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## **FIRST AMENDMENT FOUNDATION**

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### **LEGISLATIVE ALERT**

#### **Access to Contractor Records**

**April 8, 2016**

It's rare to send a legislative alert *after* session is over, but we want to bring your attention to a major change in our public records law as it relates to accessing records of contractors acting on behalf of a government agency.

CS/HB 273, which passed both legislative chambers by wide margins, was signed by Governor Scott and became law upon his signature. The bill amended s. 119.0701, F.S., to include requirements on the transfer and retention of public records by a contractor upon completion of the contract.

**Most significantly, the law now requires that requests to inspect or copy public records relating to an agency's contract for services be made directly to the agency, not the contractor.**

If the agency doesn't have the requested records, the agency must immediately notify the contractor of the request, and the contractor must provide the records to the agency or allow the records to be inspected or copied within a reasonable period of time.

Contractors who fail to provide the requested records to the agency within a reasonable time may be subject to penalties under s. 119.10, F.S.

If a civil action is filed against a contractor to compel the contractor to produce records relating to a contract for services, the contractor will be required to pay reasonable attorney fees and costs *if*:

- (1) A court determines the contractor unlawfully refused to comply with the public record request within a reasonable period of time; *and*
- (2) The requestor provides written notice of the request, including a statement that the contractor has failed to comply with the request, to the public agency and to the contractor at least 8 days prior to filing the action.

Finally, a contractor who complies with a public record request within 8 days of the notice being sent will not be liable for attorney fees and costs.

**Bottom Line: Request for public records relating to agency contracts must be made directly to the agency and written notice of the request must be provided to the public agency and to the contractor at least 8 days before filing a lawsuit to compel compliance with the public records law.**

Here's a link to the new law: <http://laws.flrules.org/2016/20>

If you have any questions or would like more information about the changes to the law, please contact Barbara Petersen at 800/337-3518 or [sunshine@floridafaf.org](mailto:sunshine@floridafaf.org).