

Opinion No. 2009-075

May 11, 2009

M. Jane Dickey
Attorney at Law
Rose Law Firm
120 East Fourth Street
Little Rock, Arkansas 72201-2893

Dear Ms. Dickey:

This is in response to your request for my review and approval of an “Interlocal Cooperation Agreement” (“Agreement”) concerning the distribution formula for a sales and use tax, to be entered among Phillips County and the five cities in the county.

My approval of interlocal agreements is required for agreements entered pursuant to the Interlocal Cooperation Act, A.C.A. §§ 25-20-101 – 108 (Repl. 2002 and Supp. 2007). In my opinion, the submitted Agreement is not governed by that act. It is authorized, instead, by a separate statute addressed specifically to the disposition of county sales and use taxes – A.C.A. § 26-74-214 (Supp. 2007). Accordingly, the Agreement is distinct, in my view, from the type of “joint or cooperative undertaking” authorized under the general authority of the Interlocal Cooperation Act. *Accord* Op. Att’y Gen. 97-413 (declining to apply the Interlocal Cooperation Act to an agreement, entered pursuant to A.C.A. § 26-74-214(b)(2), establishing a sales tax distribution formula other than per capita).

Because the Agreement is not an “Interlocal Agreement” under the Interlocal Cooperation Act, but instead is separately authorized by statute, my review and approval is unnecessary.

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Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion,
which I hereby approve.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:EAW/cyh