



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **ACTION:** Minnesota Best-Value Award
on a Design-Bid-Build Project under Special
Experimental Project No. 14 (SEP-14)

Date: July 27, 2023

From: Brian R. Hogge
Acting Director, Office of Preconstruction,
Construction, and Pavements

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In Reply Refer To:
HICP-20

To: Wendall L. Meyer
Division Administrator
St. Paul, MN

This memorandum is in reference to a July 11 email sent by William Lohr of your office, which transmitted the following documents:

1. A Minnesota Department of Transportation (MnDOT) workplan, dated July 11, 2023, for the use of Best-Value Award in Design-Bid-Build (D-B-B) under Special Experimental Project No. 14 (SEP-14), for the Stone Arch Bridge Project in Minneapolis, MN;
2. A draft Best-Value Specification for the Stone-Arch Bridge; and
3. A copy of the approval memorandum for I-35W Lake Street Project, which was approved by this office under SEP-14 on March 15, 2017. This project is quite similar.

The Division Office has endorsed the SEP-14 workplan and requested that HICP grant approval.

MnDOT considered whether Design-Build delivery would be appropriate for the project, however, the agency wanted to retain control of the specialized design and there is little occurring on the project outside of that design. The D-B-B plans are completed at this time, however, there are several project risks and opportunities that will carry into the construction of the project that cannot be addressed with a simple low bid letting. In particular, MnDOT does not want to select a poorly-qualified contractor to complete the work and strongly prefers a responsible contractor that plans to make use of quality construction staff and processes to complete the work. These Best Value scoring criteria include:

- A. Risk Understanding and Mitigation Approach
- B. Quality Processes
- C. Key Personnel
 - 1) Project Manager
 - 2) Masonry Team
 - 3) Safety Officer

Under [23 CFR 635.114\(a\)](#), “Federal-aid contracts shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting the criteria of responsibility”. By proposing this contracting technique, MnDOT is effectively requesting a waiver of this regulation under SEP-14 to use Best Value evaluation criteria in the award of a D-B-B contract.

MnDOT noted that if this particular project performs well, it may request programmatic approval to use this technique on future projects.

Other details are contained in the SEP-14 workplan.

This SEP-14 workplan is approved.

The FHWA’s approval of the SEP-14 workplan for the Project is limited to the deviations from FHWA’s procurement rules at 23 CFR Part 635 as set forth in the Workplan. FHWA’s approval is not intended to be and should not be interpreted as an approval, either expressly or implied, of deviations from any other title 23 USC, title 23 CFR, or other Federal requirement (including provisions contained in the recently enacted Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act, Pub. L. 117-58 (Nov. 15, 2021) applicable to any other aspect of the project advanced under the SEP-14 Workplan.

Thank you for the opportunity to review and comment on this SEP-14 request. Should you have any questions, please contact Brian Hogge at (202) 366-1562, or John Huyer at (720) 437-0515.