

MILLE LACS BAND OF CHIPPEWA INDIANS
Judicial Branch of Tribal Government

Opinion of the Solicitor General

016-056-84

TO: A.J. Nickaboine, Commissioner of Education
Douglas Sam, Secretary of Treasury

FROM: Jay Kanassatega, Solicitor General

RE: Legality of Retro-Active Salary Increase to Contracts with Expired
Fiscal Year Dates

This responds to your request for an opinion, dated July 31, 1984, on the question of the legality of a retro-active salary increase which is allocated to a program with an expired fiscal year. I understand that the final close-out package for this particular contract has yet to be submitted. Further, I have reviewed the issue from the documentation you provided, as well as Band Statutes and policies of the Band. The following is therefore submitted as a binding opinion pursuant to Band Statute 1024-MLC-3, Section 19.01.

At the outset, it must be pointed out that the issue in dispute does not seem to turn upon the interpretation of the laws of the Mille Lacs Band or any official act of any officer of the Band as is necessary to prepare an opinion. This issue does however more properly turn upon a contractual arrangement between the Band and an exterior party. The question you raise is more primary to the consent of the grantor of the funds rather than any expressed desire of the grantee in the implementation of the contract since the action the Commissioner recommends and the Office of Management and Budget seem to oppose, would be subject to auditor review and grantor consent to allow said disbursement as legal expenditures.

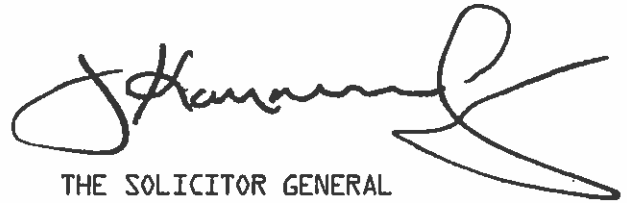
Additionally, the questions you raise do not involve a written policy as is also required under Band Statute 1024-MLC-3, Section 19.01 prior to the issuance of a formal binding Solicitor Opinion. A review of the Personal Policies did not reveal any material issues that address the matter before you.

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Therefore as a result of my lack of subject matter jurisdiction within the statutory confines of Band Statute 1024-MLC-3, Section 19.01, I must defer the requested opinion to the proper Executive jurisdiction for resolution. Any such resolution of the issues will constitute the development of the administrative body of law to govern future similar causes of action. The foregoing opinion shall be legally binding unless annulled by the Court of Central Jurisdiction or amended by the Band Assembly (Band Statute 1024-MLC-3, Section 19.01).

A handwritten signature in black ink, appearing to read 'J. Hamann', with a large, sweeping flourish extending to the right.

THE SOLICITOR GENERAL

Dated at Vineland, Minnesota this thirty-first day of August, 1984.

OFFICIAL SEAL OF THE BAND