

Delivery and Operations Division

Operational Notice

Operational Notice Number PD-14	Original Effective Date 12/14/2004	Revised Effective Date 10/1/2023	Review or Rescind Date 10/1/2025	Reviewing Position Statewide Project Delivery Manager
Operational Notice Title Alternative Contracting Methods – Identification, Evaluation, Selection, and Concurrence Process			Topic or Program Alternative Contracting, Alternative Delivery Services	

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 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 alternative contracting, the selection of the correct method is critical to the success of the project.

The following alternative contracting methods 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 projects ([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.

Exemptions

All 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.

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



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An exemption is not required for design-bid-build or “low bid” projects using incentive/disincentive on a portion or segment of the work, as these are payment provisions, not alternative contracting methods. 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

All projects being considered for 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 Alternative Delivery Services Unit developed the selection tool to evaluate a project at the Scoping Phase to determine opportunities to leverage alternative contracting methods for innovation, fast tracking, specialized contractor qualifications, and/or specialized construction approach.

Alternative Delivery Method Considerations: It is important to consider using an alternative method of contracting early in the STIP Development Phase to ensure there will be adequate time, funding, and resources available in the STIP cycle 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.

These alternative delivery method considerations should be included during project planning or at the Scoping Phase and prior to the approval of the final business case and STIP programming. For more information, contact ADS.

Action Required or Process

Initial and Formal Alternative Delivery Method Evaluation: ADS may reach out to Program Funding Managers to flag projects that could be a good fit for alternative contracting methods prior to scoping.

Scoping teams considering using an alternative method should contact [ADS](#) before finalizing the business case to conduct an initial and formal evaluation of the project. This evaluation will identify any risks associated with alternative delivery 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 additional tasks, total project costs, additional resourcing, and scheduling constraints associated with the use of an alternative method of contracting. If an alternative contracting method is selected, the scoping team should identify the project as intending to use the alternative method in the final business case. The scoping team will work with ADS to start the concurrence process, especially if Design-Build or CM/GC is selected.



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Concurrence Process

Concurrence Letter: Once concurrence to use an alternative delivery method is obtained from all parties, including the Area Manager and Program Funding Manager, a formal letter will be signed by the following:

- ODOT Procurement Office (OPO) Operations and Construction Manager
- Statewide Project Delivery Manager
- Region Manager

Concurrence Meeting:

A concurrence meeting must 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 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 to pursue use of an alternative contracting method, then elevated discussions with the Delivery and Operations Division Administrator (and/or Deputy), and the ODOT Procurement Office Manager will take place for a determination.

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

- 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 the 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.

Alternative Delivery Method Validation Meeting: A validation meeting will 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 Manager (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 documentation and information associated with the decision to move forward with the use of an alternative contracting method, identifying any new risks, gathering additional project information that may not have been identified during the scoping phase, and validating the alternative method that was proposed.



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The project manager will discuss all factors associated with the use of an alternative contracting method such as cost, schedule, resourcing, risk and approach with the program funding manager, area manager, and tech center manager. The project manager may 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 must ensure agreement is obtained from 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"> • Evaluates project to consider if an alternative contracting method is viable. • Consults with the Alternative Delivery Services (ADS) team in scheduling an initial and formal project evaluation. • Provides project information to ADS and needs to properly perform an initial and formal project evaluation. • Consults with ADS in scheduling a delivery method validation. • Participates and provides information for the project concurrence meetings. • Provides updated project information to ADS to perform an alternative contracting method validation. • Updates the project charter to reflect the alternative contracting method approach, or initiates the CMR process, if the charter has already been approved.
<p>Area Manager</p> <p>Region Manager</p>	<ul style="list-style-type: none"> • Provides written concurrence to move forward with the use of an alternative contracting method on a project.
<p>Program Funding Manager</p>	<ul style="list-style-type: none"> • Is an important collaborator for consultation within the decision process. • Provides written concurrence of sufficient funding availability for the alternative contracting method selected.
<p>Tech Center Manager</p>	<ul style="list-style-type: none"> • Participates in the evaluation and selection of alternative contracting methods during the scoping and project initiation phase.
<p>Alternative Delivery Services (ADS)</p>	<ul style="list-style-type: none"> • Evaluates ODOT STIP projects for potential use of alternative contracting methods. • Conducts initial and formal evaluations, validation, and concurrence meetings for alternative contracting methods. • Coordinates with others in the Statewide Project Delivery Branch for project concurrence. • Develops and maintains the Alternative Delivery program. • Provides Alternative Delivery training. • Provides program coordination between ODOT and FHWA. • Develops and maintains contract and template documents specific for use on alternative contracting projects. • Coordinates with DOJ on pre-award General Provisions (Section 100s) and contracting documents for CM/GC and Design-Build • Coordinates with the ProjectWise Program to ensure the project is created using the appropriate folder structure, access model, and naming convention.



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

References

- <https://ordot.sharepoint.com/sites/AltDelivery>
- <https://www.oregon.gov/odot/Business/Pages/Alternative-Contracting.aspx>
- https://www.oregonlegislature.gov/bills_laws/ors/ors279c.html
- <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/sep14.cfm>