



U.S. Department  
of Transportation

Federal Highway  
Administration

# Memorandum

Subject: **ACTION:** Use of Fixed Budget / Variable  
Scope Award Method under Special  
Experimental Projects No. 14 (SEP-14)

Date: February 4, 2013

***/Signed By/***

From: David A. Nicol /s/  
Director, Office of Program Administration

In Reply Refer To:  
HIPA-30

To: Peter J. Hartman III  
Division Administrator  
Boise, ID

This is in reference to Mr. John Perry's January 11, 2013 email that forwarded a request from the Idaho Transportation Department (ITD) to award certain types of construction contracts on a "fixed budget / variable scope" basis. Instead of awarding a contract to the lowest responsive bidder (as required by 23 U.S.C. 112 and 23 CFR 635.114), ITD proposes to award the contract to the firm that proposes to perform the most work (e.g. lineal feet of installed fence) for the advertised budget.

In their January 11, 2013 workplan, ITD proposes to evaluate and report on the following information:

1. The overall construction engineering and inspection costs will be analyzed and compared with other similar conventionally contracted projects.
2. The final construction cost, including change orders, will be compared to the bid amount in terms of a percentage, for the proposed versus the conventional contracting method.
3. Industry reaction will also be measured by interviewing the Contractor, the Resident Engineer, and District management to obtain their opinions on how well the bidding technique was received by industry.

In addition to the above information, the ITD should also evaluate and compare the estimated unit bid prices for the experimental projects with typical unit bid prices for similar work.

Since this is a programmatic waiver, please inform ITD that a single annual evaluation of all projects included in the programmatic approval will be required. You may use your discretion in providing any limitations regarding the number of Federal-aid projects included under this programmatic approval.

This waiver is approved under our SEP-14 innovative contracting experimental program. 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.