

## ORIGINATION FORM

Date: [March 9, 2011](#)

Originator: [David Sadler](#)

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Specification Title: [Awards and Execution of Contract](#)

Specification Section, Article, or Subarticle Number: [3-5.4 Surety to Furnish Legal Defense](#)

Why does the existing language need to be changed? [To better define the indemnity limits of the Surety in the event the contractor fails with regard to payment and performance.](#)

Summary of the changes: [Set limits of the Surety responsibility in this section to Contractor failure regarding payment and performance.](#)

Are these changes applicable to all Department jobs? [Yes](#). If not, what are the restrictions?

Will these changes result in an increase or decrease in project costs? [No](#) If yes, what is the estimated change in costs?

With who have you discussed these changes? [State Construction & Legal Offices, Florida Surety Association.](#)

What other offices will be impacted by these changes? [None](#)

Are changes needed to the PPM, Design Standards, SDG, CPAM or other manual? [No](#)

Is a Design Bulletin, Construction Memo, or Estimates Bulletin needed? [No](#)

Contact the State Specifications Office for assistance in completing this form.

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## *Florida Department of Transportation*

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**OFFICE OF THE  
SECRETARY**

### **M E M O R A N D U M**

**DATE:** March 29, 2011  
**TO:** Specification Review Distribution List  
**FROM:** Rudy Powell, Jr., P.E., State Specifications Engineer  
**SUBJECT:** Proposed Specification: 0030504 Award and Execution o Contract.

In accordance with Specification Development Procedures, we are sending you a copy of a proposed specification change.

This change was proposed by David Sadler to better define the indemnity limits of the Surety in the event the contractor fails with regard to payment and performance.

Please share this proposal with others within your responsibility. Review comments are due within four weeks and should be sent to Mail Station 75 or to my attention via e-mail at SP965RP or rudy.powell@dot.state.fl.us. Comments received after **April 26, 2011** may not be considered. Your input is encouraged.

RP/cah  
Attachment

**AWARD AND EXECUTION OF CONTRACT – SURETY TO FURNISH LEGAL DEFENSE.**

**(REV 3-9-11)**

SUBARTICLE 3-5.4 (Page 17) is deleted and the following substituted:

**3-5.4 Surety to Furnish Legal Defense *as to Payment and Performance Claims or Suits*:** The surety company shall indemnify and provide defense for the Department when called upon to do so for all claims or suits against the Department, by third parties, pertaining to Contractor payment or performance issues arising out of the Contract *where the Contractor has failed to timely do so*. It is expressly understood that the monetary limitation on the extent of the indemnification shall be the approved Contract amount, which amount shall be the original Contract amount as may be increased by subsequent Supplemental Agreements.