



U.S. Department
of Transportation

**Federal Highway
Administration**

Memorandum

Subject: **ACTION:** Fixed Price / Variable Scope Contracting
Special Experimental Project No. 14 (SEP-14)
Programmatic Approval

Date: December 19, 2012

/Signed By/

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

In Reply Refer To:
HIPA-30

To: Russell L. Jorgenson
Division Administrator
Lansing, MI

This is in reference to Mr. Jeff Forster's December 19, 2012 email that transmitted the Michigan Department of Transportation's (MDOT) December 17, 2012 SEP-14 workplan for the programmatic use of fixed price/variable scope contracts throughout the state.

This contracting method will allow MDOT to maximize the work that can be completed for a fixed budget. MDOT proposes to select a contractor based on the lowest bid if all work can be completed within the fixed price. If all work cannot be completed using the fixed price, the contractor bidding the most work will be selected. In the event of a tie, bidders will be required to submit a revised bid, with the lowest bidder selected.

In the first programmatic evaluation, MDOT should provide:

1. Sample contract provisions that were used to describe the process of evaluating and selecting the successful proposer for various types of projects,
2. An analysis of the value and benefit of using this technique, and
3. At your discretion, consider requiring MDOT to evaluate specific performance criteria for this technique. Subject to the availability of MDOT data, the criteria could include: time growth, cost growth, award growth, absolute time growth, absolute cost growth or other applicable criteria.

The MDOT's workplan and evaluation schedule are satisfactory. You may consider this project approved for evaluation under SEP-14. 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.