



Florida Department of Transportation

RICK SCOTT
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

ANANTH PRASAD, P.E.
SECRETARY

July 2, 2013

Monica Gourdine
Program Operations Engineer
Federal Highway Administration
545 John Knox Road, Suite 200
Tallahassee, Florida 32303

Re: Office of Design, Specifications
Section **003**
Proposed Specification: **0030900 Award and Execution of Contract – Public Records.**

Dear Ms. Gourdine:

We are submitting, for your approval, two copies of the above referenced Special Provision.

This change was implemented as a Special Provision in Mandatory No. 3, effective July 2013, to the July 2013 Workbook to incorporate changes to Florida Statutes. Chapter 2013-154, Laws of Florida (formerly House Bill 1309) was approved by the Governor on June 7, 2013, creating Section 119.0701 of the Florida Statutes providing that each public agency contract for services must meet specified requirements including requiring the public agency to enforce contract provisions if a Contractor does not comply with a public records request. Specifically, all contracts must include provisions to require Contractors to keep and maintain records relating to the work being performed for the agency and provide these records to the public, with the exception of confidential and exempt records.

Please review and transmit your comments, if any, within two weeks. Comments should be sent via email to SP965DS or daniel.scheer@dot.state.fl.us.

If you have any questions relating to this specification change, please call me at 414-4130.

Sincerely,

Signature on file

Daniel Scheer, P.E.
State Specifications Engineer

DS/dt

Attachment

cc: Florida Transportation Builders' Assoc.
State Construction Engineer

**AWARD AND EXECUTION OF CONTRACT – PUBLIC RECORDS.
(REV 7-1-13) (7-13)**

ARTICLE 3-9 (Page 18) is deleted and the following substituted:

3-9 Public Records.

Allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by the Contractor in conjunction with this Contract. **Specifically, if the Contractor is acting on behalf of a public agency, the Contractor must:**

- (1) Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the services being performed by the Contractor.**
- (2) Provide the public with access to public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided in chapter 119, Florida Statutes, or as otherwise provided by law.**
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.**
- (4) Meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.**

The Contractor shall promptly provide the Department with a copy of any request to inspect or copy public records in possession of the Contractor and shall promptly provide the Department a copy of the Contractor's response to each such request. Failure to grant such public access will be grounds for immediate termination of this Contract by the Department pursuant to 8-9.1.

**AWARD AND EXECUTION OF CONTRACT – PUBLIC RECORDS.
(REV 7-1-13) (7-13)**

ARTICLE 3-9 (Page 18) is deleted and the following substituted:

3-9 Public Records.

Allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by the Contractor in conjunction with this Contract. Specifically, if the Contractor is acting on behalf of a public agency, the Contractor must:

(1) Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the services being performed by the Contractor.

(2) Provide the public with access to public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided in chapter 119, Florida Statutes, or as otherwise provided by law.

(3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(4) Meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

The Contractor shall promptly provide the Department with a copy of any request to inspect or copy public records in possession of the Contractor and shall promptly provide the Department a copy of the Contractor's response to each such request. Failure to grant such public access will be grounds for immediate termination of this Contract by the Department pursuant to 8-9.1.