

RD AN No. 4792 (1924-A)  
September 28, 2015

**TO:** Rural Development State Directors

**ATTN:** Rural Development Program Directors

**FROM:** Tony Hernandez /s/ ***Tony Hernandez***  
Administrator  
Housing and Community Facilities Programs

**SUBJECT:** Response to findings from the  
2015 Section 538 Guaranteed Rural Rental Housing Program (GRRHP)  
Management Control Review (MCR)

**PURPOSE/INTENDED OUTCOME:**

The purpose of this Administrative Notice (AN) is to address weaknesses discovered by the Program Support Staff during the 2015 GRRHP MCR.

**COMPARISON WITH PREVIOUS AN:**

There is no previous AN.

**EXPIRATION DATE:**  
September 30, 2016

**FILING INSTRUCTION:**  
Preceding RD Instruction 1924-A.

## **IMPLEMENTATION RESPONSIBILITIES:**

### **Architectural**

#### **Document Acceptance**

1924-A requires conclusive statements regarding review, comment and acceptance of the contract documents. These documents are used to assist with value determinations. The Agency reviewer should state, in writing, that these documents were reviewed. Any applicable comments should be noted. Once full resolution of RD's comments/concerns have been achieved, the RD reviewer should provide a signed statement "that there is evidence of the extent and quality of the work/product and RD is comfortable that the expected value is there". A RD signature on the contract documents is not recommended without a legal disclaimer.

#### **Document Acceptance – CNA**

**The current MFH CNA Unnumbered Letter provides instruction on the** review, comment and acceptance of the capital needs assessment or life cycle cost analysis for the project. The Capital Needs Assessment is an analysis and report of the physical condition of the property that provides a plan to forecast and implement timing/costs to repair and replace components of the physical structure and contents (ie; appliances). This report assists with financial planning for the associated costs within a twenty year window. The CNA report is necessary to establish a reserve account for repair and replacement expenses for an extended duration. The Agency Reviewer should provide a written statement that confirms the review of the report, provides applicable comments and upon resolution of all concerns, provide a signed acceptance statement when appropriate. The CNA can be developed by an architect or other qualified Provider. Life Cycle Cost Analysis (LCCA), similar to a CNA that occurs in the design phase of a project, is a tool to assist with initial component selections by comparing construction component options that will provide initial and long term cost data giving the owner a better picture of the long term financial impacts to the property operating/reserve budget. This report is most likely developed for construction and rehabilitation projects that are trying to achieve best value components for the life of the property. The LCCA is usually developed by a team of professional Architects and Engineers.

### **Warranty**

1924-A requires the receipt of warranty documentation associated with contractor workmanship and manufactured components. Rural Development, regardless of the loan timing or source, considers the property an asset of the Agency. In any construction action there are warranties to cover the workmanship and items installed in the project. It is important that RD have record of the warranties to understand the extent and limitations and the effect on the property value.

Warranty: Warranties are critical to the performance of a construction contract. The terms and conditions of the Warranty provide protection to the owner from latent and unexpected failures, as well as, errors and omissions by the contractor. Either a 1-year or 10-year warranty will be issued by the builder to the borrower. If the warranty protection is for 1 year, RD Form 1924-19 will be provided. For 10-year warranties, RD Instruction 1924-A describes the availability of these plans that are offered by several entities that are able to meet specific criteria to provide this service. Reference Exhibit L and §1924.12 of RD Instruction 1924-A. Warranties must be filed in the construction file.

§ 1924.4 (p) - Warranty. *A legally enforceable assurance provided by the builder (warrantor) to the owner and the Rural Development indicating that the work done and materials supplied conform to those specified in the contract documents and applicable regulations. For the period of the warranty, the warrantor agrees to repair defective workmanship and repair or replace any defective materials at the expense of the warrantor.*

§ 1924.12 (a) - *Form RD 1924-19, "Builder's Warranty," and normal trade warranties on items of equipment will be issued to the borrower at the completion of new building construction, dwelling rehabilitation by the contract method, all cases of newly completed and previously unoccupied dwellings or construction under conditional commitments issued to builders and sellers.*

*(b) If the warranty is not an insured 10-year warranty, a completed Form RD 1924-19 with warranty protection for 1 year, must be provided by the builder upon final acceptance of the work by the owner and Rural Development. If an insured 10-year warranty is provided, the requirements of Exhibit L of this subpart apply, and a copy of the warranty insurance policy or a binder must have been received by Rural Development prior to disbursement of the final payment to the builder.*

*(c) If, for some reason, the warranty insurance policy cannot be issued, the contractor will be required to execute Form RD 1924-19 and the case will be forwarded to the State Director for consideration of debarment under the provisions of Subpart M of Part 1940 (available in any Rural Development office). The County Supervisor will assist the borrower to the extent necessary under the provisions of the warranty and Subpart F of Part 1924 of this chapter. (Revised 4-11-89, SPECIAL PN)*

*(d) The County Supervisor will take the following action prior to the expiration of the first year of the warranty period:*

*(2) Form RD 1924-21, is provided for use in notifying the borrower of the expiration date of the first year of the warranty. This letter will be mailed to the borrower early in the second month preceding the expiration date of the first year of the warranty period.*

*(3) If the County Supervisor or District Director does not hear from the borrower within 30 days, it can reasonably be assumed that no complaint exists or that any complaint has been satisfied unless information to the contrary has been received.*

*(4) If the borrower notifies Rural Development that any complaint has not been satisfied, an onsite inspection shall be made as early as possible, but not later than 1 month preceding the expiration date of the first year of the warranty. The results of the inspection will be recorded on Form RD 1924-12. If the borrower has complaints, the case should be handled in accordance with the provisions of Subpart F of Part 1924 of this chapter, or as otherwise provided in this subpart.”*

Please direct all questions pertaining to this AN to William Downs, Supervisory Architect, at (202) 720-1499, email: [william.downs@wdc.usda.gov](mailto:william.downs@wdc.usda.gov) of the Rural Housing Service, Program Support Staff.