will not result in the creation a Class I or Class II rail carrier and will not exceed $5 million.

The transaction may be consummated on or after March 20, 2015, the effective date of the exemption (30 days after the verified notice of exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than March 13, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35902, must be filed with Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John K. Fiorilla, Capehart & Scatchard, P.A., 8000 Midlantic Drive, Suite 300S, Mount Laurel, NJ 08054.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: March 3, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2015–05212 Filed 3–5–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Contracting Initiative

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The DOT is announcing an initiative to permit, on an experimental basis, Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) recipients and subrecipients to utilize various contracting requirements that generally have been disallowed due to concerns about adverse impacts on competition. This initiative will be carried out as a pilot program for a period of 1 year (unless extended) under the FHWA and FTA's existing authorities. The purpose of this pilot program is to determine whether the use of such requirements ''unduly limit competition,'' as provided in an August 23, 2013, opinion from the Department of Justice's Office of Legal Counsel (OLC). Should DOT find that such restrictions do not unduly limit competition, DOT may provide further guidance regarding their use.

DATES: This pilot program is effective March 6, 2015.

FOR FURTHER INFORMATION CONTACT: For technical information: Mr. Michael Harkins, Deputy Assistant General Counsel for General Law, Office, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, 202–366–0590 (telephone), *Michael.Harkins@dot.gov* (email).

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at *http://www.archives.gov/federal_register* and the Government Publishing Office's Web page at *http://www.gpoaccess.gov.*

Background

Interpretation of Competition Mandate

Traditionally, DOT has prohibited its recipients and subrecipients from using certain contracting provisions that do not directly relate to the bidder's performance of work in a competent and responsible manner. An example of such provisions includes local and other geographic-based labor hiring preferences. The DOT's position was reinforced by a 1986 opinion of the OLC, which concluded that 23 U.S.C. 112 (''section 112'') obligated the Secretary of Transportation to withhold Federal funding from highway construction contracts that were subject to a New York City law imposing disadvantages on a class of responsible bidders, where the city failed to demonstrate that its departure from competitive bidding requirements was justified by considerations of cost-effectiveness. *See Compatibility of New York City Local Law 19 with Federal Highway Act Competitive Bidding Requirements,* 10 Op. O.L.C. 101 (1986).

However, in August 2013, at DOT's request, the OLC provided DOT with a memorandum opinion, clarifying its 1986 opinion on section 112. *See Competitive Bidding Requirements Under the Federal-Aid Highway Program,* 23 U.S.C. 112, (Aug. 23, 2013) (''2013 opinion''). The 2013 opinion is available at *http://www.justice.gov/olc/opinions.* The 2013 opinion clarifies that section 112 does not compel the DOT's position with respect to contracting requirements that do not directly relate to the bidder's performance of work, but rather provides the Secretary with discretion to permit other types of state or local requirements as long as they do not ''unduly limit competition.'' [1]

The 2013 opinion explains that competition would not be unduly limited by ''[a] state or local requirement that has only an incidental effect on the pool of potential bidders or that imposes reasonable requirements related to the performance of the necessary work. . . .'' 2013 opinion at 2. In contrast, ''a requirement that has more than an incidental effect on the pool of potential bidders and does not relate to the work's performance would unduly limit competition unless it promotes the efficient and effective use of federal funds.'' *Id.* at 2–3. In assessing whether a requirement does promote the efficient and effective use of federal funds, the agency ''may take into account whether the requirement promotes such efficiency in connection with the letting of a particular contract and also whether it more generally furthers the efficient and effective use of federal funds in the long run or protects the integrity of the competitive bidding process itself.'' *Id.* at 3. So long as a state or local requirement serves these purposes, ''the Administrator may reasonably determine, consistent with section 112, that the requirement does not unduly limit competition, even if it may have the effect of reducing the number of eligible bidders for a particular contract.'' *Id.*

Thus, DOT retains discretion under the statute to evaluate whether a particular State or local law or policy that has more than an incidental effect on the pool of potential bidders is nonetheless compatible with section 112(b)(1)'s competitive bidding requirement. The process used to evaluate whether state and local requirements satisfy section 112 also is a matter of agency discretion. *Id.* at 17–18 (''It is for FHWA and DOT to determine the regulatory approach the agency should take in exercising this discretion and in evaluating whether certain state and local requirements are consistent with [section 112's] statutory mandates. . . .'').

Experimental Authority

In 1988, a Transportation Research Board (TRB) task force, comprised of representatives from all segments of the highway industry, was formed to evaluate Innovative Contracting Practices. This TRB task force requested

[1] While the 2013 opinion was specific to section 112, which only applies to highway projects, it also is relevant in interpreting and implementing FTA's statutory mandate under 49 U.S.C. 5325(a) that broadly requires full and open competition in the award of contracts utilizing financial assistance from the FTA.

that the FHWA establish a project to evaluate and validate certain findings of the task force regarding innovative contracting practices, which are documented in Transportation Research Circular Number 386, titled, ''Innovative Contracting Practices,'' dated December 1991. In response, the FHWA initiated Special Experimental Project No. 14 (SEP–14) pursuant to the authority granted to the Secretary, which now is codified at 23 U.S.C. 502. The SEP–14 program strives to identify, evaluate, and document innovative contracting practices that have the potential to reduce the life cycle cost of projects, while at the same time, maintain product quality. Under SEP–14, the FHWA has the flexibility to experiment with innovative approaches to contracting.

The innovative practices originally approved for evaluation under SEP–14 were: Cost-plus-time bidding, lane rental, design-build contracting, and warranty clauses. Forty-one States have used at least one of the innovative practices under SEP–14. Based on their collective experiences, FHWA decided that cost-plus-time bidding, lane rental, and warranty clauses were techniques suitable for use as non-experimental, operational practices and in 1995 these were made regular Federal-aid procedures. Design-build contracting in the Federal-aid highway program was conducted under SEP–14 until Congress modified section 112 in section 1307 of the Transportation Equity Act for the 21st Century to permanently authorize the use of this contracting method. Additionally, the construction manager/general contractor method of contracting in the Federal-aid highway program was originally conducted under SEP–14 until Congress modified section 112 in section 1303 of the Moving Ahead for Progress in the 21st Century Act to permanently authorize the use of this contracting method. The SEP–14 program continues to be used to test and evaluate experimental contracting practices.

Also, the FTA has authority under 49 U.S.C. 5312 to carry out research, development, demonstration, and deployment projects that will improve public transportation. Additionally, 49 U.S.C. 5314 authorizes FTA to carry out activities that will assist recipients of assistance to administer funds received under Chapter 53 in compliance with Federal law, including the development of voluntary and consensus-based standards and best practices by the public transportation industry, including standards and best practices for procurement.

Pilot Program

The DOT is interested in permitting State and local recipients of Federal financial assistance to utilize contracting requirements that traditionally have been prohibited on the basis that they would restrict competition by not directly relating to the bidder's performance of work. Thus, DOT is establishing a pilot program under the existing authorities of the FHWA and FTA grant programs. The objective of this pilot program is to enable DOT to determine which requirements may be used consistently with the 2013 OLC opinion by promoting efficiency in connection with the letting of a particular contract, furthering the efficient and effective use of federal funds in the long run, or protecting the integrity of the competitive bidding process.

In particular, with respect to procurements for which FHWA or FTA funds will be used, recipients and subrecipients may request those agencies to permit the use of a particular contracting requirement that otherwise may be found to be inconsistent with the general requirement for full and open competition. DOT is particularly interested in contracts for which recipients and subrecipients wish to utilize a local or other geographic labor hiring preferences, economic-based labor hiring preferences (*i.e.,* low-income workers), and labor hiring preferences for veterans [2] because, in the DOT's view, such requirements can promote Ladders of Opportunity by ensuring that disadvantaged workers in the communities in which the projects are located benefit from the economic opportunities such projects present. DOT, however, will not approve projects for which recipients wish to alter the requirements of the Disadvantaged Business Enterprise Program.

This pilot program will be carried out for a period of 1 year from the date of publication of this notice. As such, DOT is only interested in contracts that will be advertised during this time frame. For any such contracts, the DOT will monitor and evaluate whether contracting requirements that traditionally have been prohibited on the basis that they would restrict competition by not directly relating to the bidder's performance of work have an undue restriction on competition. While DOT's current plan is to conduct this pilot program for 1 year, DOT reserves the right to extend this time period at its discretion.

FHWA

For contracts to be funded by FHWA, State and local recipients and subrecipients must request prior approval from the FHWA to use a specific contracting requirement under SEP–14. In order to receive SEP–14 approval, States and local recipients and subrecipients would follow the normal process that includes submitting work plans to the appropriate FHWA division office. For more information on the SEP–14 process, please see: *http://www.fhwa.dot.gov/programadmin/contracts/sep_a.cfm.*

In developing requests to FHWA to use contracting requirements under SEP–14, recipients and subrecipients should address, at a minimum, the following points:

(1) Describe the project, including the amount of FHWA funding involved in the as well as the estimated total project cost.

(2) Describe the contracting requirement that may otherwise be found to be inconsistent with the general requirement for full and open competition.

(3) Describe how they will evaluate the effects of relevant contracting requirements on competitive bidding. In doing so, the recipient or subrecipient should, at a minimum, provide comparisons of bids received for the projects utilizing the relevant contract requirements to other projects of similar size and scope and in the same geographic area not utilizing such requirements. If a reduction in the pool of bidders is evident, explain the potential offsetting benefits resulting from the use of the requirement.

(1) Describe and quantify how the relevant contracting requirement would lead to increases in the effectiveness and efficiency of Federal funds for the project.

(2) Describe and quantify how the experimental contracting technique would protect the integrity of the competitive bidding process either in connection with the particular contract or when considered over the long term for that agency's program.

For contracts involving the use of local and other geographic labor hiring preferences, economic-based labor hiring preferences, and/or labor hiring preferences for veterans, FHWA may approve, at the request of the recipient or subrecipient, the use of such requirements for a specific contract, a specific group of, or on a more general programmatic basis. The use of other contracting requirements may be

[2] See also 23 U.S.C. 114(d), which requires recipients, to the extent practicable, to encourage contractors to make a best faith effort to hire veterans on Federal-aid highway projects.

approved by FHWA after coordination with the DOT Office of General Counsel.

FTA

For contracts to be funded by FTA (including federal financial assistance under any FTA formula or discretionary program), State and local recipients and subrecipients must request prior approval from the FTA to use a specific contracting requirement pursuant to FTA's research and assistance authorities discussed above. In making such requests, recipients and subrecipients must submit an application to their FTA Regional Office. In their application, recipients should address, at a minimum, the following points:

(1) Describe the contracting opportunity, including the schedule for the type of project and type of asset being constructed and the amount of FTA funding involved in the project as well as the estimated total project cost.

(2) Describe the contracting requirement that may otherwise be found to be inconsistent with the general requirement for full and open competition.

(3) Describe how they will evaluate the effects of relevant contracting requirements on competitive bidding. In doing so, the recipient and subrecipient should, at a minimum, provide comparisons of bids received for the projects utilizing the relevant contract requirements to other projects of similar size and scope and in the same geographic area not utilizing such requirements. If a reduction in the pool of bidders is evident, explain the potential offsetting benefits resulting from the use of the requirement.

(4) Describe how the relevant contracting requirement would lead to increases in the effectiveness and efficiency of Federal funds for the project.

(5) Describe and quantify how the experimental contracting technique would protect the integrity of the competitive bidding process either in connection with the particular contract or when considered over the long term for that agency's program.

An evaluation committee comprised of FTA staff will evaluate applications for inclusion in the pilot program. The evaluation committee reserves the right to evaluate applications it receives and to seek clarification from any proposer about any statement that is made in an application. FTA also may request additional documentation or information to be considered during the evaluation process. The evaluation committee will provide a recommendation to the FTA Administrator regarding each application. The FTA Administrator will provide a final written determination to each applicant, on a rolling basis, regarding whether an application has been accepted into the pilot program.

For projects involving the use of local and other geographic labor hiring preferences, economic-based labor hiring preferences, and/or labor hiring preferences for veterans, FTA may approve, at the request of the recipient or subrecipient, the use of such requirements for a specific contract, a specific group of, or on a more general programmatic basis. The use of other contracting requirements may be approved by FTA after coordination with the DOT Office of General Counsel.

With respect to in-state or local geographic labor hiring preferences, please note that Section 418 of the Consolidated and further Continuing Appropriations Act, 2015, Public Law 113–235 (FY 2015 Appropriations Act), prohibits FTA from using FY 2015 funds to implement, administer, or enforce 49 CFR 18.36(c)(2), for construction hiring. Section 18.36(c)(2) prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals.[3] Accordingly, for construction contracts awarded or advertised in FY 2015, FTA recipients may use in-state or local geographic preferences for construction labor hiring. Additional guidance on FTA's implementation of Section 418 may be found on FTA's Web site at *www.fta.dot.gov.*

As a result of the enactment of Section 418, recipients and subrecipients do not need to submit applications for participation in the pilot program for the use of in-state or local geographic labor hiring preferences for contracts awarded or advertised on or before September 30, 2015. In other words, prior FTA approval is not required to use such requirements, and FTA recipients and subrecipients may impose such requirements for their contracts at their discretion. Such projects will receive automatic admission into the pilot program. However, in order to assess the effect of such preferences on competition, recipients and subrecipients that plan to utilize in-state or local geographic labor hiring preferences must notify their FTA Regional Office prior to advertising contracts that use such preferences. For in-state or local geographic hiring preferences proposed for inclusion in contracts advertised after September 30, 2015, recipients and subrecipients must request prior approval from the FTA to utilize such hiring preferences through the above-described process unless provisions similar to section 418 are included in a new appropriations or re-authorization act. Requests to use requirements other than in-state or local geographic preferences for construction hiring, including requirements involving the procurement of rolling stock, must request prior FTA approval as described above.

[3] Effective December 26, 2014, 49 CFR part 18 will apply only to grants obligated on or before December 25, 2014. Grants obligated on or after December 26, 2014 will be subject to 2 CFR part 200. This provision (18.36(c)(2)) has been recodified at 2 CFR 200.319(b) and is substantively the same as 18.36(c)(2). Although Congress did not address the change in codification in section 418, FTA intends to apply section 418 to grants obligated on or after December 26, 2014 and subject to 2 CFR 200.319(b).

Issued in Washington, DC, on February 24, 2015.

Anthony R. Foxx,

Secretary of Transportation.

[FR Doc. 2015–05204 Filed 3–5–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0013]

National Emergency Medical Services Advisory Council (NEMSAC); Notice of Federal Advisory Committee Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT)

ACTION: Meeting Notice—National Emergency Medical Services Advisory Council.

SUMMARY: The NHTSA announces a meeting of NEMSAC to be held in the Metropolitan Washington, DC, area. This notice announces the date, time, and location of the meeting, which will be open to the public, as well as opportunities for public input to the NEMSAC. The purpose of NEMSAC, a nationally recognized council of emergency medical services representatives and consumers, is to advise and consult with the U.S. Department of Transportation (DOT) and the Federal Interagency Committee on EMS (FICEMS) on matters relating to emergency medical services (EMS). Pre-registration is required to attend.

DATES: This open meeting will be held on March 31, 2015, from 1 p.m. to 5:00 p.m. EDT, and on April 1, 2015 from, 9 a.m. to 12 p.m. EDT. A public comment