



# Delivery & Operations Division

## Project Delivery Operational Notice

Operational Notice Number <b>PD-14</b>	Original Effective Date <b>12/21/2004</b>	Revised Effective Date <b>12/3/2020</b>	Review or Rescind Date <b>1/12/2022</b>	Reviewing Position <b>Statewide Project Delivery Branch Manager</b>  David Kim 11/30/2020 7:19am
Operational Notice Title <b>Alternative Contracting Methods – Identification, Evaluation, Selection, and Concurrence Process</b>			Topic or Program <b>Alternative Contracting, Alternative Delivery Services</b>	

### Purpose

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

### Background and Rationale

Alternative contracting methods provide additional procurement and contracting options for unique, complex, or schedule critical projects. When considering an alternative contracting method for a project, the selection of the correct method is critical to the success of the project.

The following alternative contracting methods and alternative contracting options are available for consideration under this operational notice:

- Price plus time (A+B);
- Price plus multi-parameter (A+C+D);
- Construction manager/general contractor (CM/GC);
- Design-build (DB);
- Indefinite Delivery/Indefinite Quantity (ID/IQ); and
- Any other best value selection method that requires an exemption from competitive bidding.

Oregon law requires the use of competitive bidding for highway construction ([ORS 279C.300](#)). [ORS 279C.335](#) allows for an exemption from the competitive bidding requirement. Best value selection is a procurement process that, in addition to price, looks at other factors such as quality and expertise, when selecting a contractor. All of the alternative methods listed above require an exemption from the competitive bidding requirements because they are using price and some other factor during the selection of a contractor.



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Price plus multi-parameter methods with Federal Aid funding require a separate exemption process, FHWA Special Experimental Project No. 14 (SEP-14).

An exemption is not required for design-bid-build or “low bid” projects using incentive/disincentive on a portion or segment of the work. Contact the Project Controls Office (PCO) for more information.

If you need more information or assistance, contact Alternative Delivery Services (ADS) for the latest guidance documents, roles, and responsibilities specific to each of the different alternative contracting options, and for general information.

### **Overview and Direction**

ODOT has established ADS with the purpose of helping project teams with the alternative delivery method selection process. All projects considering the use of an alternative contracting method that will result in an alternative contract shall be evaluated by the ADS delivery method selection tool. The selection tool was developed to evaluate a project at the Scoping Phase to determine whether there are opportunities to leverage alternative contracting methods for innovation, fast tracking, specialized contractor qualifications, and/or specialized construction approach outside the conventional design-bid-build method.

**Alternative Delivery Method Considerations:** It is important to consider using an alternative method of contracting early, during the Program Development Phase to ensure there will be adequate time, funding, and resources available in the STIP for a project. Delivery using an alternative contracting method requires additional project planning tasks. 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 Program Development Phase or at the Scoping Phase and prior to the approval of the final business case, these considerations should be included to program the projects into the STIP. For more information, contact ADS.

### **Action Required or Process**

**Initial and Formal Alternative Delivery Method Evaluation:** The project delivery method evaluation takes place either during the Program Development Phase or at the Scoping Phase, but prior to approval of the final business case. ADS may also reach out to the Program Funding Managers to flag any project types that could be a good fit for the various alternative contracting methods prior to scoping.

Scoping teams 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. This evaluation will identify any



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risks early in the project lifecycle and determine which delivery method may be most viable for the project based on the unique project attributes.

During Business Case Development and Scoping Phase, the area managers, project sponsors, tech center managers, program funding managers, and scoping teams need to consider the additional tasks, total project costs, resourcing and any scheduling constraints associated with the use of an alternative method of contracting. If an alternative contracting method is selected, the scoping team should designate the project as an alternative 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.

**Concurrence Letter:** Once concurrence is obtained from all parties, including the area manager and program funding manager at the applicable authority levels for a given project. The formal letter will be signed by the following:

- OPO Operations and Construction manager
- Statewide Project Delivery manager
- Region Manager

**Concurrence Meeting:** The concurrence meeting can take place either after project scoping to document the use of an alternative method or after the validation meeting. The concurrence meeting establishes region, Statewide Project Delivery Branch and OPO management support, understanding and need for proper resourcing and additional procurement requirements.

In the event that written concurrence cannot be reached between the Region, OPO and the Statewide Project Delivery Branch, a subsequent meeting may be held among the Region Manager, Statewide Project Delivery 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 Administration (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.



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**Alternative Delivery Method Validation Meeting:** A validation meeting shall be held to determine the continued feasibility of an alternative contracting method during the Project Initiation Phase. 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 contract should contact ADS to schedule an alternative delivery method validation meeting.

The validation meeting will involve reviewing the documentation and information associated with the decision to move forward with the use of an alternative contracting method, identifying any new risks and gathering additional project information that may not have been identified during Scoping Phase and to validate the alternative method that was proposed.

The project manager will discuss all of the factors associated with the use of an alternative contracting method such as cost, schedule, resourcing and approach with the program funding manager, area manager, and tech center manager. The project manager can contact ADS for technical assistance. The project manager must also obtain the required region management support to pursue an alternative contracting method with ADS. The area manager will ensure agreement is obtained for the appropriate level of authority to use an alternative contracting method for the project and concurrence from the program funding manager to ensure that funding obligation timelines can be met.

Refer to current ADS guidance and references materials that discuss the identification, evaluation, selection and concurrence and validation process in more detail.



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### Roles and Responsibilities

<p>Project Manager, includes:</p> <p>Transportation Project Manager (TPM),</p> <p>Resident Engineer – Consultant Projects (RE-CP)</p>	<ul style="list-style-type: none"> <li>• Evaluate project to consider if an alternative contracting method is viable.</li> <li>• Consult with the Alternative Delivery Services (ADS) in scheduling an initial and formal project evaluation.</li> <li>• Provide project information to ADS need to properly perform an initial and formal project evaluation.</li> <li>• Consult with ADS in scheduling a delivery method validation.</li> <li>• Participate and provide information for the project concurrence meetings.</li> <li>• Provide updated project information to ADS to perform an alternative contracting method validation.</li> <li>• Update the project charter to reflect the alternative contracting method approach, or initiate the CMR process, if the charter has already been approved.</li> </ul>
<p>Area Manager</p> <p>Region Manager</p>	<ul style="list-style-type: none"> <li>• Provides written concurrence to move forward with the use of an alternative contracting method on a project.</li> </ul>
<p>Program Funding Manager</p>	<ul style="list-style-type: none"> <li>• Is an important stakeholder for consultation within the decision process.</li> <li>• Provides written concurrence of the funding obligation for alternative contracting method selected.</li> </ul>
<p>Tech Center Manager</p>	<ul style="list-style-type: none"> <li>• Participates in the evaluation and selection of alternative contracting methods during the scoping and project initiation phase.</li> </ul>
<p>Alternative Delivery Services (ADS)</p>	<ul style="list-style-type: none"> <li>• Evaluate ODOT STIP projects for potential use of alternative contracting methods.</li> <li>• Conduct initial and formal evaluations, validation, and concurrence meetings for alternative contracting methods.</li> <li>• Coordinate with others in the Statewide Project Delivery Branch for project concurrence.</li> <li>• Develop and maintain the Alternative Delivery program.</li> <li>• Provide Alternative Delivery training.</li> <li>• Provide program coordination between ODOT and FHWA.</li> <li>• Develop and maintains contract and template documents specific for use on alternative contracting projects.</li> <li>• Coordinate with DOJ on pre-award General Provisions (Section 100) alternative contract language.</li> </ul>



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ODOT Procurement Office (OPO)	<ul style="list-style-type: none"><li>• Participate in the initial and formal evaluations, validation, and concurrence meetings for alternative contracting methods.</li><li>• Provide procurement services for alternative contracts.</li><li>• Develop and maintain request for qualifications (RFQ) and request for proposal (RFP) documents specific for use on alternative projects.</li><li>• Provide guidance on scoring and evaluation criteria for ID/IQ, A+ Multi-Parameter, CM/GC and Design-Build methods.</li><li>• Coordinate with the Project Manager on project specific information on the exemption documents.</li><li>• Coordinate with DOJ on RFQ, RFP and exemption documents.</li><li>• Public hearing official for exemption process public meetings.</li></ul>
Project Controls Office (PCO)	<ul style="list-style-type: none"><li>• Participate in the initial and formal evaluations, validation, and concurrence meetings for alternative contracting methods.</li><li>• Maintain and coordinate project bid date(s) for alternative contracting method projects.</li><li>• Provide the specification language for ID/IQ, A+B and A+ Multi-Parameter.</li><li>• Coordinate with DOJ on any pre-award General Conditions (Section 100) language related to ID/IQ, A+B and A+ Multi-Parameter methods.</li><li>• Provide specification language and programmatic information on incentive/disincentive provisions.</li><li>• Provide QA/QC of project plans, specifications and estimates (PS&amp;E) for A+B and A+ Multi-Parameter methods.</li><li>• Provides final engineer's estimate on A+B and A+ Multi-Parameter method projects.</li></ul>

## References

- <http://transnet.odot.state.or.us/hwy/ads/SitePages/Home.aspx>
- <https://www.oregon.gov/odot/Business/Pages/Alternative-Contracting.aspx>
- <https://www.fhwa.dot.gov/construction/contracts/acm/>
- <https://www.fhwa.dot.gov/publications/research/infrastructure/17100/17100.pdf>
- <https://www.fhwa.dot.gov/construction/cqit/joc.cfm>
- <https://www.fhwa.dot.gov/construction/cqit/sep14.cfm>