



Jefferson County Industrial Development Agency

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www.jcida.com

December 17, 2018

ABO Staff
State of New York
Authorities Budget Office
PO Box 2076
Albany, New York 12220-0076

Dear ABO Staff;

First, thank you for allowing us to review and comment on the draft Operational Review for IDA Sales and Use Tax Exemptions report (OR-2018-01) provided to us last week.

After a thorough review of your outline we believe we have discovered errors in the methodology used to determine sales tax integrity contained within the report.

In addition, we also acknowledge that the report correctly points out some errors of omission on the part of the Agency which staff will immediately set about to correct.

Corrections to ABO figures

Regarding the table on Page 9 of the draft report, the numbers recorded in your "Total Project Cost" appear to have been taken from the wrong box in our PARIS reports. The PARIS report includes a box for reporting "Total Project Amount" followed by a box below it for reporting "Benefited Project Amount". The benefited project amount is the amount calculated to benefit from sales tax exemption.

In their review, ABO staff used the benefited project amount in place of the actual project cost, and then took 40% of that number to estimate sales tax benefit. This artificially reduces the amount legitimately eligible for sales tax exemption.

Particular confusion occurred regarding the Aviagen North American's Hatchery project. Following our investigation, it was determined that the company had incorrectly stated the amount of sales tax benefit they received on its original filing with the State Tax Department. Attached, you will see a corrected copy of that report attached in support of this letter. In addition, it should be noted that this company is directly involved in Agricultural activities and is thus exempt from sales tax (note: Email/forms including NYS Form ST-125 are attached). The sales tax originally reported by Aviagen was for agricultural activities not the JCIDA project.

To best illustrate our conclusions, we have attached two tables. The first is the table provide in the draft ABO report. The second is a table with the corrected figures. That table also identifies the method used to estimate the benefited project amount.



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Clarification on estimating sales tax exemption

As noted in your report, we do generally use 40% of adjusted project costs to estimate that portion of a project that would be subject to sales tax. We start with the total cost, subtract out what we know is not subject to sales tax (for example, manufacturing equipment), and then take 40% of the remaining amount. However, when we have enough detail up front, we are able to estimate sales tax directly from the provided figures (which typically match the 40% methodology). This was the method used to estimate the sales tax benefit for Fort Drum Mountain Community Homes. 50% was used to estimate the taxable portion of the Aviagen project because of our understanding of the nature of its particular costs. The sales tax exemption estimated for the Mohawk, Adirondack, and Northern Railroad was provided to us by the St. Lawrence County Industrial Development Agency. This was a unique project in that the project corridor traversed 3 counties (St. Lawrence, Lewis, and Jefferson), and the SLCIDA served as lead agency. They therefore provided us with the estimate for Jefferson County's portion of the exemption.

As reported on ABO Draft Audit for Jefferson County IDA

Project Name	Total Project Cost	40 Percent of Project Costs	Sales Tax on 40 Percent	Amount Recorded on ST-60	Difference
Aviagen North America, Inc.	\$1,800,000	\$720,000	\$57,600	\$69,750	\$12,150
Fort Drum Mountain Community Homes	\$25,402,473	\$10,160,989	\$812,879	\$2,032,198	\$1,219,318
Mohawk, Adirondack and Northern Railroad	\$388,000	\$155,200	\$23,416	\$31,040	\$7,624
Roth Industries	\$1,040,000	\$416,000	\$33,280	\$83,200	\$49,920

Corrections to ABO report to follow next page



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Corrections to page 9 ABO Draft Report

	Total Project Costs	Method	Benefitted Amount Subject to Sales tax	Sales Tax	ST-60 Recorded
		50%			
Aviagen*	5,000,000	Taxable	900,000****	69,750	69,750
FDMCH **	71,201,856	Detail Costs	25,402,473	2,032,198	2,032,198
Mohawk ***	6,180,000	SLC Provided	388,000	31,040	31,040
		40%			
Roth*	8,553,250	Taxable	1,040,000	100,750	83,200

* 4% NYS, .0375% County

** Detailed Costs provided by FDMCH

*** SLC determined total taxable purchases to be \$2,472,000. JCIDA portion 15.7% -\$388,000.

Also the total, cost reported in PARIS is incorrect as the amount reported is total exempt purchases.

Total cost on this projec is estimated to be \$6,180000.. St Lawrence County IDA is lead on the project.

**** Incorrectly reported in PARIS as \$1,800,000.

As acknowledgement of the additional findings in your report, we understand our obligations for improving oversight, accountability and transparency.

In response to these areas we wish to confirm for your Office that we are revamping and updating our **Recapture Policy** based on 'best practices' as advocated in the recent joint effort by the NYS Comptroller's office and the New York State Economic Development Council. This updated policy was informally discuss with your auditors and was reviewed again by our Attorneys following receipt of this draft audit. The update policy is expected to be passed by the JCIDA Board of Directors in January, our next regular Board meeting.

Further, the Agency will be taking steps to 'close the loop' on insuring that the amount of sales tax exemption approved by our Board of Directors is the actual amount of the exemption that is ultimately claimed by the project.

In support of this action, all Project Development Agreements (PDA's) will contain specific references to all the exemptions allotted to the project---with notation, as added reinforcement, that these exemptions cannot be exceeded without being subject to recapture efforts by both the NYS Tax Department and our Agency.



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Further, we will continue to review the copies of ST-340s we request from the Project to further insure that a calculation of the sales tax exemptions taken are actually within the amounts allotted through our exemption process and if found to be excessive, correction shall be undertaken according to the process outline in our Recapture Policy.

It was also suggested in the audit that the Agency was not posting Project Resolutions on our web site. Actually, they are being posted, however, it became clear following your review that they are difficult to find. As a result, we will be developing an improved drop-down menu that will clearly allow anyone looking for these Resolutions to find them.

Further, the audit drew to our attention, that we are not submitting annual compliance reports to the Tax Department as required by Section 875 (3) (d) of the GML. We were not aware of the existence of the NYS Form ST-62 until your audit brought it to our attention. Henceforth, we will be complying with the Section 875 requirements.

It is clear from this audit that further efforts must be employed by our Agency to insure that the approved abatement schedules match those that are actually being taken by our project developers and for that to be accomplished, we acknowledge that a 'tightening up' of our policies and procedures will be necessary.

That being said, the disparity between actual sales tax exemptions taken and those identified through our process (and as discussed and reviewed within your report) is more accurate than you have identified in your report.

I should also like to acknowledge that your auditors were both friendly and very business-like and were helpful as regards to pointing out our omissions and procedural issues.

Most Sincerely,

D. C. Alexander
CEO

Jefferson County Industrial Development Agency

DCA/e.g.

cc: David Converse, Chair

Attorney Joseph Russell
Attachments 10)

Note: Hard copy to follow in regular mail.