



Florida Department of Revenue  
Tax Information Publication

**TIP**

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2010**

**Public Works Contracts – New Requirement for a Certificate of Entitlement**

Section 212.08(6), Florida Statutes (F.S.) and Rule 12A-1.094, Florida Administrative Code (F.A.C.), (Public Works Contracts), govern the taxability of transactions in which contractors and subcontractors purchase supplies and materials for use in public works contracts. Public works contracts are projects for public use or enjoyment, financed and owned by the government, in which private persons install tangible personal property that becomes a part of a public facility. The exemption in Section 212.08(6), F.S., is a general exemption for sales made directly to the government. Rule 12A-1.094, F.A.C., establishes the criteria that govern whether a governmental entity, rather than the public works contractor, is the purchaser of the materials.

Effective January 2, 2011, Section 8, Chapter 2010-138, Laws of Florida (L.O.F.), requires governmental entities (excluding the federal government) to issue a Certificate of Entitlement to each vendor and each contractor in order to purchase supplies and materials for use in public works contracts tax-exempt under Section 212.08(6), F.S. The Certificate of Entitlement certifies that: (1) the materials and supplies purchased will become part of a public facility; (2) the governmental entity will be liable for any tax, penalty, or interest due should the Department later determine that the items purchased do not qualify for exemption; and (3) the criteria established in Rule 12A-1.094, F.A.C., are being followed.

No changes are being made to the criteria established in Rule 12A-1.094(4)(b), F.A.C., to determine whether a governmental entity, rather than the public works contractor, is the purchaser of the materials. The purpose of the amendment to Rule 12A-1.094, F.A.C., is to: (1) maintain, without change, the current criteria governing whether a governmental entity is the purchaser of materials and supplies that qualify for exemption under Section 212.08(6), F.S.; (2) provide the requirements and format of the Certificate of Entitlement required by Section 8, Chapter 2010-138, L.O.F., effective January 2, 2011; and (3) provide that the governmental entity is prohibited from transferring the liability for tax, penalty, and interest to another party by contract or agreement.

The format of the Certificate of Entitlement to be issued by the governmental entity, as provided by the amended Rule 12A-1.094(4)(c)4., F.A.C., is attached to this Tax Information Publication.

**The amended Rule 12A-1.094, F.A.C., is effective January 12, 2011.**

**References: Section 212.08(6), Florida Statutes (2010) and Chapter 2010-138, Laws of Florida (Section 8, CS/HB 7157, 1<sup>st</sup> Engrossed)**

**FOR MORE INFORMATION**

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For forms and other information, visit our Internet site at [www.myflorida.com/dor](http://www.myflorida.com/dor) or call Taxpayer Services, 8:00 a.m. to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671.

Persons with hearing or speech impairments may call our TDD at 800-367-8331 or 850-922-1115.

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services, 5050 West Tennessee Street, Tallahassee, FL 32399-0112.

**Want the latest tax information and due-date reminders  
for sales tax and unemployment tax returns?  
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## CERTIFICATE OF ENTITLEMENT

The undersigned authorized representative of \_\_\_\_\_  
(hereinafter "Governmental Entity"), Florida Consumer's Certificate of Exemption Number  
\_\_\_\_\_, affirms that the tangible personal property purchased pursuant to Purchase Order  
Number \_\_\_\_\_ from \_\_\_\_\_ (Vendor) on or after \_\_\_\_\_  
(date) will be incorporated into or become a part of a public facility as part of a public works  
contract pursuant to contract # \_\_\_\_\_ with  
\_\_\_\_\_ (Name of Contractor) for the construction of  
\_\_\_\_\_.

Governmental Entity affirms that the purchase of the tangible personal property contained in  
the attached Purchase Order meets the following exemption requirements contained in Section  
212.08(6), F.S., and Rule 12A-1.094, F.A.C.:

***You must initial each of the following requirements.***

- \_\_\_ 1. The attached Purchase Order is issued directly to the vendor supplying the tangible  
personal property the Contractor will use in the identified public works.
- \_\_\_ 2. The vendor's invoice will be issued directly to Governmental Entity.
- \_\_\_ 3. Payment of the vendor's invoice will be made directly by Governmental Entity to the  
vendor from public funds.
- \_\_\_ 4. Governmental Entity will take title to the tangible personal property from the vendor at the  
time of purchase or of delivery by the vendor.
- \_\_\_ 5. Governmental Entity assumes the risk of damage or loss at the time of purchase or delivery  
by the vendor.

Governmental Entity affirms that if the tangible personal property identified in the attached  
Purchase Order does not qualify for the exemption provided in Section 212.08(6), F.S., and Rule  
12A-1.094, F.A.C., Governmental Entity will be subject to the tax, interest, and penalties due on the  
tangible personal property purchased. If the Florida Department of Revenue determines that the  
tangible personal property purchased tax-exempt by issuing this Certificate does not qualify for the  
exemption, Governmental Entity will be liable for any tax, penalty, and interest determined to be  
due.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I  
will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to  
conviction of a third degree felony.

Under the penalties of perjury, I declare that I have read the foregoing Certificate of  
Entitlement and the facts stated in it are true.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Purchaser's Name (Print or Type)

\_\_\_\_\_  
Date

Federal Employer Identification Number: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

**You must attach a copy of the Purchase Order to this Certificate of Entitlement.**

Do not send to the Florida Department of Revenue. This Certificate of Entitlement must be retained  
in the vendor's and the contractor's books and records.