



**U.S. Department of Labor**  
Employment Standards Administration  
Wage and Hour Division  
Washington, D.C. 20210

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**FLSA2008-1**

March 6, 2008

Dear **Name\***:

This is in response to your request for an opinion regarding whether purchasing agents (PAs) employed by your firm, a motor home manufacturer, qualify for the administrative exemption under section 13(a)(1) of the Fair Labor Standards Act (FLSA).<sup>\*</sup> It is our opinion that the PAs are exempt administrative employees.

You state that the main duties of the PAs include ensuring that materials, equipment, and supplies are timely ordered and delivered so the manufacturing process functions smoothly; negotiating prices with vendors; placing orders; maintaining records and handling returned goods; and setting delivery times to maintain appropriate inventory level. You state that PAs “have the ability to stop or start the production line” based on their materials purchasing decisions. In addition, PAs play a primary role in vendor selection, researching vendors, requesting quotes, negotiating with potential vendors, and making a recommendation for vendor selection to the manager. PAs are authorized to make purchases up to \$25,000 without managerial review or authorization. In a follow-up conversation with a member of our staff, you indicated that 99% of purchasing orders are below \$25,000.

Section 13(a)(1) of the FLSA provides a minimum wage and overtime exemption for “any employee employed in a bona fide . . . administrative . . . capacity” as defined in 29 C.F.R. Part 541. An employee may qualify for the administrative exemption if the duties and salary tests are met. Under [29 C.F.R. § 541.200\(a\)](#), “employee employed in a bona fide administrative capacity” means “any employee”:

- (1) Compensated on a salary or fee basis at a rate of not less than \$455 per week . . . ;
- (2) Whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer’s customers; and
- (3) Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

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<sup>\*</sup> Unless otherwise noted, any statutes, regulations, opinion letters, or other interpretive material cited in this letter can be found at [www.wagehour.dol.gov](http://www.wagehour.dol.gov).

For purposes of this opinion, we assume the PAs receive at least \$455 per week on a salary basis.

“Work directly related to management or general business operations” includes work in such functional areas as purchasing and procurement. [29 C.F.R. § 541.201\(b\)](#). [Section 541.203\(f\)](#) further clarifies that “[p]urchasing agents with authority to bind the company on significant purchases generally meet the duties requirements for the administrative exemption even if they must consult with top management officials when making a purchase commitment for raw materials in excess of the contemplated plant needs.” Factors considered in determining “whether an employee exercises discretion and independent judgment with respect to matters of significance” include: whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices; whether the employee performs work that affects business operations to a substantial degree; whether the employee carries out major assignments in conducting the operations of the business; and whether the employee has authority to commit the employer in matters that have significant financial impact. [29 C.F.R. § 541.202\(b\)](#).

We believe the PAs in question perform office or non-manual work and that their duties—ensuring that materials, equipment, and supplies are ordered and delivered and participating in the vendor selection process—directly relate to the functional areas of purchasing and procurement. *See* 29 C.F.R. § 541.201(b). Therefore, the PAs’ primary duty involves the “performance of office or non-manual work directly related to the management or general business operations of the employer.” 29 C.F.R. § 541.200(a)(2).

We also believe the PAs’ principal areas of responsibility “include[] the exercise of discretion and independent judgment with respect to matters of significance.” 29 C.F.R. § 541.200(a)(3). As described previously, the PAs are minimally supervised. *See* 29 C.F.R. § 541.202(c). Examples of duties indicating the PAs have “authority to . . . affect . . . or implement . . . operating practices” include ensuring that materials, equipment, and supplies are ordered and delivered so the company’s manufacturing process functions smoothly. 29 C.F.R. § 541.202(b). In researching and requesting quotes from potential vendors, negotiating with vendors, and recommending which vendors to select, the PAs “carr[y] out major assignments in conducting the operations of the business.” *Id.* In negotiating prices with vendors, placing orders, and setting delivery times to ensure appropriate inventory level, the PAs “perform[] work that affects business operations to a substantial degree.” *Id.* The authority to place purchase orders less than \$25,000 without manager approval demonstrates that the PAs have “the authority to commit the employer in matters that have significant financial impact.” *Id.* This significant financial impact is not negated by the requirement that managers approve purchase orders of more than \$25,000 particularly in light of the fact that 99% of purchase orders do not require further authorization. *See* 29 C.F.R. § 541.203(f). Under § 541.202(c), “employees can exercise discretion and independent judgment even if their decisions or recommendations are reviewed at a higher level.” The high threshold amount requiring manager authorization is consistent with exempt status.

Based on the information provided, the PAs meet the requirements of § 541.200(a)(1)-(3). Therefore, it is our opinion that the PAs are administrative employees exempt from minimum wage and overtime provisions of the FLSA.

This opinion is based exclusively on the facts and circumstances described in your request and is given based on your representation, express or implied, that you have provided a full and fair description of all the facts and circumstances that would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your letter might require a conclusion different from the one expressed herein. You have represented that this opinion is not sought by a party to pending private litigation concerning the issues addressed herein. You have also represented that this opinion is not sought in connection with an investigation or litigation between a client or firm and the Wage and Hour Division or the Department of Labor.

We trust that this letter is responsive to your inquiry.

Sincerely

Alexander J. Passantino  
Acting Administrator

**\* Note: The actual name(s) was removed to preserve privacy in accordance with 5 U.S.C. § 552(b)(7).**