



U.S. Department  
of Transportation

Federal Highway  
Administration

# Memorandum

Subject: **ACTION:** Local Labor and Veteran Workers  
Hiring Preference under Special Experimental  
Project No. 14 (SEP-14)

Date: October 7, 2015

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

In Reply Refer To:  
HIPA-30

To: R. Wayne Fedora  
Acting Division Administrator  
Richmond, Virginia

We received the Virginia Department of Transportation's (VDOT) *Geographic-Based Hiring Preferences: Special Experimental Project -14 Applications*, dated September 2, 2015 from Gilberto De Leon of your staff via email on September 15. The email also transmitted a comment resolution matrix showing the resolution and disposition of each FHWA comment from the review of the July 20, 2015 version of the VDOT SEP-14 workplan.

The VDOT proposal is being advanced in response to the pilot [Contracting Initiative](#) announced by the U.S. Department of Transportation in a Federal Register Notice on March 6, 2015, intended to promote innovative contracting practices.

VDOT requests FHWA to approve the following experimental aspects of the Project:

1. Permit preferential hiring of veterans and qualified persons who regularly reside in the local area where the work is to be performed. VDOT has established a minimum requirement of 75 percent for local worker and/or veteran new hire participation. Hiring by subcontractors will also count toward meeting the percentage goal.
  - a. For the purpose of this SEP-14 work plan, local worker carries the meaning of a person whose primary residence is within or adjacent to the county(ies), city(ies), region and/or area impacted by the construction or operation of a VDOT project. "Adjacent" shall mean a jurisdiction within the Commonwealth of Virginia that physically adjoins a project undergoing improvements as scoped in the procurement documents. The project impact area is defined for each project prior to advertisement. VDOT's Civil Rights Division and the project manager responsible for the

procurement delivery method will be responsible for defining the project impact area.

- b. Veteran shall mean any person that meets the definition of "veteran" in either 5 U.S.C. 2108 or 38 U.S.C. 101. For the purpose of this SEP-14 work plan, veterans must reside in the Commonwealth of Virginia to be considered part of the veteran workforce.

2. Use of local workers and veterans hiring requirements; and
3. Use of good faith efforts to meet contract requirements. VDOT's work plan also includes good faith efforts procedures through quarterly reporting and monitoring. However, no sanctions will be imposed for not meeting specific local and veteran hiring preference goals during the pilot study.

This SEP-14 work plan permits preferential hiring of local workers and veterans (in the Commonwealth) and will be tested on a variety of projects and project delivery methods such as design-bid-build, design-build, and public-private partnerships. VDOT's SEP-14 workplan lists five (5) projects for which the proposed experimental techniques would be used. All of these projects are scheduled for advertisement prior to March 6, 2016. The project listing includes projects that VDOT selected for this pilot program because local worker and veterans are more likely to have the requisite skill sets to perform work. VDOT continues to review other projects that may be added to its program of projects suitable for this pilot study during the initial one year period, and beyond, in the event of an extension of the pilot program study.

Existing local and veteran workforce participation in the execution and performance of each contract will count toward the Concessionaire's, the Design-Builder's, or the Contractor's total local workers and veteran's workforce. This information will be captured on the VDOT Local Worker and Veteran Employment Report (Form C-66). Local workers residing in the jurisdictions as set out in the Request for Proposals or the Information for Bidders will be included in the Concessionaire's, the Design-Builder's, or the Contractor's workforce. Only veterans who reside in the Commonwealth of Virginia will be included in this computation.

FHWA approves the proposed use of geographic labor hiring preference and veterans hiring preference provisions on a Federal-aid project under the experimental authorities of 23 U.S.C. 502 and SEP-14.

The workplan is approved. If VDOT wants to extend the use of this workplan to similar projects, please inform our office.

If you have any questions, please contact the following: Gerald Yakowenko at [Gerald.Yakowenko@dot.gov](mailto:Gerald.Yakowenko@dot.gov) or (202)366-1562, or John Huyer at [John.Huyer@dot.gov](mailto:John.Huyer@dot.gov) or (651)291-6111.