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07/23/2003 10:17 AM

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Subject Warranties on federal aid projects

Wayne, per our discussion this a.m. the following CFR outlines warranty provisions. Paragraph d. allows the STD to follow their own rules on none NHS projects. When I was there I allowed this same flexibility to the locals.

[Code of Federal Regulations]

[Title 23, Volume 1]

[Revised as of April 1, 2003]

From the U.S. Government Printing Office via GPO Access

[CITE: 23CFR635.413]

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF
TRANSPORTATION

PART 635--CONSTRUCTION AND MAINTENANCE--Table of Contents

Subpart D--General Material Requirements

Sec. 635.413 Guaranty and warranty clauses.

The STD may include warranty provisions in National Highway System (NHS) construction contracts in accordance with the following:

(a) Warranty provisions shall be for a specific construction product or feature. Items of maintenance not eligible for Federal participation shall not be covered.

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(b) All warranty requirements and subsequent revisions shall be submitted to the Division Administrator for advance approval.

(c) No warranty requirement shall be approved which, in the judgment of the Division Administrator, may place an

undue obligation on the contractor for items over which the contractor has no control.

(d) A STD may follow its own procedures regarding the inclusion of warranty provisions in non-NHS Federal-aid contracts.

(e) In the case of a design-build project, the following requirements will apply instead of paragraphs (a) through (d) of this section.

(1) General project warranties may be used on NHS projects, provided:

(i) The term of the warranty is short (generally one to two years);

(ii) The warranty is not the sole means of acceptance;

(iii) The warranty must not include items of routine maintenance which are not eligible for Federal participation; and,

(iv) The warranty may include the quality of workmanship, materials and other specific tasks identified in the contract.

(2) Performance warranties for specific products on NHS projects may be used at the STD's discretion. If performance warranties are used, detailed performance criteria must be provided in the Request for Proposal document.

(3) The STD may follow its own procedures regarding the inclusion of warranty provisions on non-NHS Federal-aid design-build contracts.

(4) For best value selections, the STD may allow proposers to submit alternate warranty proposals that improve upon the warranty terms in the RFP document. Such alternate warranty proposals must be in addition to the base proposal that responds to the RFP requirements.

[60 FR 44274, Aug. 25, 1995, as amended at 67 FR 75926, Dec. 10, 2002]

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