Tom Byron

11/27/2002 08:33 AM

To: John H Owens/CO/FDOT@FDOT
cc: Duane F Brautigam/CO/FDOT@FDOT, Bouzid Choubane/SM/FDOT@FDOT
cc: Duane F Brautigam/CO/FDOT@FDOT, Bouzid Choubane/SM/FDOT@FDOT
Subject: Re: 355 - CONTRACTOR GUARANTEED PORTLAND CEMENT CONCRETE PAVEMENT

John;
Please find my responses to the 355 comments below.

To Greg Xanders:

I agree that a 3/16" crack seems excessive at 5 years. A study of FDOT's concrete pavements (not many to study) will be conducted to see if this needs to be reduced based on actual performance. These initial thresholds were chosen liberally to get the spec off the ground more than on actual PCS data - but we'll fix that.

To Randy Brown:

The bond issue has been pursued at pay grades considerably higher than mine and the consensus is, especially after the 9/11 attacks, that as desirable as bonding would be for the DOT, it is not an option at this time because the surety companies simply can't stomach the long term risk. It is hoped, if this method of contracting proves successful, that once everyone becomes used to it that bonding will become a viable option.

I concur that when/if things fail, we will continue to get bit from the argument that the contractor simply used our pavement design, mix design, etc. so, therefore, it must be our fault. It is my opinion the Department is moving in the direction you suggest (QC 2000, for example) but it will be a while before we get there.

The issue of "virtual" companies was further addressed in the PCC pavement spec by making the prime contractor responsible for the guarantee period (unlike asphalt pavement which can designate a subcontractor as the "Responsible Party"). In my opinion, we will not be able to entirely eliminate "virtual" companies until we can bond the projects as you suggested.

To Bob Burleson and Cord Hicklin:

It is my understanding that this spec will not change the bonding requirement required of contractors. Bonds will be required for the period of construction just as they are now. Once the project is accepted by the Department, the only "hammer" to ensure compliance with the guarantee period is the Contractor's certificate of qualifications under the terms of Section 337.16(d)(2), Florida Statutes - as spelled out in 355-6 Failure to Perform. There is no requirement, either explicit or implicit, for a suretyship to anticipate whether a contractor will be a viable entity beyond the acceptance of the project.

We did considerable tail-chasing over the issue of "Guarantee", "Warranty", and "Contractor Maintained" verbiage. There were arguments for and against each of these but it is my understanding that "Guarantee" was the verbiage of choice for both the Department and Industry.

I believe it is the Department's intent to shift more of the responsibility of quality construction to the Contractor (QC 2000, for example) but I do not believe the intent is to

force the Contractor to shoulder the liability of roadway accidents. However, it is my understanding that there are already cases where the Contractor has been sued - post-acceptance - for accidents so it appears they already are subject to that liability with or without guarantees.

To Rich Caby:

There is no call, either explicit or implicit, for a surety to provide a bond for the guarantee period in this spec. Paragraph 355-6 Failure to Perform spells out the Department's post-acceptance course of action if a contractor fails to honor the guarantee. The only "hammer" to ensure compliance with the guarantee period is the Contractor's certificate of qualifications under the terms of Section 337.16(d)(2), Florida Statutes. Bonding/surety issues should not change with the incorporation of this spec.

It is well understood that road surface breakdown is caused by the factors listed. However, the Department has pavement condition survey data that is collected on a regular basis for all state roadway pavements. This gives an extensive data set that can be used to set performance parameters based on a significant history of performance in Florida. In addition, paragraph 355-5 Guaranteed Work spells out the conditions that would cause the guarantee to no longer apply. Subparagraph "a." of 355-5 spells out the increased traffic parameters.

If I understand the 3rd comment, I believe it is addressed in the response to the first comment.

In response to the question, I believe it is the Department's intent to shift more of the responsibility of quality construction to the Contractor (QC 2000, for example) and this is simply another method. It was not the intent to create a designated responsible party under a separate agreement.

Tom Byron
Pavement Research Engineer
(352) 955-6314
John H Owens