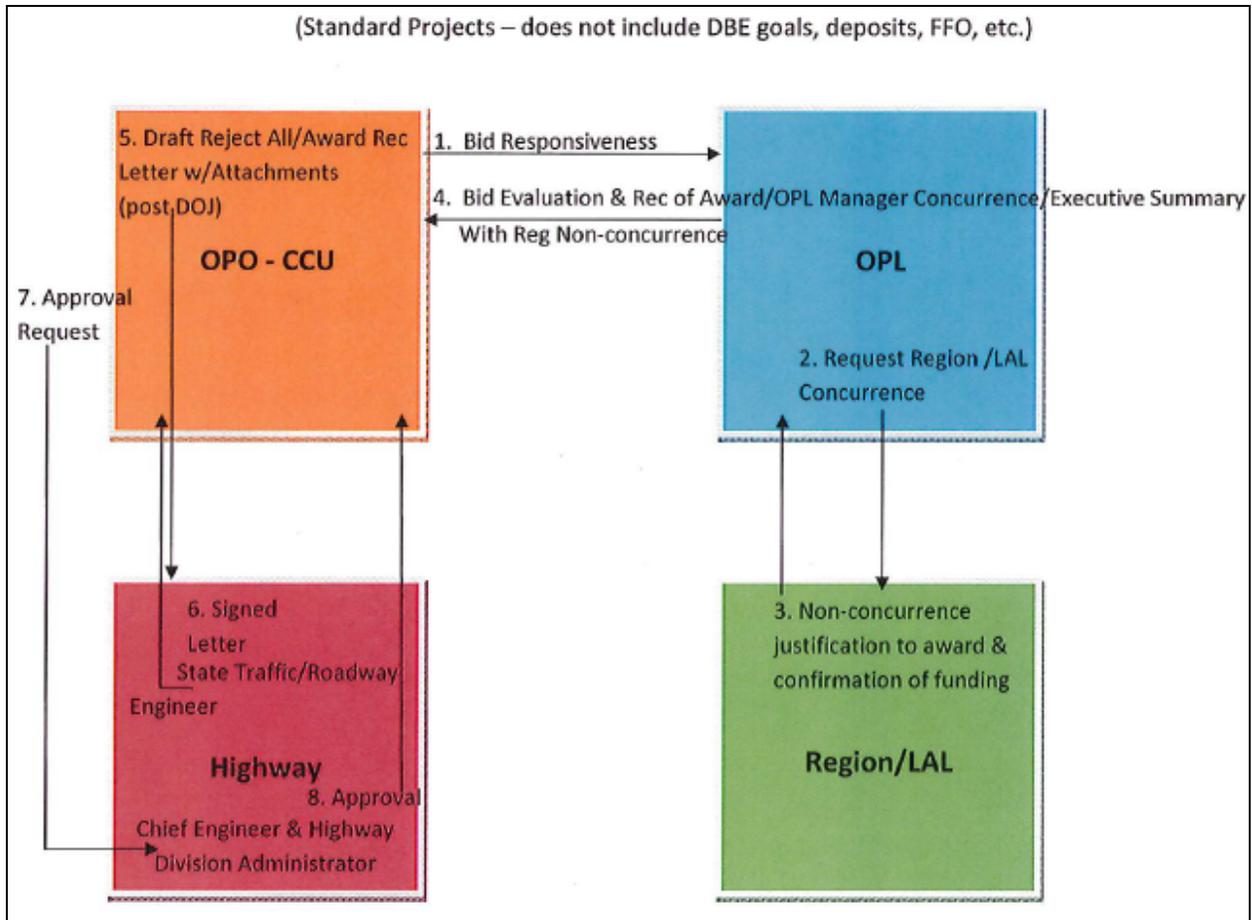
Scenario 3: If OPO - CCU and OPL recommend reject all bids and Region or Local Agency concurs:

- The AM, LAL, or other authorized representative will provide concurrence to reject all bids within approximately one day (three days for Local Agency Projects) upon receiving the notice from OPO - CCU.
- OPO - CCU will prepare the Public Interest Finding supporting rejection of all bids.



Scenario 4: If OPO - CCU and OPL recommends rejecting all bids but Region or Local Agency does not concur:

- The Region or LAL will prepare a written justification of the reasons all bids should not be rejected and confirm funding to cover additional cost if awarded. This justification should be sent to OPO - CCU and the OPL Manager within 3 working days upon receiving notice from OPO - CCU indicating decision to reject all bids.
- OPL will forward the written justification to the State Traffic/Roadway Engineer, whereupon after discussions with Region, OPL, LAL, and other involved parties, will prepare a final recommendation to award or reject all bids.
- The State Traffic/Roadway Engineer's recommendation will be sent to OPO - CCU within three working days of receiving the Region//LAL justification.



### Scenario 5: Error in Solicitation Documents - Reject All Bids

- All bids are over or under 110% of the EE but may require rejection of all bids in accordance to ORS [731-005-0680](#), the content of or an error in the Solicitation Document, or the solicitation process unnecessarily restricted competition for the Contract. Misconduct, error, or ambiguous or misleading provisions in the Solicitation Document threaten the fairness and integrity of the competitive process.
- An example of an error in the solicitation documents is having discrepancies in the paper bid booklet versus the electronic bid booklet. If the flaw surfaces after the bid closing, a reject all bids may be determined.
- OPO - CCU and OPL will work with the Region and/or Local Agency to modify the solicitation documents and reschedule the bid opening.



## ***TASK 7 - SUMMARY OF BIDS RECEIVED AND CONSTRUCTION PROJECT AUTHORIZATION***

OPO - CCU is responsible for preparing the Summary of Bids Received and Construction 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 this document includes:

### **Informational Items:**

- The EE
- The name of the low responsive bidder and other bidders
- If the project has Full Federal Oversight
- Funding deposits received from local governments or others
- If successful bidder is responsive and met the DBE goal
- Approval to award or reject all bids

### **Budget Items:**

- The amount of the low bid (biddable work) - the lowest responsive bid
- CE Budget
- Contingencies - This amount is 3.5% of the low bid, this 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 shall be submitted to the State Traffic/Roadway Engineer for review and approval.
- Anticipated Items - See [Operational Notice PD-07](#) and [PS&E Delivery Manual](#)  
Examples of anticipated items include statistical asphalt bonus, AC/PCC smoothness bonus, fuel escalation, oil escalation, or other commodity escalations.

### **Award or Reject All Bids Recommendation Packets**

The Oregon Transportation Commission has authorized the ODOT Director of Highways to award or reject all construction projects, with concurrence from FHWA for FFO projects. The Director has delegated this authority to the ODOT Highway Division Administrator per DIR-03.

OPO - CCU prepares the award or reject all bids recommendation packet for a final determination and forwards to Chief Engineer and Highway Division Administrator for approval.

The recommendation packet includes:

- Standard award or reject all bids recommendation letter

- Specialized award or reject all bids recommendation letter from State Traffic/Roadway Engineer for projects over 110% of the EE
- Public Interest Finding will be included for a reject all bids recommendation
- Summary of Bids Received and Construction Authorization
- Bid Evaluation and Recommendation of Award
  - Executive summary from OPL Manager is included in Bid Evaluation and Recommendation of Award for projects over 110% of the EE
- CE Budget
  - Confirmation of funding email is attached for projects over 110% of the EE

The award or rejection of all bids for a project is official when the required approvals have been made on the Summary of Bids Received and Construction Authorization sheet.

The completed Summary of Bids Received and Construction Authorization report is forwarded to the Program and Funding Office that uses this information to establish an expenditure account for charges against each project.

### **Awarded Contracts and Project Authorization Reports**

OPO - CCU generates the Awarded Contracts and Project Authorization reports from Trns\*port® DSS systems after each project in a bid letting has been awarded or rejected. These reports include project summaries and are used for contract administration. The Awarded Contracts and Project Authorization reports are published on the OPO - CCU website at:

[http://www.oregon.gov/ODOT/CS/CONSTRUCTION/Bid\\_Award.shtml](http://www.oregon.gov/ODOT/CS/CONSTRUCTION/Bid_Award.shtml)



## ***TASK 8 - REVIEW AND EXECUTION OF THE CONTRACT***

### **Award Letter and Contract Distribution**

OPO - CCU is responsible for preparing the award letter and contracts for distribution to the successful bidder. Three contracts are mailed to the contractor. One unsigned advance copy is kept by the contractor. ODOT is required by specification to provide the successful bidder with Notice of Award and contracts ready for execution within 30 Calendar days of bid opening or within the number of Calendar days specified in the Special Provisions or a written mutual agreement (see Specification Section 00130.10).

### **Completion of Contracts**

The successful bidder is responsible to return to OPO - CCU two completed and signed contracts, bonds, certificates of insurance, Workers' Compensation, and any additional documentation required. According to specification, the successful bidder is allowed 15 Calendar Days from the date the contract documents are conveyed to the bidder for return (see Specification Section 00130.50(a)).

### **Review and Execution of the Contract**

OPO - CCU is responsible for reviewing the two returned contract booklets and required documentation for accuracy and completeness. If the submittals are incomplete, they are returned to the successful bidder for correction. If the submittals are complete, the OPO - CCU Manager, or an authorized representative, is required to execute the contracts within 7 Calendar Days of receiving the contracts from the successful bidder (see Specification Section 00130.50(b)).

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](http://Oregon.gov/ODOT/CS/Civil Rights).



## ***TASK 9 - NOTICE TO PROCEED***

OPO - CCU will issue Notice to Proceed to the Contractor within 5 Calendar Days of executing the contract (see Specification Section 00130.90). In addition, OPO - CCU will provide copies of the Notice to Proceed to the AM, PM, LAL, Construction Section, and other appropriate parties.

