



U.S. Department
of Transportation

Federal Highway
Administration

Memorandum

Subject: **ACTION:** Design-Bid-Build Best Value
Procurement Under Special Experimental
Project No. 14 (SEP-14)

Date: August 18, 2015

From: Thomas D. Everett
Director, Office of Program
Administration

In Reply Refer To:
HIPA-30

To: Peter W. Osborn
Division Administrator
Albany, NY

This is in reference to Mr. Daniel Wood's July 29 e-mail endorsement transmitting a request from the New York State Department of Transportation (NYSDOT), requesting that FHWA concur in the use of Federal-aid funding for "Best-Value" selection of design-bid-build construction contracts through SEP-14 until April 2017. In March 2015, New York State's temporary legislation authorizing the use of Design Build, Best Value, and other alternate contracting methods was essentially extended until March 2017. In preparing their request, NYSDOT noted its review of the [National Cooperative Highway Research Program \(NCHRP\) Report 561](#), entitled "Best-Value Procurement Methods for Highway Construction Projects". Included in the request were:

- Revised Work Plan for SEP-14 Utilizing Best-Value Selection for Capital Construction Contracts. The work plan outlines how NYSDOT anticipates using the Federal "Alternative Contracting" SEP-14 program. This proposed Work Plan is in accordance with the recommendations of NCHRP Report 561.
- NYSDOT Procedure - "Procedures for Selection and Award of Construction Contracts Using Best Value Selection", which includes the New York State Infrastructure Investment Act extension.

In October 2012 NYSDOT had received FHWA approval under SEP-14 for a similar request for projects let between April 2012 and December 2014 (see <http://www.fhwa.dot.gov/programadmin/contracts/sep14ny2012.pdf>).

In its transmittal, the Division Office provided a draft template on Best Value Submission that NYSDOT had provided; the Division cited this as a good example of the process that is used and the modifications that are made before the template is used on a contract.

NYSDOT anticipates that approximately 5 to 7 construction contracts per calendar year would be selected and awarded via the Best-Value method. These would be jobs of various sizes and work types, and in different Regions. For each contract, main office staff would work with the Regions to determine the qualification-based selection factors to be used, their respective weights, and their weight in relation to the bid price. The most likely qualification-based selection factors would be past experience and performance, key personnel, safety record, schedule, and ability to meet Disadvantaged Business Enterprise goals.

By using the "Best-Value" method for capital projects, NYSDOT expects to be able to measure, as a minimum, three primary objectives; (1) cost savings, (2) time, and (3) improved quality.

We concur in your request to extend NYSDOT's SEP-14 programmatic approval for the use of best-value contracting on selected projects for an approximate 2-year evaluation period (for projects advertised for bids between July 2015 and April 2017).

Please ensure that NYSDOT prepares and forwards annual evaluation reports summarizing the lessons learned for all best-value projects let, awarded and completed during their calendar year. As a minimum, the annual evaluations should provide for an assessment of the key performance objectives (cost, schedule and quality) in comparison with similar projects let under the traditional design-bid-build delivery system. The evaluation should discuss the criteria that were used in procurement and how these led to improved performance. We intend to post the annual reports on our [SEP-14 Active Project List](#), so that NYSDOT's lessons learned may be shared with other agencies who might be interested in best-value procurement for design-bid-build projects. Please note that project-specific evaluation reports are no longer necessary with this SEP-14 programmatic approval.

Thank you for the opportunity to review this SEP-14 request. If you have any questions, please contact John Huyer of my office at (651) 291-6111 or John.Huyer@dot.gov.