

Attachment 3 – Sales Tax Exemption

A. Tax-Exempt Status: Joint Pacific County Housing Authority (JPCHA), a public corporation of the State of Washington created under the provisions of chapter

35.82 RCW, is exempt from all taxes and special assessments of the city, county, the State of Washington, or any other political subdivisions of the State in accordance with the provisions of State law, RCW 35.82.210.

B. JPCHA's sales tax exemption is further authorized in the Washington State Administrative Code (WAC), Title 458, for the State Department of Revenue.

WAC Section 458-20-189(6), titled "**Retail Sales Tax Exemptions**," states:

"Retail sales tax does not apply to:

(6)(a) Sales to city or county housing authorities which were created under the provisions of the Washington housing authorities law, chapter 35.82 RCW. However, prime contractors and subcontractors for city or county housing authorities should refer to WAC 458-2017001 (Government contracting – Construction, installations, or improvements to government real property) to determine their tax liability."

WAC 458-20-17001(3), titled "Retail Sales Tax," provides:

(3) Retail sales tax.

- (a) **Government contracting activities excluded.** The retail sales tax does not apply to any portion of the contract price for any business activities taxable under the government contracting B&O tax classification described in subsection (2)(b) of this section.
- (b) **Materials.** Prime and subcontractors engaged in government contracting are "consumers" under RCW 82.04.190 and must pay retail sales tax or use tax on all purchases of materials. Examples of common materials on which sales or use tax would apply include prefabricated and precast items, equipment, and other tangible personal property installed, applied, attached, or otherwise incorporated in their government contracting work. Sales tax applies to the contractor's purchases notwithstanding that the full purchase price of the property will be reimbursed by the government or housing authority in the gross contract price, and notwithstanding that the contract provides that the title to the property vests in the government or housing authority immediately upon its acquisition by the contractor.

The above provision (WAC 458-20-189(6)) informs potential bidders that they must understand the law and regulations and consider their own tax liability. The Bid Form states that the Base Bid Analysis Amount “does not include Washington State or Local Sales Taxes,” to inform potential bidders that they need not include sales tax payable by the housing authority in their gross Base Bid Analysis Amount, but this is not an invitation to bidders to separately invoice the housing authority for any portion of the taxes that may be owed by a general contractor in connection with this project. The bidder remains responsible for its own payment of general operating costs, including taxes, and JPCHA will not separately reimburse the contractor for any specific taxes owed by the contractor (including retail sales taxes). Bidders shall determine unit bid item prices accordingly.