My name is David Erb and I am the Finance Director for the City of Lewisville.

Thank you for giving me this opportunity to comment on your proposed rules change for sales tax sourcing and to present you with information about the negative economic impacts Lewisville would suffer if these proposed rules are adopted.

The fastest summary of my comments is this -- Lewisville has been fiscally conservative for several decades, keeping both its tax levy and its spending down to levels well below most of our North Texas neighbors and below most similarly sized cities in Texas. As a result, these rules would have a disproportionate impact on Lewisville, taking away more than $1 million per year, net after any gains from other online sales tax receipts. That is equal to a full penny on our property tax rate.

That reduction is likely to lead to reduced services for our residents unless we can find a replacement revenue source, something that is more difficult now than it has been in the past due to recent changes in Texas law.

With that quick summary in mind, I’d like to provide some supporting documentation that I believe is important as you consider this proposed rules change.

First, let me describe Lewisville’s long history of operating in a fiscally conservative manner, seemingly in the exact manner the state wants of its city governments.

The city’s current property tax rate of 44.3 cents is within half a penny of the city’s lowest tax rate in 30 years. It ranks among the lowest among all North Texas cities, and among the lowest among Texas cities with a comparable population. This low tax rate benefits our residents as well as our business community.

Our City Council set a goal in the 1990s to fund our operating budget through a variety of sources so as to avoid over-reliance on any one source, such as property tax or sales tax. This balance protects the city from inevitable downturns in the economy and has helped keep a very low overall tax burden on Lewisville property owners. According to a survey conducted by our neighboring city of Carrollton, Lewisville has the lowest annual cost of service for its residents among comparable North Texas cities.

Through meticulous budgeting, lean staffing, and efficient use of resources, our city has been able to keep the tax burden low while still providing quality service to the public.

* Our police department was the 28th agency in the stage to achieve Recognized status with the Texas Police Chiefs Association for compliance with  compliance with 164 Texas Law Enforcement Best Practices.
* Our fire department holds a coveted ISO rating of 2 and has a plan in place to improve that rating to a 1 within the next few years.
* Our parks department maintains more parkland per capita than nearly any other North Texas city, including  2,500-acre nature preserve that few other cities can match.
* Our library has a thorough printed and multimedia collection, a wide range of online resources, and a very popular maker space and digital media lab.
* Annual investment in infrastructure means our streets, sidewalks, alleys, and utility lines are in far better shape than should be the case in any 100-year-old city.
* A healthy cash reserve has allowed the city to use pay-as-you-go to build multiple public facilities, including a state-of-the-art animal shelter, debt-free.

So I believe it is fair to say we have been careful stewards on behalf of Lewisville’s taxpayers.

However, providing quality services that residents want and expect requires spending money. So any threat to our ability to adequately fund our operating budget is a direct threat to the quality of life for our 100,000 residents. Taking revenue away from the city, or impeding our ability to generate new revenue to cover rising costs, ultimately will result in reduced services.

Lewisville has found success in attracting e-commerce facilities and fulfillment centers in our major business parks, often competing with locations outside the great state of Texas to bring these businesses and their employees here. We use 380 agreements to provide sales tax sharing using the city’s portion of general fund sales tax with the companies. It is important to note that these agreements are only used for true e-commerce facilities and do not divert sales tax from physical retail locations in other Texas cities.

Conversations with some of our existing businesses indicate that the ability to negotiate a sales tax sharing agreement was an important factor in their decision to locate in Lewisville. The proposed rules change would alter the sales tax sourcing and, in the process, would negate our ability to reach these agreements and bring new tax revenue and jobs to Texas.

We believe that Section 3.334(c)(6) which states that “internet orders are not received at a place of business of the seller in Texas,” is a significant shift from the current rule, as neither the Wayfair decision nor the recent changes to state law provide for this shift. The Wayfair decision addressed interstate transactions, not intrastate transactions. Further, neither HB 1525 nor HB 2153 change the situs of an internet sale beyond the limited changes to third-party sales through marketplaces.  This proposed rules change appears to be inconsistent with Chapter 321.

By making a significant shift to destination-based sourcing for sales tax on internet sales generally, this proposed addition to the draft rules goes beyond what is necessary to implement these new laws.  This is a significant policy issue with far reaching impacts that should be based on extensive policy research and considerations, then set by state law through the Legislature.

We appreciate your thoughtful review of our concerns and plead your consideration to revise the rules in order to limit the negative impacts to Lewisville and other Texas communities.