

****Contractor Announcement****

Pass-Through Warranty Bonds

Beginning with the November 3, 2006, bid letting, MDOT will implement Pass-Through Warranty Bonds. If a project requires a warranty and a warranty bond(s), the prime contractor may assign responsibility for the warranty obligations and the posting of a warranty bond to a subcontractor(s) (hereafter warranty contractor) in accordance with the terms of this Contractor Announcement.

The following conditions must be met:

1. The assignment must be made to the warranty contractor that will perform the work covered by the warranty, provided that, if for any reason after signing the Warranty Contract and posting the warranty bond, the warranty contractor does not perform the work, the warranty contractor will remain obligated for the warranty obligations and the warranty bond obligations shall remain in effect unless the Department consents in writing to substituting a different contractor to assume those warranty obligations and accepts a substitute warranty bond.
2. To become a warranty contractor responsible for the warranty obligations of the Contract, and the posting of a warranty bond, the warranty contractor shall complete and submit to the Department a Warranty Contract and a warranty bond for each warranty it will be responsible for. The Warranty Contract shall be signed by an authorized signer of the warranty contractor, as identified in its prequalification application.
3. **The assignment of the warranty work must be designated with and at the time of electronic bid submittal, and must provide all required information. MDOT will not accept assignments of warranty work after the final bid submittal by the Bidder.**
4. The Warranty Contract and warranty bond must be submitted to MDOT prior to award of the prime contract for the work to which the warranty applies.
5. The warranty contractor must be prequalified in the work classification for the type of work to be warranted.
6. The warranty bond shall guarantee performance of all the warranty obligations for the covered work, in accordance with the Warranty Contract.

7. All provisions of the prime contract shall be applicable to the warranty contractor in regards to the warranty work, except as otherwise expressly provided in the Warranty Contract.
8. Under no circumstances shall the assignment of the warranty work and the execution of a Warranty Contract create any obligation in the Department beyond the obligations undertaken in the prime contract. The purpose of the Department accepting the assignment of warranty obligations is to allow a warranty contractor to stand in the shoes of the prime contractor for purposes of the warranty work without increasing any obligation or liability that the Department would have had if the prime contractor had not assigned the warranty work.

All electronic bidding (.ebs) files for the November 3, 2006, letting, and all subsequent lettings, will contain a folder labeled "Warranty Obligations." This folder must be completed for every electronic bid submitted. If the contractor submitting the bid answers "yes" to the question "Do you elect to assign responsibility of warranty obligation(s) for this project?," the contractor must choose the type of warranty(ies) from the drop-down menu and fill in the warranty contractor's name(s) and address(s).

If the contractor submitting the bid answers "no" to the question "Do you elect to assign responsibility of warranty obligation(s) for this project?," that decision will be considered final and binding. Assignment of warranty bond(s) will not be permitted after final bid submittal by the Bidder.

The assignment of a warranty contractor is only allowable for first-tier subcontractors. Warranty contractors as sub-subcontractors will not be permitted.

9/7/2006