

**DATE:** December 18, 2006

**TO:** Region Engineers  
Region Delivery Engineers  
TSC Managers  
Resident/Project Engineers  
Region Construction Engineers

**FROM:** Larry E. Tibbits  
Chief Operations Officer

John C. Friend  
Engineer of Delivery

**SUBJECT:** Bureau of Highway Instructional Memorandum 2006-14  
Pass-Through Warranty Bonds

Beginning with the November 2006 project letting, the Michigan Department of Transportation will allow pass-through warranty bonds. A prime contractor may assign responsibility for warranty obligations and the posting of a warranty bond to a subcontractor (hereafter warranty contractor) in accordance with the terms listed in the project's Notice to Bidders for Pass-Through Warranty Bonds. There can be more than one pass-through warranty on a project.

A prime contractor must designate a subcontractor for any pass-through warranty work at the time of their final electronic bid submittal, providing all required information at that time. Pass-through warranty work cannot be assigned to subcontractors after the submittal of the final electronic bid. Prime contractors can alter the subcontractor assignment of pass-through warranty work providing the original assignment was done before the final electronic bid submittal. Prime contractors must use the following process to re-assign pass-through warranty work once the original assignment is approved:

1. The prime contractor must submit a written request to the Contract Services Division's Construction Contracts Prequalification Unit to change the warranty contractor. The written request must state the reason for the change, and include letters from the old and new warranty contractors agreeing to the change.
2. The Construction Contracts Prequalification Unit will review the request in conjunction with the respective delivery engineer and notify the prime contractor of the final decision.
3. If the request is approved, the prime contractor is responsible for providing a warranty contract for the warranty work to the Construction Contracts Prequalification Unit. The warranty contractor must submit a warranty bond to the Construction Contracts

Prequalification Unit through the prime contractor. Contact the Construction Contracts Prequalification Unit for warranty contracts and warranty bonds forms at 517-373-1576.

4. Once all forms are approved and signed, the Construction Contracts Prequalification Unit will provide copies of the approved documentation to the delivery engineer. Upon receipt of the warranty documentation, the delivery engineer must prepare a contract modification.
5. The contract modification must include the warranty documentation and must include the following language:

**This contract modification is being processed to change the warranty contractor for the \_\_\_\_\_ warranty work. The prime contractor has submitted the attached documentation which has been reviewed and approved. All provisions of the prime contract shall be applicable to the new warranty contractor in regards to the warranty work, except as otherwise expressly provided in the warranty contract.**

6. There is to be no compensation for any changes in warranty contractors.
7. Project staff must ensure the prime contractor or the warranty contractor named in the contract documents performs the warranty work.
8. The prime contractor must be contacted if warranty work is required by the warranty contractor. Furthermore, all project documentation regarding warranty work must be directed to the prime contractor.

Delivery engineers are asked to share this instructional memorandum with consultant engineers within their jurisdiction.

If you have any questions, please contact the Construction Contracts Engineer at 517-322-6630.

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Chief Operations Officer

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Engineer of Delivery

BOHD:C/T:JG:kab

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