



Alternative Contracting Methods

**Identification, Evaluation, Selection and
Concurrence Process**

**Delivery & Operations Division
Alternative Delivery Services
Programs Development Office | Project Development Section**

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Alternative Delivery Services

ODOT has established Alternative Delivery Services (ADS) with the purpose of helping project teams with the alternative delivery processes which will result in the use of an alternative contracting method as described in Operational Notice PD-14. An “alternative” contracting method is an alternative to the design-bid-build or “low-bid” process, whereby the agency’s selection of a construction contractor is not only on the basis of price, but other factors such as time, qualifications or a contractor’s approach to the project work.

At Program Development Phase, the scoping teams should discuss the project type, total project costs, resourcing strategy, timelines, project goals, needs, risks and other constraints associated with the project and the use of an alternative method with the program funding manager and area manager. Scoping teams, who are considering using an alternative method, should contact ADS at or near the Scoping Phase before finalizing the business case to conduct an initial and formal evaluation of the project for an alternative contracting method. This evaluation will identify any risks early in the project lifecycle and determine which delivery method will be most viable for the project based on the unique project attributes.

Once a project is assigned to the resident engineer-consultant projects, or transportation project managers (both referred to in this notice as the “project manager”), any projects considering the use of an alternative method will contact ADS to schedule a project delivery method validation meeting, in coordination with the area manager and program funding manager. The validation meeting will involve identifying any additional risks and updates that were not identified during Scoping Phase and to validate the alternative method that was proposed during Scoping Phase.

The project manager must also obtain the required region management support to pursue an alternative method with ADS. The project manager should discuss with the program funding manager and area manager, the project costs associated with the use of an alternative method. The project manager can contact ADS to discuss the additional project costs associated with the use of alternative methods.

Alternative Delivery Method Considerations

It is important to consider using an alternative contracting method during the Program Development Phase to ensure there is adequate funding available in the STIP for a project. Alternative methods require additional project tasks which can add costs to the

project. These tasks may include value engineering, risk assessments, constructability reviews and evaluation and scoring processes during the Procurement Phase. Additional tasks produce additional reporting requirements. During Business Case Development and Scoping Phase, program funding managers, area managers, project sponsors, and scoping teams need to consider the additional tasks, total project costs, additional resourcing and any scheduling constraints associated with the use of alternative methods.

During Program Development Phase and prior to the approval of the final business case, these considerations should be included and established in order to successfully program the projects into the STIP. For more information, contact [ADS](#).

Delivery Method Selection Tool

All projects considering the use of an alternative contracting method will be evaluated by the ADS Program selection tool.

The selection tool was developed to evaluate a project at the Scoping Phase to determine whether there are opportunities for innovation, fast tracking, specialized contractor qualifications, and/or specialized construction approach outside the traditional design-bid-build method. The tool could be used again during Project Initiation Phase to validate the proposed alternative method. If an alternative method is selected, the scoping team should designate the project as an alternative contracting method in the final business case. The scoping team will work with ADS to also start the concurrence process, especially if Design-Build and CM/GC are selected.

Guidance

The purpose of this document is to provide guidance and expectations for identifying, evaluating, selecting, and the concurrence needed for use of an alternative contracting method for a specific project prior to and after entering into the Statewide Transportation Improvement Program (STIP).

Alternative Methods of Delivery or Contracting

Indefinite Delivery/Indefinite Quantity

Indefinite Delivery/Indefinite Quantity (ID/IQ) is a contracting method in which a contractor is required to deliver an indefinite quantity of supplies or services over a predetermined amount of time. The delivery scheduling under ID/IQ contracting is determined by the placing of task order contracts to deliver projects with one or

multiple contractors during a fixed period of time. The amount of time covered in these task order contracts, including extensions, doesn't exceed five years. This contracting method allows the agency to retain technical expertise for an indefinite period of time in areas such as construction, repairs, electric work, among other services. These contracts are often called "on call" as they are similar to price agreements for architect & engineering (A&E) services.

While the competitive, single award approach of ID/IQ is not considered a "best value contract", it does require a state exemption for alternative contracting to be in place prior to advertisement. ID/IQ is very flexible contracting method and has many variations, including multiple award and best value contractor selection. Variations of ID/IQ are more risky and complex and are considered alternative contracting and require the same state exemption used for alternative contracting.

Groups of projects that are of a limited nature, fall under a dedicated program to address system-wide upgrades and require minimal design effort could be considered for this contracting method. Other considerations include:

- Region Phase Gate to PS&E Phase Gate duration of six months.
- Limited Environmental, such as a programmatic categorical exclusion, or most basic CAT-X (No Historic/Archeological, Endangered Species Act, Environmental Justice, Hazmat, 4f/6f).
- No Right of Way impacts, (possible minor construction easement).
- Limited permit requirements (e.g. noise ordinance).
- No utility relocations (e.g. only minor manhole adjustment or valve boxes).
- Project types such as signing, guardrail, cable barrier, pavement resurfacing, traffic control device installation and traffic signal upgrades and installation. Assumes federal funding would be used.
- Total project costs.

ID/IQ can utilize either the competitive bidding or best value contractor selection.

ID/IQ competitive, single contractor award (Maximum five years)

If competitive bidding and single award is used on ID/IQ project, the project team will need to take into consideration the additional resourcing needed for project specific procurement and exemption process related tasks.

ID/IQ variations

The variations of ID/IQ contracting can include competitive multiple award, best value single award, and best value multiple award with a maximum of five years. If any of

these ID/IQ contracting variations are used, the project team will need to take into consideration additional resourcing needs:

- Additional project specific procurement and exemption process related tasks, including FHWA related reviews and approvals, if there is federal funding.
- If best value is used on an ID/IQ project, the project team will need to take into consideration the additional resourcing for the developing and determining the evaluation and scoring criteria of the contractor's qualifications, experience, and/or approach (means and methods).

Contact ADS for more information on specific requirements for selecting, evaluating, and use of ID/IQ contracting.

Price Plus Time or A+B

This contracting method determines the best value contractor based on a combination of price (A) and time (B). Time is the number of days to complete the project. There are incentive/disincentive requirements that are applied to the contract. The incentive/disincentive amounts are project specific. The incentive amount is applied for early completion of the project. The disincentive amount is applied for late completion of the project concurrently with applicable liquidated damages.

Projects needing innovations in schedule acceleration during construction could be considered for this alternative bidding method. Other considerations include:

- Total project cost of \$4 million or greater.
- Region Phase Gate to Statewide PS&E Phase Gate duration of six months or more.
- Project types in the program funding categories, (described in the Highway Design Manual) including some Modernization, Preservation, Bridge, and some Safety projects.

The project cost and time thresholds takes into consideration the additional resourcing needed for the following:

- Comparison of project schedule to an accelerated schedule.
- Calculation of road user cost to determine incentive/disincentive amounts.
- Additional project specific procurement and exemption process related tasks.

Price Plus Multi-Parameter or A+C, A+D, or A+C+D

This contracting method determines the best value contractor based on a combination of price (A) and one or more of the following factors: contractor qualifications (C) and contractor's approach (D). The current FHWA programmatic agreement with ODOT for selecting the best value contractor weights factor A at 40% of the scoring and C or D factors at 60%.

Projects needing innovations in the project approach (i.e. means and methods) and/or specialized or technical qualifications, and experience could be considered for this alternative contracting method. Other considerations include:

- Total project cost of \$6 million or greater.
- Region Phase Gate to Statewide PS&E Phase Gate duration of eight months or more.
- Project types in the program funding categories (described in the Highway Design Manual) including Modernization, Bridge, and some Operations and Safety projects.

The project cost and time thresholds takes into consideration the additional resourcing needed for the following:

- Developing and determining the evaluation and scoring criteria of the contractor's qualifications, experience, and/or approach (means and methods).
- Additional project specific procurement and exemption process related tasks, including FHWA related Special Experimental Project No. 14 (SEP-14) documentation.

Construction Manager/General Contractor

This is a two-phase delivery method where ODOT contracts early in the Project Design Phase with a contractor to provide construction manager/general contractor services. The solicitation includes a request for proposal (RFP), and the selection of a contractor is based on qualifications, approach, CM/GC Contractor fee, and pre-construction services hourly rates.

The CM/GC delivery method could be considered for projects needing innovation, contractor input during the design, a significant amount of stakeholder involvement, and owner control over the design. Other considerations include:

- Total project cost of \$25 million or greater.

- Region Phase Gate to Statewide PS&E Phase Gate duration of 18 months or more.
- Project types in the program funding categories, (described in the Highway Design Manual) including Modernization, Preservation, Bridge, and some Operations and Safety projects.

The project cost and time thresholds takes into consideration the additional resourcing needed for the following:

- Additional procurements for the owner’s representative (if applicable), A&E firm, the CM/GC and the independent cost estimator (ICE).
- Developing and determining the evaluation and scoring criteria of the contractor’s qualifications, experience, and/or approach (means and methods).
- Providing additional project specific procurement and exemption process related tasks.
- Executing value engineering studies, constructability reviews, and risk analyses.
- Blind ICE reviews.
- Any additional administration of the deliverables during Pre-construction and Construction Phases.

The CM/GC provides professional services during the design process (Pre-construction Phase) that includes constructability reviews, feedback on design options, production-based cost estimating with open-book pricing, schedule optimization, and identification of risks based on the contractor's established means and methods.

When ODOT considers the design to be complete, the CM/GC has an opportunity to provide a cost proposal for construction services on the completed design. If the owner, designer and ICE agree that the CM/GC has submitted a fair price, the owner executes an amendment to the contract for construction services. The construction manager then becomes the general contractor and constructs the project.

Design-Build

Design-build is a delivery method where ODOT contracts with a single entity, the design-builder, to design and construct a project. Typically, this is a two-step solicitation process, which includes a request for qualifications (RFQ) and a RFP to select the design-builder. The selection of a design-builder is based on their qualifications and approach to design and construction. The proposals are evaluated based on quality and price, including alternative technical concepts. The best value proposer is awarded the contract. The design-builder is responsible for the design, as the engineer of record, and the construction of the project.

Projects seeking innovation and contractor involvement through collaborative and integrated Design and Construction Phases and schedule acceleration could be considered for this alternative contracting method. Other considerations include:

- Total project cost of \$10 million or greater.
- Region Phase Gate to Statewide PS&E Phase Gate duration of 12 months or more.
- Projects types in the program funding categories (described in the Highway Design Manual) including Modernization, Preservation, Bridge and some Safety Program projects.

The project cost and time thresholds takes into consideration the additional resourcing and extensive procurement duration needed for the following:

- Developing and determining the evaluation and scoring criteria of the contractor's qualifications, experience, and/or approach (means and methods).
- Evaluating confidential alternative technical concepts during the procurement.
- Providing additional project specific procurement and exemption process related tasks.

Identification and Evaluation Process

Initial and Formal Alternative Delivery Method Evaluation

The project delivery method evaluation takes place during the Program Development Phase or at Scoping Phase, but prior to approval of the final business case. ADS may also reach out the program funding managers to flag any project types that could be a good fit for the various alternative contracting methods prior to scoping.

1. The scoping team will contact ADS for an initial screening to see if the project is suitable for one or more alternative contracting methods.
2. If the project is suitable, ADS will work with the region to move forward with a formal project evaluation.

ADS will send a project questionnaire to the scoping team, asking them to fill out project information at scoping and possibly again at Project Initiation Phase for validation.

- a. Evaluation factors include project specific goals, schedule, project complexity, opportunity for innovation, level of design, total project costs and identified project risks.

- b. The questionnaire must be filled out prior to the formal project delivery method evaluation during Scoping Phase in order to receive a recommendation from the selection tool.
- c. If a project is considering any lane or road closures, there is additional information the scoping team is required to submit including, road user costs, and average daily traffic data.
- d. Once the scoping team completes and provides project dollar value, project type, project goals, risks, and constraints to ADS, ADS will evaluate the responses and the results of the Delivery Method Selection Tool, "selection tool", if applicable.
- e. ADS will provide the scoping team a report from the selection tool that provides the scoping team with the results of the project evaluation. The selection tool may recommend one or more alternative methods, but it could also recommend design-bid-build.
- f. If there is an interest in pursuing an alternative contracting method, ADS will facilitate a meeting with the scoping team, the area manager, program funding manager, tech center manager, the region manager and project manager (if applicable), to provide any additional information such as considerations for additional resourcing and next steps.
- g. ADS will provide the scoping team, funding manager and area manager with information to help with additional timeline considerations, resourcing and cost associated with alternative method tasks to make certain the project has adequate time and cost considerations during the scoping phase. OPO and ADS will provide the region a copy of the procurement schedule template that identifies the tasks and proposed durations needed to produce a successful procurement for the selected alternative contracting method.
- h. If the project is selected as alternative method, the scoping team, with the support of the area manager and program funding manager, will document the final questionnaire and report in ProjectWise. The final business case should also document that the project is designated as an alternative contract (this designation provides the region and ADS with a mutual understanding of upcoming project support). Additional concurrence and validation will need to take place.

Selection and Concurrence Process

Concurrence Letter

Once all issues have been addressed and concurrence obtained from all parties, the formal concurrence letter will be signed by the following:

- ODOT Procurement Office Operations and Construction manager.
- Statewide Project Delivery Branch manager.
- Region Manager.

Concurrence Meeting

The concurrence meeting establishes region, Statewide Project Delivery Branch and OPO management support and understanding there may be a need for proper resourcing and additional procurement requirements. ADS will schedule a concurrence meeting with OPO, Project Controls Office, the region (including the tech center manager), the program funding manager, others in the Statewide Project Delivery Branch and the Department of Justice.

1. The concurrence meeting will take place at a mutually agreed upon time and location (usually during the scoping phase).
2. Participants at the meeting will discuss topics such as:
 - a. Project description summary.
 - b. Resourcing, funding, scope, and time constraints.
 - c. Project risks still needing mitigation by the region.
 - d. Finding of Fact for Exemption (FFE) process.
 - e. SEP-14 process (if applicable).
3. If risks or constraints are still unresolved, the scoping team or project manager must address them prior to moving forward with concurrence. ADS will distribute the signed formal concurrence letter to the applicable parties.

Alternative Delivery Method Validation Meeting

1. At the Project Initiation Phase, if a project has been designated for an alternative contracting method during the scoping phase, the project manager will contact ADS to schedule the validation meeting to determine if the project is still suitable for use of an alternative method, including review of project timelines.

2. If the project manager is inquiring about alternative contracting method for the first time, then an initial and formal evaluation will take place prior to the validation meeting. Once the validation meeting takes place, then the concurrence process and concurrence meeting will be scheduled.
3. ADS will coordinate with OPO and the PCO to determine participant availability for the validation meeting.
4. Prior to the validation meeting, the ADS team will send a new project questionnaire to the project manager or have the project manager update and resubmit the project evaluation questionnaire.
 - a. The new or updated questionnaire must be sent to ADS prior to the validation meeting.
 - b. Once the project manager provides the completed questionnaire, ADS will evaluate the responses and present the results of the Delivery Method Selection Tool during the validation meeting.
5. It is highly recommended that the project manager include the region manager, the area manager, program funding manager, tech center manager, and the following additional subject matter experts as meeting participants.
 - Right of way (ROW)
 - Environmental
 - Geotechnical
 - Hazardous materials
 - Hydraulics
 - Traffic/Roadway
 - Bridge
 - Construction project managers
 - Maintenance
 - Others

Having additional SMEs provides a well-rounded discussion concerning the benefits, drawbacks, and associated risks of each alternative contracting method as it relates to the project specific attributes.

6. ADS may provide a brief overview of the different alternative contracting methods, if necessary.
7. The selection tool will produce a recommendation of one or more delivery methods based on the supplied project data.

8. ADS will provide a summary of the selection tool output. The output data will serve as justification for the selection.
9. If the project attributes do not support the use of an alternative contracting method, the alternative contracting method validation stops and the project continues through the use of the standard design-bid-build delivery process.
10. If there is an interest in pursuing an alternative contracting method, ADS will facilitate a meeting with the project manager, the area manager, program funding manager, and the region manager to provide any additional information such as considerations for procurement, and next steps. Additional attendees may also include the region project delivery manager and technical center manager.
11. The project manager is required to have both the region manager's and the area manager's written concurrence prior to moving on to the concurrence meeting.
12. If at any time the area manager or the region manager are no longer interested in pursuing an alternative contracting method, the scoping team or the project manager will inform ADS.
13. If the area manager interested in pursuing an alternative contracting method, ADS will provide the project manager a template for the formal concurrence letter, if one hasn't been completed at the project scoping phase. The formal concurrence letter must be completed and signed by the area manager, prior to ADS scheduling a concurrence meeting. (Refer to concurrence process steps in the previous section).

Once the project concurrence and validation meetings have taken place and the concurrence letter has been completed, or updated, and signed by all parties, ADS will distribute the signed formal concurrence letter to the applicable parties and schedule an Alternative Contracting Kickoff meeting.

In the event that written concurrence cannot be reached between the region, OPO and the SPDB, a subsequent meeting may be held among the region manager, SPDB manager, and chief procurement officer to make a determination. If concurrence is still not reached and the region still wishes pursuing use of an alternative contracting method, then further discussions with the Delivery and Operations Division Administrator (and/or Deputy) would take place for a determination.

Scenarios that may contribute to non-concurrence by the parties:

On whether or not the project type is a good fit for the alternative contracting method chosen (e.g.: amount of risk impact to the procurement or the contract administration).

- Risk of program funding manager making the funding obligation dates listed for the project award, with potential of impact to the procurement timelines.
- If multiple alternative contracting projects are already in the queue for procurement and project support, contributing to potential program resourcing constraints or capacity issues.
- Industry capacity and competition concerns.

If you need more information, contact the [ADS](#) for the latest guidance documents, roles, and responsibilities specific to each of the different alternative contracting options, and for general information.

Definitions

Best Value

A procurement process that, in addition to price, looks at other factors such as quality and expertise, when selecting contractors.

Findings of Fact for Exemption

ODOT may exempt a contract or a class of contracts from competitive bidding requirement if findings are submitted (and approved) that identify the following:

- Whether the exemption is unlikely to encourage favoritism.
- Will likely result in substantial cost savings or other benefits to the agency.
- Allows the use of an alternative contracting method to be considered as a pilot project
- A public hearing was held to offer any interested party an opportunity to comment.

See ORS 279C.335 for additional details.

Special Experimental Project No.14 (SEP-14)

A FHWA Alternative Contracting exemption. The objective of SEP-14 is to evaluate "project specific" innovative contracting practices, undertaken by State highway agencies that have the potential to reduce the life cycle cost of projects, while at the

same time, maintain product quality. The intent of SEP-14 is to operate within this administrative flexibility to evaluate promising non-traditional contracting practices on selected Federal-aid projects. Projects using the A+ multi-parameter delivery method (A+C, A+D, and A+C+D) with federal aid funding are required to complete additional SEP-14 documentation.

Total Project Cost

All financial costs associated with the planning, development, design, construction, and administration, including but not limited to, the costs for environmental considerations, right of way acquisition, utility relocation, permitting, geo-environmental considerations, internal ODOT resources, consultant contracts, and construction contracts.