

Approved:

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Department of Transportation

## DISTRIBUTION OF EXEMPT DOCUMENTS CONCERNING DEPARTMENT STRUCTURES AND CONFIDENTIAL AND EXEMPT SECURITY SYSTEM PLANS

### PURPOSE:

This procedure describes the process for the distribution of documents deemed as exempt from Section 119.07(1), *Florida Statutes (F.S.)*, and section 24(1), Article I of the Florida Constitution. The exemption created by *Section 119.071(3)(b), F.S.*, establishes a method of protecting the State Highway System's infrastructure by defining the responsibilities for disclosure and use of sensitive documents showing the structural elements used in the design and construction of structures.

This procedure also differentiates and describes the process for the distribution of a Security System Plan or portion thereof defined as confidential and exempt by *Section 119.071(3)(a), F.S.*

### AUTHORITY:

Sections 20.23(4)(a) and 334.048(3), Florida Statutes (F.S.)

### REFERENCES:

Sections 119.071(3), and 335.074, F.S.

### SCOPE:

This procedure is applicable to all Department of Transportation ("Department") offices maintaining copies of building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, bridge, or other structure owned or operated by the Department ("Exempt Documents") to persons or entities outside of the Department. Such documents are Exempt Documents whether they are archived, used in new construction or maintenance, or for bid preparation purposes. This procedure is also to be used by all Department offices in the distribution of a Security System Plan or portion thereof to persons or agencies outside of the Department. This procedure applies to all Department employees who have access to Exempt Documents or Security System Plans. For the purposes of this procedure, Department employees shall include any Department staff augmentation personnel.

### BACKGROUND:

In an effort to protect Florida's transportation infrastructure, the 2002 Legislature enacted **Section 119.071(3)(b), F.S.**, which provides that building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency are exempt from the requirements of Florida's Public Records Law.

**Section 119.071(3)(b), F.S.**, provides that Exempt Documents may be provided to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to a licensed architect, engineer, or contractor performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or upon a showing of good cause before a court of competent jurisdiction.

For the purpose of this procedure, the Department has determined that the term "structure" includes bridges and culverts with an opening of more than 20 feet between undercopings of abutments or spring lines of arches or extreme ends of openings for multiple boxes, and those other bridges subject to safety inspection under **Section 335.074, F.S.** A roadway is not otherwise a structure for the purposes of this procedure.

**Section 119.071(3)(a), F.S.**, provides that a Security System Plan or portion thereof for any property owned by or leased to the state or any of its political subdivisions or any privately owned or leased property are both confidential and exempt from the requirements of Florida's Public Records Law. A Security System Plan includes all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems; threat assessments conducted by any agency as defined in **Section 119.011, F.S.** (private entity is included in the definition of agency); threat response plans; emergency evacuation plans; sheltering arrangements; or manuals for security personnel, emergency equipment, or security training.

## 1. REQUEST FOR EXEMPT DOCUMENTS

When processing requests for documents which are exempt pursuant to **Section 119.071(3)(b), F.S.**, the following steps must be taken:

**1.1** For projects that are currently being advertised for letting, requests for documents exempt pursuant to Section 119.071(3)(b), F.S. shall be processed by requiring:

**1.1.1** Completion of **Form No. 050-020-26, Exempt Documents/Security System Plan Distribution Form**. This distribution form must be completed by the requestor of Exempt Documents and must include personal identifying information, sufficient facts supporting the requestor's entitlement to the documents as authorized by **Section 119.071(3)(b), F.S.**, if applicable, and the reason for the request. All requestors must satisfy the statutory criteria, including a legitimate statement of need for and the use of the Exempt Documents; or

**1.1.2** Completion of **Form No. 375-000-02, Fax Order Form**, when the request is received by the Contracts Administration Office or a District Contracts Office.

**1.2** When documents made exempt by **Section 119.071(3)(b), F.S.**, are requested through access to the Department's Contract Proposal Processing Online Order System, **Form No. 375-000-01, Contract Proposal Processing Online Ordering Exempt Documents Distribution Agreement** must be completed. This form is available for use by licensed architects, engineers, and contractors as authorized by **Section 119.071(3)(b), F.S.** Upon verification, the requestor will be given access to the Department's Online

Ordering System.

**1.3** Whether a request is made in person, by mail, facsimile, or email, the Department employee responding to the request shall ensure that the appropriate distribution form is complete and shall obtain a copy of photo identification and documented verification of employment with the requesting agency or entity in cases where the requestor does not appear in person. The form advises the recipient that **the entity, agency, or person receiving the information shall maintain the exempt status of the information.**

**1.4** The Department employee receiving a completed distribution form shall determine whether the documents can be provided because the statutory criteria have been met as authorized in **Section 119.071(3)(b), F.S.**, or whether the Department in the exercise of its discretion should provide the documents. When in doubt, the employee should contact his or her supervisor, District Chief Counsel, or the Office of the General Counsel.

**1.5** Upon determination that Exempt Documents can be distributed, the Department employee responsible for distributing the Exempt Documents shall ensure that the documents are copied and that, if applicable, all statutory fees are paid by the requestor. Records of distribution, completed *Forms No. 050-020-26, 375-000-02, and 375-000-01*, are to be retained in accordance with the **Records Retention Schedule GS1-SL for State and Local Government Agencies** as issued by the Department of State, Division of Library Information Services. The retention period is one fiscal year. It is recommended that records of distribution be retained for three years.

## **2. SECURITY SYSTEM PLANS**

Security System Plans are confidential and exempt and, therefore, can be distributed to persons or agencies outside of the Department only in accordance with the limited disclosure provision of **Section 119.071(3)(a), F.S.**, which provides that Security System Plans may be disclosed by the Department to the property owner or leaseholder, or another state or federal agency to prevent, detect, guard against, respond to, investigate, or manage the consequences of any attempted or actual act of terrorism, or to prosecute those persons who are responsible for such attempts or acts, and that the confidential and exempt status of such information shall be retained while in the possession of the recipient.

When processing requests for Security System Plans, which are confidential and exempt pursuant to **Section 119.071(3)(a), F.S.**, the following steps must be taken:

**2.1** *Form No. 050-020-26, Exempt Documents/Security System Plan Distribution Form*, must be completed by a qualifying property owner or leaseholder, or any state or federal agency requestor whenever documents made confidential and exempt by **Section 119.071(3)(a), F.S.**, are requested and prior to distribution. This distribution form must be completed by the requestor of a Security System Plan and must include personal identifying information, sufficient facts supporting the requestor's entitlement to the documents as authorized by **Section 119.071(3)(a), F.S.**, and the reason for the request or the intended use of the Security System Plan.

**2.2** Whether a request is made in person, by mail, facsimile, or email, the Department employee responding to the request shall ensure that the distribution form is complete and in cases where the requestor does not appear in person, shall obtain a copy of photo identification and shall document verification of either a property interest in the facility or employment with the requesting agency. The form advises the requestor that **the entity, agency, or person receiving the information shall maintain the confidential and exempt status of the information.**

- 2.3 The Department employee receiving a completed ***Exempt Documents/Security System Plan Distribution Form***, shall determine whether the Security System Plan can be provided as authorized by ***Section 119.071(3)(a), F.S.*** When in doubt, the employee should contact his or her supervisor, District Chief Counsel, or the Office of the General Counsel.
- 2.4 Upon determination that the Security System Plan can be produced to the requestor, the Department employee responsible for completing the request shall ensure that the Security System Plan is copied and that, if applicable, all statutory fees are paid by the requestor. Completed ***Exempt Documents / Security System Plan Distribution Forms*** are to be retained in accordance with the ***Records Retention Schedule GS1SL for State and Local Government Agencies*** as issued by the Department of State, Division of Library Information Services. The retention period is one fiscal year. It is recommended that completed ***Exempt Documents/Security System Plan Distribution Forms*** be retained for three years.

### 3. TRAINING

None required

### 4. FORMS

050-020-26 Exempt Documents/Security System Plan Distribution Form

375-000-02 FAX Order Form

375-000-01 Contract Proposal Processing Online Ordering Exempt Documents Distribution Agreement