

Office of the Attorney General
State of North Dakota

Opinion No. 81-125

Date Issued: November 20, 1981

Requested by: Juanita J. Helphrey
Executive Director
Indian Affairs Commission

--QUESTION PRESENTED--

Whether monies from the Indian Development Fund may only be used in Indian development projects to match grants from federal, tribal, or private agencies to the extent they require matching funds.

--ATTORNEY GENERAL'S OPINION--

It is my opinion that monies from the Indian Development Fund may only be used in Indian development projects to match grants from federal, tribal, or private agencies to the extent they require matching funds.

--ANALYSIS--

Section 54-34.2-02 of the North Dakota Century Code sets forth the purpose behind the establishment of the Indian Development Fund. The last sentence of this statute states as follows:

Therefore, the Indian development fund is created to provide matching funds for the Indian people of North Dakota to take full advantage of the opportunities available to them.

Section 54-34.2-03(3), N.D.C.C., defines matching funds to mean 'the portion of state or local funds that may be required as a condition for receiving funds from federal, tribal, or private agencies.' In Section 54-34.2-04, N.D.C.C., the statute states that monies from the Indian development fund may only be used for state or local matching funds as may be required by federal, tribal, or private agencies for participation in Indian development projects.

The provisions of Chapter 54-34.2, N.D.C.C., make it clear that the legislature intended to develop a fund from which monies would be available to match funds from federal, tribal, or private sources so as to allow the Indian people of this state to participate in federal, tribal, or private development projects. Although the phrase 'that may be required' is used several times in describing matching funds, thus suggesting that monies

from the funds are available even where matching funds are not actually required as a condition for receiving funds from federal, tribal or private agencies, the intent of the legislature is apparent. Monies from the Indian development fund are to be used for matching purposes only. Where there is no requirement for state matching funds by that federal, tribal, or private agency which is sponsoring an Indian development project, monies from the Indian development fund cannot be expended.

--EFFECT--

This opinion is issued pursuant to Section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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