OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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March 26, 2003

Re: Our File Number LR-03-017; Sales tax on purchases by contractors with Authorities.

This is in response to your inquiry concerning the ability of two authorities connected with the to give tax exempt status to contractors that have contracts with a developer and with one of the authorities.

Your First Fact Situation and Question:

In the a developer has brought in a plant for subdivision. The developer will construct water and sewer lines to serve the subdivision. Once the subdivision is complete and the city has approved the construction of the utilities, the developer will dedicate the water and sewer lines, and streets, to the city. The question is: can the give tax exempt status to the private developer for the materials purchased by the developer to be used in the construction of the water and sewer lines when these lines will eventually be dedicated to the Authority?

We have had a request from a local developer to provide him with a letter stating that the purchase of the pipe, valves, manhole supplies, and lift station equipment, is tax exempt. He wants to show that letter to his suppliers so they don't charge him sales tax. Again, is this proper and can we issue such a letter.

Our Response:

The may **not** give tax exempt status to the private developer for the materials purchased by the developer to be used in the construction of the water and sewer lines even though these lines will be eventually dedicated to the Authority. Contractors with authorities must pay sales tax on all of their purchases. Please refer to Oklahoma Tax Commission Rule 710:65-13-550. A copy is enclosed.

Your Second Fact Situation and Question:

It is my understanding that the city's Authorities are not tax-exempt entities like the city government is. If that is the case, how can the authority contract to have a building built, and avoid the sales tax? Can the Authority contract for labor on the building and pay for the concrete, steel, plumbing and electrical supplies directly, thereby avoiding the sales tax?

Our Response:

As set out in the rule noted above, Authorities may purchase material exempt from sales tax, but may not appoint an agent to do so. If material is billed to the Authority and paid for with funds of the Authority, the Authority may make the purchases exempt from sales tax. Note however that such purchases may not be made using "flow-thru" funds as defined in the rule.

This response applies only to the circumstances set out in your request of January 14, 2003. 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

Michael G. Pillow
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