

OHIO ABOUT TO BECOME THE NATIONAL LEADER IN USING WARRANTIES

When ODOT's Biannual Budget Bill, H.B. 163, was introduced on February 10, 1999, little did anyone realize what was about to happen. The supposedly non-controversial bill was pretty much a continuation of the last 2-year ODOT Budget Bill. However, in exactly 2 weeks to the day, it cleared the House Finance Committee with a provision to catapult ODOT to the nation's number one spot in the use of warranties for highway work.

The bill mandates that, each year, at least one-fifth, or 20%, of ODOT's projects shall be bid requiring a warranty. Considering the number of ODOT contracts, this amounts to around 150 to 200 projects for Fiscal 2000, which starts on July 1st. To put this in prospective, Michigan, who is probably the nation's leader in using warranties, has done a total of 25 projects to date.

In addition, at least 10% of ODOT's dollar program shall be for projects requiring a pavement warranty. Considering a construction/maintenance program of about \$1 billion, this translates to \$100,000 worth of work.

The bill goes on to define the warranty periods as follows:

- Not less than 7 years for pavement in the case of new construction.
- Not less than 5 years in the case of pavement resurfacing and rehabilitation.
- Not less than 2 years in the case of pavement preventative maintenance, bridge painting, pavement markings, raised pavement markers, guardrail and other project items as determined by the Director.

Local governments using federal funds on contracts let through ODOT are specifically exempted from the requirements.

The bill also mandates that the Director of ODOT must file a report by the end of September on the Department's comprehensive implementation plan for using warranties. This report has to include:

1. The number and type of projects to be bid using warranties.
2. An investigation of alternative warranty contracting options, including incentives, different bidding methods, and implementation of new technologies, construction techniques and materials to prolong pavement life considering such factors as density, smoothness and segregation.
3. Development of a surface warranty against common pavement distresses, including but not limited to, delamination, raveling and rutting for all pavement projects on the interstate and multi-lane system.
4. A schedule of introduction of the surface warranty into the Department's annual construction program so that all pavement projects on the interstate and multi-lane system will have this warranty not later than June 30, 2001.

It's pretty obvious that the items in this plan will have a major impact on the HMA industry. Developing a surface warranty for "all" pavement projects on the multi-lane system will be a real

challenge. For example, how can you warrant a 1¼ inch mill and fill against delamination when you know it should be at least 2 inches thick to make it half way impervious to water? The bill allows 2 years to work all this out by establishing June 30, 2001 before it has to be applied to all projects. Unquestionably the contractor must have control over material and construction specifications if he has to provide a warranty. This is going to be a major, major shift in the way we do business today.

It would appear that a warranty would also be required for concrete pavements as well as HMA pavements since the language specifically states "all pavement projects". The HMA industry is somewhat ahead of this curve since we have already developed a warranty specification for new and reconstruction type projects which ODOT has used on 4 jobs over the past 18 months. This experience will be invaluable as we try to implement the provisions of the bill.

The language also gives ODOT the opportunity to investigate options to warranty contracts. FPI has long promoted the use of incentives as a way to improve performance. All you have to do is look at past projects that have had incentives for shorter completion times and smoothness to see the impact they have. Incentives could be used in conjunction with, as well as include in, warranties. The language on new technologies to address density, smoothness and segregation will help to ensure that we get real value added with the warranty concept. If you have bought any kind of appliance lately, you know that the first thing the salesperson asks is, do you want an extended warranty. If you decide yes, he doesn't go back to the warehouse and bring you a better appliance. In other words, the extended warranty does not provide any value added to the product, we do not want this to happen to HMA warranties.

The bill also requires ODOT, not later than December 31, 2000, to report to the General Assembly on the Department's finding on the use of warranties, including comparing of cost, technologies and quality of warranted and non-warranted items, and recommendations for further use of warranties.

H.B. 163 has now passed the House and is on its way to the Senate. We really do not anticipate any major changes to the warranty section as it moves through the Senate Committees. In fact, by the time you read this it may be on its way to the Governor for signature as, by law, ODOT's budget must pass the Legislature by March 31st.

While providing ODOT HMA projects with a warranty presents a real challenge, it also presents a real opportunity to provide a real value added product for our ultimate customer -- the traveling public.

S.R. 7 in Monroe County, the first ODOT project to include a warranty, was constructed by Shelly & Sands in 1997.