TITLE 316 CHAPTER 8
NONRESIDENT CONTRACTOR

REG-8-003 REGISTRATION

003.01 Before engaging in the business of contracting within this state, the nonresident contractor is required to (1) register as a nonresident contractor with the Department of Revenue submitting a twenty-five dollar ($25.00) fee for this purpose, and (2) register contracts with a total contract price or compensation of $10,000 or greater and submit an additional twenty-five dollar ($25.00) fee for ~~each~~ such contracts the nonresident contractor contemplates performing in this state.
(Section 77-3102, 77-3103, R.S.Supp., .)

TITLE 316 CHAPTER 8
NONRESIDENT CONTRACTOR

REG-8-004 BONDING REQUIREMENTS

004.01 In addition to the registration requirements discussed in Reg-8-003, each nonresident contractor is required to execute and file a bond or alternative security with the Department of Revenue on himself or herself and on each contract which the contractor may perform within this state.

004.02 ~~The amount of the contractor bond or alternative security required to be supplied shall be three percent of the total consideration of all contracts to be performed. In no case shall the required bond be less than one thousand dollars.~~

~~004.03~~

~~004.03A~~ The amount of the contract bond or alternative security required to be supplied is ~~also~~ based on a percentage of the total consideration of the contract. This amount shall be ten percent of the contract price up to the first one hundred thousand dollars ($100,000), plus five percent of the contract price in excess of one hundred thousand dollars ($100,000) computed to the next higher one thousand dollars ($1,000). Contracts of ten thousand dollars ($10,000) or less ~~require a bond of one thousand dollars ($1,000)~~ do not require a bond or alternative security.

004.02A Example:

| | |
|---|---|
| Total ~~Consideration~~ Contract Price | $950,000 |
| 10% of $100,000 | $10,000 |
| 5% of $850,000 | $43,000 |
| Amount of Contract Bond | $53,000 |

~~004.03B~~ 004.02B The work to be performed by resident or bonded nonresident subcontractors need not be included in determining the total consideration of the contract if the nonresident prime or general contractor supplies the Department of Revenue with sufficient information indicating that these subcontractors are not subject to the provisions of this act. Such information may include, but is not limited to the following:

~~004.03B(1)~~ 004.02B(1) The name, address, and amount of work to be performed by each resident or nonresident subcontractor,

~~004.03B(2)~~ 004.02B(2) Sufficient evidence showing that the nonresident subcontractor has supplied the Department of Revenue with a satisfactory bond or alternative security.

~~004.04~~ 004.03 The requirement that a bond or alternative security be supplied for each individual contract may be waived if the nonresident contractor obtains the prior approval of the Department of Revenue that a blanket bond or alternative security be issued for all contracts to be performed within a particular period of time. In such case, the Department of Revenue will determine the total amount of the bond or alternative security required to be supplied based on the total consideration of all contracts to be performed.

~~004.05~~ 004.04 If the Department of Revenue determines that the required bond is insufficient to

cover the tax liabilities involved, it shall require the bond to be increased in such amount as it may deem necessary.

~~004.06~~ 004.05 An exception to the requirement of filing a contract bond with the Department of Revenue for all contracts to be performed exists when a nonresident contractor is awarded a construction contract by the Nebraska Department of Roads or the University of Nebraska. In such cases, a contract bond amounting to one hundred percent (100%) of the contract price and including all taxes and contributions due under the employment security law is required to be furnished directly to these organizations.

However, a copy of such bond must be submitted to the Department of Revenue and the registration and bonding requirements discussed in Reg-8-003 ~~and Reg-8-004.02~~ must still be met.

~~004.07~~ 004.06 The alternative security which may be supplied in lieu of a bond shall include, but is not limited to the following:

> ~~004.07A~~ 004.06A Certificates of deposit or certified checks issued by a bank doing business in the state and insured by the Federal Deposit Insurance Corporation in amounts not exceeding the federally insured amount and in the total amount specified by the Department of Revenue~~,~~;
>
> 004.06B An irrevocable standby letter of credit, in the amount specified by the Department of Revenue, executed in favor of the Nebraska Department of Revenue by a federally insured financial institution; and
>
> ~~004.07B~~ 004.06C Investment certificates or share accounts issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation, in the amounts not exceeding the federally insured amount and in the total amount specified by the Department of Revenue.

(Sections 52-118, 77-3102, 77-3104, and 77-3105, R.R.S. 1943. .)

TITLE 316 CHAPTER 8
NONRESIDENT CONTRACTOR

REG-9-009 CONTRACTORS

009.01. Contractors as defined in Reg-1-017, Contractors, are required to choose one of three options for the taxation of building materials used by the contractor. The contractor is required to use the same method for the local option tax as is used for the state sales and use tax.

009.02. Contractors who have selected Option 1 will collect tax on the separately stated selling price of building materials ~~and taxable contractor labor~~ from their customers based on the location of the project.

009.03. Contractors who have selected Option 2 will pay tax on their purchase of building materials based on when the purchase of building materials occurs and whether delivery to the contractor takes place within a city having adopted a local option tax. When delivery is within a city having adopted a local option tax, such sale is subject to the local tax even if the construction project is outside the city limits. ~~Contractors performing taxable contractor labor within the boundaries of a city imposing a local option tax must collect the city tax along with the state tax.~~

009.04 Contractors who selected Option 3 will pay tax on their removal of materials from inventory based on the location of the inventory and the date of the removal. When the removal from inventory is within a city having adopted a local option tax, such removal is subject to the local tax even if the construction project is outside the city limits. ~~Contractors performing taxable contractor labor within the boundaries of a city imposing a local option tax must collect the city tax along with the state tax.~~

009.05 Contractors using fixed-price contracts must follow the provisions of Sales and Use Tax Reg-1-017, Contractors, when a local option tax is adopted, repealed, or the rate is changed.

(Sections 77-27,142, and 77-27,147, R.R.S. 2003, and sections 77-2703(l), 77-2701.10, and 77-2703.01, R.S.Supp., 2004. .