

MICHIGAN
LOCAL AGENCY
SPECIAL PROVISION
FOR
PASS-THROUGH WARRANTY BONDS

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9/5/2017

a. Description. This special provision establishes the conditions under which and method for a contractor to assign responsibility for the warranty obligations and the providing of a warranty bond to a warranty contractor(s). Second tier subcontractor assignments are prohibited.

b. Requirements. Ensure the Warranty Contract(s) and warranty bond(s) are on forms provided by the Local Agency. Ensure the bonds meet the requirements of Michigan law and of the Local Agency and include other items such as the powers of Attorney and Endorsement as specified by the Local Agency.

c. Method. The assignment must be made to the warranty contractor(s) that will perform the work covered by the warranty. If for any reason after signing the Warranty Contract and providing 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 will remain in effect unless the Local Agency consents in writing to substituting a different contractor to assume those warranty obligations and accepts a substitute warranty bond.

The assignment of warranty work must be designated with and at the time of electronic bid submittal. To become a warranty contractor responsible for the warranty obligations of the contract, and providing a warranty bond, the warranty contractor must complete and submit to the Local Agency a Warranty Contract and a Warranty Bond for each warranty it will be responsible for. Ensure the Warranty Contract is signed by an authorized signer of the warranty contractor, as identified in its prequalification application.

Submit the Warranty Contract and Warranty Bond to the Local Agency prior to award of the construction contract to the prime contractor for the work to which the warranty applies. Ensure the warranty contractor is prequalified in the work classification for the type of work to be warranted. The Warranty Bond must guarantee performance of all warranty obligations for the covered work, in accordance with the Warranty Contract. All provisions of the prime contract will be applicable to the warranty contractor in regard to the warranty work, except as otherwise expressly provided in the Warranty Contract.

Under no circumstances does the assignment of the warranty work and the execution of a Warranty Contract create any obligations to the Local Agency beyond the obligations undertaken in the prime contract. The purpose of the Local Agency accepting the assignment of warranty obligations is to allow a warranty contractor to stand in place of the prime contractor for purposes of the warranty work without increasing any obligation or liability that the Local Agency would have had if the prime contractor had not assigned the warranty work.

d. Measurement and Payment. This work will not be paid for separately, but will be included in costs for other pay items.