

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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October 14, 2004

Re: Our File Number LR-04-189; Sales tax on sales of pipe for utility construction

Dear

This is in response to your inquiry concerning the exemption from sales tax of contractors who are to perform work where the contract is between the contractor and a city and where the contract is between a contractor and a public trust or a trust authority.

Material sold to a contractor where the contractor has entered into a contract with a city may be sold exempt from sales tax, provided you obtain the documentation and certification required by Oklahoma Tax Commission Rule 710:65-7-13. Notice that the rule is valid for sales to contractors with the listed entities or types of entities. You may want to obtain the required documentation at the beginning of negotiations with the contractor to avoid the problems noted in your letter. However, you must obtain the certification and required signatures when the material has been delivered or after it has been invoiced.

With the exception of contractors with those trust authorities specifically listed in 68 O.S. Section 1356(10), contractors with public trusts or trust authorities cannot make purchases of items to be used in contracts, exempt from sales tax. Please see Oklahoma Tax Commission Rule 710:65-13-550 which states that sales made to trust authorities are exempt, but that they may not appoint a contractor as an agent to make purchases exempt from sales tax.

Oklahoma Tax Commission Rule 710:65-7-6 deals generally with the documentation a vendor is required to obtain in order to be relieved of liability from collecting sales tax. As noted above, Rule 710:65-7-13 deals with the specific exemption for sales made contractors that have contracts with certain entities including cities.

You should obtain the documentation set out in the rules noted and keep it for three years from the date the sale was reported on a sales tax report as being an exempt sale. Please see Rule 710:65-3-32.

Copies of the rules and the statute noted above are enclosed.

This response applies only to the circumstances set out in your request of September 2, 2004. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon **only** by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

If I can be of further assistance, please feel free to contact me.

Sincerely,
OKLAHOMA TAX COMMISSION

A handwritten signature in black ink, appearing to read "Michael G. Pillow". The signature is written in a cursive style with some loops and flourishes.

Michael G. Pillow
Tax Policy Analyst