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ABSTRACT:

Do construction warranties provide value for the owner? Manufacturers write warranties to limit their own risk. The warranty value will depend greatly on how the warranty is specified and the owner's knowledge of the warranty conditions.

FILING:

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REFERENCES:

AIA Document A201 - General Conditions for the Contract for Construction
CSI Project Delivery Practice Guide
CSI Construction Specifications Practice Guide
MasterSpec Section Template

Construction Warranties

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Yes, No, Maybe?

Which assertion do you believe? Warranties are good protection for building owners. When a manufacturer offers a warranty, it should be specified to ensure owners receive the benefit the manufacturer offers.

Warranties are not worth the paper they are written on. They offer little protection and less assurance that discovered defects will be corrected. Warranties rarely cover installation. Specifying products with proven performance from reputable manufacturers and specifying installer qualifications helps ensure owner value more so than any warranty.

Limited Warranties

Full warranties, without limitation, are rare. Manufacturers issue limited warranties. Why *limited*? Risk! And the Uniform Commercial Code (UCC) that establishes the rules for sale of goods. The UCC does not limit time. So manufacturers issue limited warranties to set the time limit. Plus, manufacturers have no desire to assume responsibility for conditions outside their control. Shipping, handling, and installation are provided by the contractor. On-going care and maintenance are presumably provided by the owner beginning at Substantial Completion. What are the limitations? Do you know what the warranty says?

Warranty documents are not always available on manufacturers' websites. A special effort may be required to collect sample warranties for evaluation. A recently completed, relatively large, project included 120 technical architectural specification sections with 49 of those (40%) requiring warranties.

MasterSpec cautions specifiers "Include special Project warranties only in those Sections where [the warranty] availability has been verified with contractors and manufacturers listed." Collecting warranties from every specified manufacturer will not likely happen considering the time allotted to product research and specifications writing. The best hope will be to collect the warranties from the basis of design manufacturers, only.

MasterSpec advises: "When warranties are required, verify with Owner's counsel that warranties...are not less than remedies available to Owner under prevailing local laws." Legal review for every warranty would be prudent, though highly unlikely to occur. Making assumptions about the warranty can leave the owner with less protection than expected. While specifying warranty requirements that are not available, may leave the owner completely unprotected.

Warranty Types

CSI's *Project Delivery Practice Guide* (PDPG) identifies two basic construction project warranties:

- Extended Warranty: Covers products and workmanship.

- Product Warranty: Covers products only.

MasterSpec identifies the warranties differently:

- Manufacturer's Warranty: Includes the manufacturer's standard warranty.
- Special Warranty: Includes project specific coverage, usually in excess of standard coverage.

Regardless the term used to identify the warranty, simply specifying a warranty for a specific time period, without identifying the required coverage, is hardly sufficient.

Manufacturers could submit any warranty, with any limitation, including the correct time period, and the architect would be hard pressed to reject the warranty as inappropriate for the owner.

Warranties are not free. Extended warranties will have a cost, usually determined as a percentage of the cost of the applicable work. Even standard product warranties have a cost, built into the product's cost. To ensure the cost returns a value, the required warranty coverage must be specified.

Conditions!

Ah, the limitations. So what conditions might be imposed on the contractor and on the owner that must be satisfied before the owner makes a warranty claim?

- Only manufacturer approved installers may be permitted to complete the work. Manufacturers often limit installers to those with proven quality based on previous projects and warranty claims, especially for extended warranties.
- The manufacturer and installer must be paid for the products and work performed.

- The owner may be required to maintain records of periodic inspection and maintenance. No product can be installed, ignored for 20 years, and expected to perform as though it is new.
- Manufacturer notification may be required before any repairs are attempted, even if repairs are needed to prevent further damage. Manufacturers want control to manage the correction and limit their current and future liability.

And the list goes on. If the conditions are ignored, the warranty will be void. The owner will have no protection, even after paying for the warranty. Even if the failure has nothing to do with ignored condition, there may be no warranty coverage. Remember, manufacturers write limited warranties to limit risk. The best warranty from a manufacturer's perspective is one that the contractor or owner unknowingly void.

Owner Remedies

Warranties are not the only protection available to the owner. Under AIA Document A201 - General Conditions of the Contract for Construction §12.2.2, the contractor is required to correct defective work for one year after Substantial Completion, or after commencement of warranties for partial occupancy, or by terms of "special warranty required by the Contract Documents."

Because A201 lists "special warranty," as one of the conditions for correction, identifying project warranties as special warranties is recommended.

Recommendations

Specify that contractors submit original warranty documents as part of the project closeout. Verify that every

specified warranty is submitted before issuing the certificate of Substantial Completion. The owner must have the actual warranty documents to ensure conditions of the warranty, including instructions for making claims are known.

Specify special (extended) warranties only when required for specific coverage requested by the owner and when the available warranty period is for a time greater than the contract correction period. Specifying one-year product warranties may severely affect the owner's ability to force defective work correction during the correction period.

Be sure owners know the warranties were delivered to them. Emphasize the need to read, understand, and comply with all warranty conditions—before the warranty is needed.

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