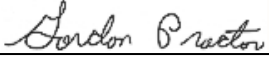


Approved:

  
Gordon Proctor, Director

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Responsible Office: Division  
of Construction Management  
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## **IMPLEMENTATION AND ADMINISTRATION OF WARRANTY PROVISIONS**

### **POLICY STATEMENT:**

Senior Leadership views the legislation on warranties as an opportunity to satisfy the driving public by improving our highways, minimizing repairs and driver delays.

The purpose of this policy is to establish responsibilities, expectations and consistency in the department's implementation and administration of warranty requirements in construction contracts. Of particular importance is the proper selection of warranted items in contracts and consistent and equitable review of warranty criteria. Following this policy will help ensure the impact of warranty requirements on the contracting industry is manageable and fair while meeting the requirements of the legislation and demands of the taxpayer.

### **AUTHORITY:**

Transportation Budget Act, Ohio General Assembly Bill 163

### **REFERENCES:**

Ohio Revised Code Section 5525.25 (A) & (B)  
Construction and Material Specifications  
Warranty Supplemental Specifications  
Warranty Application Guidelines section of the Innovative Contracting Manual  
Construction Manual of Procedures  
Standard Construction Drawings

### **SCOPE:**

This policy is for the use of Districts in selecting, applying, and reviewing projects with warranted construction items.

**ABBREVIATIONS:**

C&MS: Construction and Material Specifications  
Contractor: Defined in C&MS Section 101.14.  
DDD: District Deputy Director  
WC: Warranty Coordinator  
DCE: District Construction Engineer  
DWC: District Warranty Coordinator  
DRT: District Review Team  
PE/PS: Project Engineer or Project Supervisor

**PROCEDURE STATEMENT:**

I. Central Office shall name a Warranty Coordinator.

A. Authority -The Warranty Coordinator (WC) shall be given authority by the Deputy Director of Construction Management and shall serve as liaison between the Districts and Central Office for warranty implementation and administrative issues. The WC shall also act as a liaison between the industry and the department.

B. Responsibilities -The WC will track the implementation of the warranty items, from project inception through construction, for the purposes of reporting to Senior Leadership and the Legislature on the progress of the warranty program. In order to ensure success of the warranty program, the WC shall work in close cooperation with the Division of Contract Administration and the Division of Construction Management in analyzing and evaluating data and information submitted by the Districts. Success of the warranty program is defined as a program that can be fairly contracted and attain an improved product for the Ohio taxpayer.

II. Each District shall name a DWC.

A. Authority -The DWC shall be given authority by the DDD to drive, advise, and track the warranty program progress in all involved offices of the district. The DWC will have practical knowledge in the field of project selection including experience in contract administration. All communications on warranties shall go through the DWC.

B. Reporting responsibilities -The DWC shall submit written monthly and annual reports to the WC. The reports shall include project progress tracking from selection through construction, cost of warranty items, construction updates

generated by the PE/PS, and DRT feedback. The WC shall set the required format for the reports.

### III. Warranty project selection.

A. District responsibility - The District is fully responsible for selecting projects with warranted work items. The written Warranty Application Guidelines, as approved by the Division of Construction Management, will be closely followed by the DWC, District Production, District Planning, and Highway Management personnel for warranty project selection.

B. Central Office responsibilities - If requested, the WC, with the help of the Division of Construction Management shall provide feedback and advice to districts in project selection.

C. Warranty Application Guidelines -Maintaining the Warranty Application Guidelines will be the responsibility of the WC in cooperation with the Division of Construction Management.

### IV. Warranty contract letting requirements

A. the Division of Contract Administration will identify all upcoming projects that contain warranted bid items. This will be provided as notice to the contractors.

B. Warranty items shall not be added by addendum during project advertisement.

C. The District is encouraged to conduct a pre-bid meeting for larger projects. The DWC shall attend the pre-bid meeting.

### V. Documentation and field inspection requirements

A. The PE/PS and his staff shall enforce the material and construction techniques, when called for in the warranty supplemental specifications, as required in the C&MS and the appropriate manual of procedure.

B. When the warranty supplemental specifications require necessary materials, but generally do not call for a method of workmanship, the PE/PS shall not advise the Contractor on how to proceed with the material application. The PE/PS must insure that the material used is approved and shall document the method used by the Contractor in applying the material. This documentation

shall be technical, objective and descriptive in nature and shall not include personal opinion or other unnecessary remarks.

C. Requiring the Contractor to provide a warranty does not relieve PE/PS of their responsibility to check the adequacy of existing base conditions in the field. Failures during the warranty period which are the result of the existing conditions are still ODOT's responsibility. To prevent these sorts of failures, deficient existing bases must be undercut and stabilized according to ODOT specifications.

D. The DCE shall maintain district project files and plans for the duration of the warranty period. A project file shall include the district copy of the Warranty Maintenance Bond, Payment Bond, Performance Bond, signed proposal and agreement, signed extra work change orders and C-85 form.

## VI. Warranty review administration

A. Uniformity -The DCE and DRT have full responsibility for reviewing warranted projects and items according to the specified warranty review requirements.

B. Reviews -The warranty specifications allow the District Deputy Director to waive the yearly review on warranted projects. However, each District shall select one warranty *pavement* project and perform annual reviews with NO waiver. This should be done for every calendar year in order to collect data for research purposes. This annual review data shall be sent to the WC.

C. Forming the DRT -The District will form teams of experienced construction, highway management and/or structures personnel to perform the annual review of warranty items. The DRT makeup will vary depending on the warranted item reviewed. The minimum team for pavement items should consist of three people for a formal review. Where practical, the team should always be the same people for a given warranty item. It is advisable to include as observers when possible the DWC, and planning and production personnel so they have an opportunity to learn about application issues through the review process.

### D. Administering the DRT

1. Uniformity - All members of the DRT will receive training for reviews under the auspices of the DCE. When possible, a pavement DRT shall always have at least two personnel experienced in pavement warranty reviews.

2. Reporting - The DRT will report all findings to the DCE. The findings will become part of a warranty projects records file in the district.

E. Feedback from the DRT - Although the review findings of the DRT are filed in the District, pertinent information from the DRT or DCE regarding the review process and/or success of warranties in general must be forwarded to the WC in order to improve processes where possible. At a minimum, the DWC shall report annually to the WC the general findings of the warranty process. This report shall briefly summarize problems encountered, warranty administration effort, and success or lack of success in terms of the purpose of warranties.

## VII. Enforcement of warranties

A. Appeal Process -The appeal process as outlined in each warranty specification shall be strictly followed. A record of the appeal process shall be maintained in the District with the DRT review results.

B. Invoking the bond -Should a Contractor refuse to conduct repairs but not appeal, or should a contractor refuse to perform repairs according to the repair requirements of the specification, or should a contractor refuse to conduct repairs in accordance with arbitration, the bond on the project shall be invoked. In this event, the Division Of Contract Administration and the Chief Legal Counsel shall be contacted by the DCE and DWC.

C. Follow through on enforcement of warranty provisions is the responsibility of the DCE, DWC and WC.

## VIII. Relationship with the Contracting Industry

A. The WC shall ensure that open communications with all affected industry exist on issues surrounding specifications, reviews, enforcement or the warranty program direction.

B. Concerns raised by industry shall be investigated and discussed with all involved Central Office and District personnel in an open and expedient manner. All input by the department personnel shall be communicated by the WC to Senior Leadership.

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**TRAINING:**

The WC, Division of Construction Management and the Office of Quality and Organizational Development shall provide training to the DCE, DRT and DWC. The training will cover the warranty specifications focusing on the review process and appeal process. These trained people will become trainers when necessary in the District.

**FISCAL ANALYSIS:**

The Department has outsourced a 30-month research program to evaluate the effect of using the warranty provisions. The research will help determine if the savings, with respect to cost, quality and time, for warranted versus non-warranty projects were beneficial to the department. The research will also compare data from litigation costs, cost to review the warranted product, life cycle cost and savings of not having the department maintain the product during the warranty period.