



Florida Department of Transportation

RICK SCOTT
GOVERNOR

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ANANTH PRASAD, P.E.
SECRETARY

September 16, 2013

This Memo Has Expired

DCE MEMORANDUM NO. 22-13

(FHWA Approved: 9/16/2013)

TO: DISTRICT CONSTRUCTION ENGINEERS

FROM: David A. Sadler, P.E., Director, Office of Construction

COPIES: Bob Burleson, Chad Thompson, Caitlin Alcorn, Tom Byron, Rafiq Darji, Rudy Powell

SUBJECT: PUBLIC RECORDS LAW SPECIFICATION ARTICLE 3-9

Subsequent to the Statute 119 change that went into effect July 1, 2013, all active contracts let prior to July 1, 2013, shall have the following change made **if** there is a Supplemental Agreement or Work Order executed on the contract:

Delete from your contract Article 3-9 and replace with the following:

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.

This change is a \$0.00 specification change to be included as part of any future Supplemental Agreement or Work Order executed on active contracts let prior to July 1, 2013. If there is no Supplemental Agreement or Work Order executed then this language does not need to be included. If included, this change only needs to be included once. Should you have any questions concerning this matter, please contact Rudy Powell at 850-414-4280.

DAS/hh