



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

Memorandum

Subject: **ACTION:** Waiver of 23 CFR 636.507(b)
Special Experimental Project No. 14 (SEP-14)

Date: March 25, 2008

/Signed By:/

From: Dwight Horne
Director, Office of Program Administration

In Reply Refer To:
HIPA-30

To: David C. Gibbs
Division Administrator
Tallahassee, FL

This is in reference to Mr. Chris Richter's March 6, email that forwarded an SEP-14 work plan from the Florida Department of Transportation (FDOT). FDOT proposes to use technical concepts from unsuccessful proposers in discussions with the apparent best value firm prior to the award of the contract. This would provide for a waiver from the requirements of 23 CFR 636.507(b) and 23 CFR 636.513 which prohibit a contracting agency from revealing an offeror's technical solutions with other firms. FDOT has proposed to evaluate this waiver for a five-year period on all present and future FDOT Public Private Partnership Projects.

FDOT proposes to notify all proposers of this process through statements in the request-for-proposal document. These statements will provide notice that during negotiations with the apparent best-value proposer prior to contract execution, alternative technical concepts from unsuccessful proposers may be presented for possible incorporation in the final agreement.

You may consider FDOT's work plan and this waiver to be approved under our SEP-14 innovative contracting experimental program. This SEP-14 waiver is approved on a programmatic basis, however, you may wish to consider requiring FDOT to submit individual project approval requests until your office is comfortable with the use of this technique.

Thank you for the opportunity to review and comment on this SEP-14 request. Should you have any questions, please contact Gerald Yakowenko at (202) 366-1562.

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