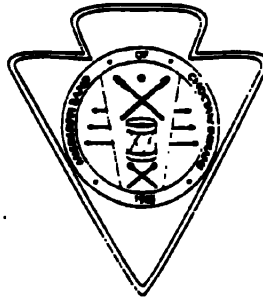


MISSISSIPPI BAND OF CHOCTAW INDIANS  
OFFICE OF THE TRIBAL CHIEF



RECEIVED  
TRIBAL OFFICE BUILDING  
POST OFFICE BOX 6010  
PHILADELPHIA, MISSISSIPPI 39350  
TELEPHONE (601) 656-5251  
FAX (601) 688-7333

June 28, 1993

Mr. Bradley Litchfield  
Associate General Counsel for Policy  
Federal Election Commission  
999 E Street NW  
Washington DC 20463

**AOR 1993-12**

Re: Advisory Opinion Request

Jul 1 1993

Dear Mr. Litchfield:

As the duly elected Chief of the Mississippi Band of Choctaw Indians, I am writing to request an advisory opinion pursuant to 11 CFR 112, as to whether the tribe may contribute to a candidate for a federal public office under the circumstances described in this letter.

The tribe is a non-corporate entity organized in accordance with a constitution approved by the Secretary of the Interior pursuant to 25 USC §476. The tribe has entered into various self-determination contracts, and receives grants of federal funds pursuant to the Indian Self-Determination and Education Assistance Act, 25 USC §450 *et seq.* Self-determination contracts between the United States and Indian tribes provide federal funds to a tribe and authorize the tribe to plan, conduct, and administer programs that would otherwise be provided by an agency of the federal government for the benefit of the tribe. These self-determination contracts are not procurement contracts and are specifically exempted from the Federal Acquisition Regulations contained in Title 41 of the *Code of Federal Regulations*, 25 USC §450j(a).

In addition, the tribe administers discretionary grants from various federal agencies (for example, Job Training Partnership Act funds from the Department of Labor, a Vocational Education grant from the U.S. Department of Education, and the like) made available not under the auspices of the Indian Self-Determination Act, but because of the tribe's status as a governmental entity.

The tribe also has chartered several unincorporated commercial ventures that operate as subordinate economic enterprises of the tribe. Some of these tribal economic enterprises have in the past and may in the future enter into contracts with a department or agency of the United States for the provision to the United States of goods or services.

Funds from self-determination contracts and federal grants are not commingled with other unrestricted tribal funds. The tribe is also required to provide the appropriate federal department (Interior) on an annual basis with a full accounting of federal funds expended pursuant to self-determination contracts and federal grants.

Funds from the subordinate tribal economic enterprises are also separately maintained for each enterprise, and each enterprise is required to have an annual independent audit conducted, and to present the Tribal Council with a full report of its operations and financial records. In situations in which an enterprise has surplus funds that are not needed for Mr.

**Bradley Litchfield**  
**June 28, 1993**  
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operation or expansion of the commercial business affairs of the enterprise, then the enterprise is expected to transfer such funds to the tribe. However, if necessary, the tribe could establish policies and procedures to ensure that no enterprise funds received as a result of a federal contract are ever transferred to the general unrestricted tribal funds from which any political contributions would be made.

Prior to requesting the Tribal Council to approve an appropriation of unrestricted tribal funds for a campaign contribution, I would appreciate an advisory opinion as to whether the tribe would be considered to be a "person who enters into a contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States. . ." within the meaning of 2 USC §441c under the circumstances described in this letter. Please let me know if you need any additional information. Thank you for your assistance.

Sincerely,

  
Phillip Martin  
Chief

PM:ab