



MEC  
OPINION NO.

1999.12.100

COPY

STATE OF MISSOURI  
MISSOURI ETHICS COMMISSION  
P. O. BOX 1254  
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January 4, 2000

### NOTICE

**Anyone examining this advisory opinion should be careful to note that an opinion of the Missouri Ethics Commission deals only with the specific request to which the opinion responded and only as to the law as it existed at the date of the response and cannot be relied upon for any other purpose or in any other manner.**

At the December 14, 1999 meeting of the Missouri Ethics Commission, your request for an opinion was discussed. The following is the Commission's response to your question:

*Are state grant recipients considered to have a "contractual relationship" to the state pursuant to 130.041(3)(a), RSMo? If so, who in the recipient organization is required to indicate the relationship?*

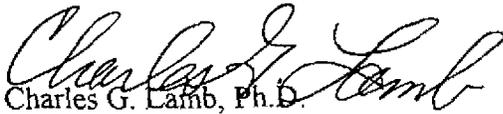
As provided in section 130.041.1, RSMo, candidates are required to file disclosure reports of receipts and expenditures. Subsection 3 describes the types of receipts that must be reported. Subsection 3(a) states in relevant part, "... the candidate committee ... shall make a reasonable effort to obtain and report a description of any contractual relationship over five hundred dollars between the contributor and the state if the candidate is seeking election to a state office or between the contributor and any political subdivision of the state if the candidate is seeking election to another political subdivision of the state."

Section 130.041.1(3)(a), RSMo, places a responsibility on each candidate committee to make reasonable efforts to determine whether there is a contractual relationship between a contributor and the state or a political subdivision. The word "contractual" in the term "contractual relationship" suggests that there are the standard indicia of a contract in the relationship between the parties, most particularly obligations by both parties. While grants in their purest forms are unconditional gifts from one entity to another, the Commission believes that most grants from the state or political subdivisions more closely resemble a contract.

Therefore, the Commission believes that the candidate committee has a duty to make reasonable efforts to determine whether the contributor has a contractual relationship with the state or a political subdivision, and that it is reasonable for the candidate committee to rely on the

representations of the contributor absent some clear indicators to the contrary. However, if a contributor asks the candidate or the candidate committee whether grants are considered "contractual relationships", as that term is used in section 130.041.1(3)(a), RSMo, it would be prudent and advisable to advise the contributor that the grant is likely a contractual relationship. The Commission remains committed that the spirit of the law of campaign finance requires full disclosure, and that the candidates and committees should err on the side of more disclosure, not less.

Sincerely,

  
Charles G. Lamb, Ph.D.  
Executive Director

MCR:bd

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