



U.S. Department
of Transportation

**Federal Highway
Administration**

Memorandum

Subject: **ACTION:** No Excuse Incentive Provision
Special Experimental Project No. 14 (SEP-14)

Date: February 6, 2009

Signed by

From: Dwight Horne
Director, Office of Program Administration

Reply to
Attn. of: HIPA-30

To: Renee Sigel
Division Administrator
Harrisburg, PA

This is in reference to Mr. George Fleagle's January 29, 2009, e-mail that forwarded an SEP-14 work plan on behalf of the Pennsylvania Department of Transportation (PennDOT). PennDOT proposes to use a no excuse incentive contract provision on the State Route 119, Section 12M construction contract in Fayette County.

The no excuse incentive clause provides that the substantial completion date will not be adjusted for any reason, cause or circumstance, regardless of fault, with the exception of a catastrophic event that results in a declared state of emergency. This contract provision provides a \$175,000.00 lump sum incentive for meeting the December 21, 2010, substantial completion date.

Mr. Fleagle's e-mail also inquired about the potential for using this contract provision on a programmatic basis as deemed appropriate by your office. We are agreeable to this concept and you may consider the work plan to be approved on a programmatic basis. You may continue to use the no excuse incentive provision on other projects subject to satisfactory performance as determined by your office. Future SEP-14 evaluations of all projects using this technique should be prepared in an annual summary evaluation in lieu-of a project-by-project evaluation. Should you have any questions, please contact Gerald Yakowenko at (202) 366-1562.

