



STATE OF ALABAMA  
**BUILDING COMMISSION**

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**TO: STATE AGENCIES, K-12 SUPERINTENDENTS, COMMUNITY COLLEGES, UNIVERSITIES**

**FROM: KATHERINE LYNN, DIRECTOR  
ALABAMA BUILDING COMMISSION**

**SUBJECT: ACT 2013-205, CERTIFICATE OF EXEMPTION FROM SALES AND USE TAX FOR GOVERNMENTAL ENTITIES**

Act 2013-205 was signed into law on May 9, 2013, granting the Alabama Department of Revenue (ADOR) the authority to issue certificates of exemption from sales and use taxes for construction projects for certain governmental agencies.

**Summary**

The full text of Act 2013-205 is available on the Building Commission's website at [www.bc.alabama.gov](http://www.bc.alabama.gov). A brief summary of the Act is provided below:

- ADOR shall issue certificates of exemption from sales and use tax to governmental entities for each tax exempt project. Both the governmental entity and the contractor shall apply for certificates of exemption.
- Certificates of exemption shall only be issued for contracts entered into (awarded) on or after Jan. 1, 2014.
- Certificates shall only be issued to contractors licensed by the State Licensing Board for General Contractors or any subcontractor working under the same contract.
- Items eligible for exemption from sales and use tax are building materials, construction materials and supplies and other tangible personal property that become part of the structure per the written construction contract.
- ADOR will handle the administration of certificates of exemption and the accounting of exempt purchases. ADOR will have the ability to levy fines and may bar the issuance or use of certificates of exemption upon determination of willful misuse by the contractor or a subcontractor.
- The contractor shall account for the tax savings on the bid form.

### **Bidding of Projects Before Jan. 1, 2014**

Projects bid before Jan 1, 2014 but awarded on or after Jan. 1, 2014 are still eligible for sales tax exemption regardless of whether the project was bid with or without sales tax. For projects bid before Jan. 1, 2014, the bid documents must specify if the contractor's bid shall or shall not include sales tax.

For projects bid before Jan. 1, 2014, if the project is bid with sales tax and the contractor and subcontractors purchase the materials tax exempt, prior to project closeout the contractor shall submit to the governmental entity a copy of the report filed with the Alabama Department of Revenue showing all exempt purchases. The actual sales tax savings indicated on the report shall be deducted from the final contract amount.

For projects bid after Jan. 1, 2014, the bid shall not include sales tax but the sales tax for the base bid and all bid items must be included on the contractor's bid proposal form. ABC Form C-3A indicates how the sales tax shall be accounted for on the bid proposal form and shall be modified by the project architect or engineer as appropriate for the bid items for each project. **Failure of the contractor to complete the attachment to the bid proposal form indicating the sales tax as required by Act 2013-205, Section 1 (g) shall render the bid non-responsive.**

### **Proposed Changes to Administrative Rules**

Pursuant to Act 2013-205, the ADOR has proposed changes to the following administrative rules:

Rule 810-6-1-.46	Contractor's Liability
Rule 810-6-1-.46.01	Bleacher Systems, Lockers, Backstops, and Other Fixtures Installed in Gymnasiums
Rule 810-6-3-.77	Exemption for Certain Purchases by Contractors and Subcontractors in Conjunction with Construction Contracts with Certain Governmental Entities

A link to the proposed rules and information about the public hearings can be found on ADOR's website at <http://www.revenue.alabama.gov/analysis/upcoming-rule-hearings.cfm> . All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

If you have any questions, please feel free to contact Katherine Lynn at the Alabama Building Commission at (334) 242-4082 or the Alabama Department of Revenue at (334) 242-1170.

cc: Ms. Julie Magee, Commissioner, Alabama Department of Revenue  
Mr. Ben Albritton, Assistant Attorney General