

0070400 Legal Requirements and Responsibilities to the Public –  
Right-of-Way Furnished by the Department  
COMMENTS FROM INTERNAL/INDUSTRY REVIEW

J. Walter Spiva  
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Comments: (4-4-12)

Delete the comma following the word material as highlighted below:

Except as otherwise stipulated in these Specifications or as shown in the plans, the Department will furnish all rights-of-way necessary for the proper completion of the work at no expense to the Contractor.

Should Department-furnished areas for obtaining borrow material, contain

Response: Thanks for the comment. Change will be made

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Mark Croft  
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Comments: (4-5-12)

LEGAL REQUIREMENTS AND RESPONSIBILITIES TO THE PUBLIC –RIGHT-OF-WAY FURNISHED BY THE DEPARTMENT. (REV 3-16-12) ARTICLE 7-4 (Page 63) is deleted and the following substituted: 7-4 Right-of-Way Furnished by the Department. Except as otherwise stipulated in these Specifications or as shown in the plans, the Department will furnish all rights-of-way necessary for the proper completion of the work at no expense to the Contractor.

Should Department-furnished areas for obtaining borrow material, contain limerock material, do not remove such material from the pit unless the Engineer gives specific approval.

Use of Department owned right-of-way for the purpose of equipment or material storage, lay-down facilities, pre-cast material fabrication sites, batch plants for the production of asphalt, concrete or other construction related materials, etc., shall require advance approval by the Department. Use of Department owned Right of Way for these purposes is expressly limited to *storage of equipment and materials for the Project or production of materials or products* for the Project.

Response: Thanks for the comment. Change will be made

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Marshall Dougherty

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Comments: (4-9-12)

The use of capitalization in the last proposed sentence, i.e. "...Right-of-Way..." and "...Project..." should be removed as it's unnecessary and appears to be a typographical error.

Response: Thanks for the comment. Change will be made to "right of way". "Project" is correct in that it is intended to refer to the specific project related to the request and use of RoW.

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Edwin Mackiewicz  
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Comments: (4-9-12)

I believe clarification is needed to the phrase "advance approval". In advance of what?- submitting a bid, beginning of construction contract time, the intended use? If a contractor is denied use of the ROW after he submitted a bid, he may likely be severely harmed. Assuming the advanced approval is after award and is ultimately denied, that contractor would likely have changed his bid. As such, there needs to be a mechanism for indifying the likelihood of approval or denial of such use of the ROW prior to submitting a bid.

Response: Thank you for the review and comment. The intent is to obtain advance approval prior to making use of any FDOT Owned Right of Way. This will be clarified.

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Comments: (4-10-12)

Advanced approval - We can assume if we make a request for the utilization of the ROW for the purposes described that we will have the approval/disapproval response prior to our bid submission so we can make the appropriate cost adjustments?

Response: Thank you for the review and comment. The intent is to obtain advance approval prior to making use of any FDOT Owned Right of Way. This will be clarified.

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Comments: (4-23-12)

District Three staff have reviewed the subject document and have the following comment at this time.

I suggest that “etc.” not be used for further elucidation of the uses of the right of way for which advance approval is sought. I suggest, instead of “etc.”, the following: “or for any other purpose or use related to the construction of the Project.”

Thank you for the opportunity to provide comments. If you have any questions, or need anything further, please do not hesitate to contact me.

**Response: Thank you for the review and comment. Changes will be made accordingly.**

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Comments: (5-2-12)

1. Recommend we add something to require they restore the area to previous condition to the Department’s satisfaction at no extra pay.

**7-4 Right-of-Way Furnished by the Department.**

Except as otherwise stipulated in these Specifications or as shown in the plans, the Department will furnish all rights-of-way necessary for the proper completion of the work at no expense to the Contractor.

Should Department-furnished areas for obtaining borrow material, contain limerock material, do not remove such material from the pit unless the Engineer gives specific approval.

*Use of Department owned right-of-way for the purpose of equipment or material storage, lay-down facilities, pre-cast material fabrication sites, batch plants for the production of asphalt, concrete or other construction related materials, etc., shall require advance **written** approval by the Department. Use of Department owned Right of Way for these purposes is expressly limited to the Project. **Prior to project final acceptance, the right of way area utilized for the above work shall be restored to its previous condition or better at no additional compensation.***

2. There needs to be some stipulations made either in this specification or an agreement if the location is off the project but in close proximity, for restoration as well as the type of storage or work allowed. For example, you would not want to allow the contractor to perform oil changes and equipment maintenance that could contaminate the soil. There should be strict guidelines for off-site locations.

Response: Thank you for the review and comment. Restoration and protection of contractor used areas are covered elsewhere in the specifications and is beyond the scope of this proposed specification change. No changes made.

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**LEGAL REQUIREMENTS AND RESPONSIBILITIES TO THE PUBLIC –RIGHT-OF-WAY FURNISHED BY THE DEPARTMENT.**

**(REV 3-16-12)**

ARTICLE 7-4 (Page XX) is deleted and the following substituted:

**7-4 Right-of-Way Furnished by the Department.**

Except as otherwise stipulated in these Specifications or as shown in the plans, the Department will furnish all rights-of-way necessary for the proper completion of the work at no expense to the Contractor.

Should Department-furnished areas for obtaining borrow material, contain limerock material; do not remove such material from the pit unless the Engineer gives specific approval.

*Use of Department owned right-of-way for the purpose of equipment or material storage, lay-down facilities, pre-cast material fabrication sites, batch plants for the production of asphalt, concrete or other construction related materials, ~~etc~~ or other similar activities[AUTRY 1], shall require advance written[AUTRY 2] approval by the Department prior to making use of said Department owned right of way[AUTRY 3]. Use of Department owned right of way[AUTRY 4] for these purposes is expressly limited to storage of equipment and materials for the Project or production of materials or products for[AUTRY 5] the Project.*