United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

TAKE PRIDE IN AMERICA

MAR 0 7 2007

Mr. Joe White
Number One Public Square
Lawrenceburg, Tennessee 38464

Dear Mr. White:

On September 9, 2000, the Department of the Interior (Department) received a letter of intent to petition for Federal acknowledgment under 25 CFR Part 83 *Procedures for Establishing that an American Indian Group exists as an Indian Tribe* from a group called the "Cherokee's [*sic*] of Lawrence County, TN Sugar Creek Band of the SECCI" (Petitioner #227, or the CLCT). The Office of Federal Acknowledgment (OFA) within the Office of the Assistant Secretary - Indian Affairs (ASIA) of the Department has completed the initial technical assistance (TA) review of the petition. The Department issues this TA review letter under section 83.10(b).

This TA review letter describes obvious deficiencies and significant omissions apparent in the petition materials that Petitioner #227 submitted on September 14, 2000; May 3, 2002; August 8, 2003; May 21, 2004; February 1, 2005 and December 12, 2006. During this time, other materials and correspondence have been submitted by the petitioner, which were not certified by the group's governing body as part of its documented petition. These materials are also reviewed here.

The Federal acknowledgment regulations provide for this TA review letter to ensure the group's petition is not rejected because of technical problems it may have while putting together the petition. A TA review is not a preliminary determination of the petitioner. However, after reading this TA review letter, the group may decide it does not fall within the scope of the regulations and may choose to withdraw its petition from the acknowledgment process. The group may alternatively decide to conduct additional research and submit documentation which addresses the criteria or will clarify previously submitted materials.

This TA letter does not constitute any evidence that a positive or negative conclusion has been or will be reached on the petition, or on the portions of the petition not discussed in this letter. The petitioner should not assume that it will meet the seven mandatory criteria simply by submitting additional materials addressing concerns expressed in the TA review. The TA review of the petition merely provides the petitioner the opportunity to submit additional information and/or clarification prior to the active consideration phase. During active consideration, the acknowledgment staff conducts a comprehensive evaluation that verifies and/or analyzes a completed petition.

Petitioners have the option of responding in part or in full to this TA review. Or, the petitioner may request the OFA to proceed with the petition using the materials already submitted. The

decision as to whether the group chooses to address the deficiencies noted in the TA review should be made by the membership of the petitioner, and not solely one individual. Any supplemental submissions must be certified by the governing body of the group.

If the petitioner submits information, materials, and clarifications in response to this TA review, the petitioner may make a formal request that the OFA review the petition for another evaluation for obvious deficiencies. This additional review is not automatic and can be conducted only upon written request by the petitioner to the OFA.

I. General Comments about the Petition

The OFA previously addressed the issue of proper group certification of submitted petition materials. For instance, a February 14, 2005, letter from the OFA stated, "... submissions that the group intended to be a part of its documented petition must be certified by all members of the governing body, not by just one individual, such as yourself (25 CFR §83.6(b))." This letter also explained that a "certification must include the signatures of the individual members of the governing body, rather than a resolution stating that the council certified the submissions." The vast majority of correspondence to the Department and members of Congress concerning Petitioner #227's claims have been signed by one individual, Mr. Joe Harlan White. There is little or no evidence that the claims and assertions voiced by Mr. White represent those of more than one individual. Thus, it is not clear that all of the materials were intended to be a part of the group's documented petition. For example, see the letters dated March 8, 2002; February 20, 2005, and June 3, 2005, and the "To: Archives" notes dated September 6, 2000, and others. All future submissions must include a certification signed by all members of the governing body.

The petitioning group's materials consist of several submissions during a six-year period. A full inventory of submissions, which totaled 3,923 pages, is attached for your review. The many duplicates seriously inflate the total pages of the inventory. Many photocopies of documents, in particular the hand-written membership list, are difficult to read or are illegible and better copies should be submitted. Please see the enclosed Official Guidelines and March 2005 Federal Register Notice for advice to the petitioner concerning the submission of documents.

This TA review indicates that there are significant deficiencies and omissions in six of seven acknowledgment criteria 83.7 (a), (b), (c), (e), (f) and (g). For this reason, the OFA recommends the group carefully review section 83.7 and the contents of this TA review letter. The OFA recommends that the entire governing body and the general membership determine whether the group should continue to pursue Federal acknowledgment.

The TA review indicates that the petition generally fails to document that the group is made up of Indian people who have existed continuously as a group from historical times. Large portions of petition material are hand-written and are not supported by historical or contemporary documentation. The lack of reliable, contemporary documentation is a major deficiency with the petition. Copies or citations of source materials must be submitted to the OFA, as well as

readable copies of supportive materials. Also, there does not appear to be any evidence of the character of the group as a whole. There is little or no evidence that the petition represents a group or community of American Indians, or that such a community, if it exists, descends from a historical tribe.

Much of the material does not appear to be relevant to the acknowledgment criteria. For instance, many pages of contemporary fiction are included in the petition. Works of fiction are not acceptable evidence under the regulations. Historical non-fiction materials must be submitted to meet any of the criteria of the acknowledgment regulations. See the criteria 83.7 (a) - (g) and the Official Guidelines for suggestions of acceptable evidence.

The petition should trace the history of the group as it survived as a group over time and not concentrate on the history of particular individuals. Individual histories and personal adventures are not the history of the group. The history of isolated individuals is not acceptable evidence for the existence of a group and community.

In a number of cases, the petition emphasized and made assumptions that certain individuals were identified as Indian. With more research, perhaps a few of the petitioner's members may be able to trace their lineage to historical Cherokee individuals or members of other tribes. However, the possibility of such Indian heritage is not now documented and overall the petitioner has not demonstrated descent from a historical tribe. There is very little to show that a group or community in Lawrence County, Tennessee, was identified as Cherokee, as Indian, or that such a group existed.

All in all, the entire petition needs to be reorganized. Basic formalized genealogical materials (ancestry charts and individual history charts) for each member of the petitioner must be submitted with the understanding that any Internet materials must be supported by historical or contemporary documents. Having the same last name as a historical Indian person found on the Internet is not acceptable evidence of descent without supportive genealogical documents such as birth, death, and marriage records, Federal censuses, deeds, probate records, or church and school records that identify individuals and their parents. These records need to be provided to the OFA. All petitioners are asked to provide such evidence.

Generally, the few genealogical materials submitted did not appear to demonstrate that members of the petitioner's group trace to a historical American Indian tribe or tribes that amalgamated. Nor did the materials identify the Indian ancestors. Importantly, the Department distinguishes between Indian descendants and acknowledgeable Indian tribes. Many Indian descendants have not maintained their tribal connections since their distant ancestors left or were separated from their tribe. Alone, such descendants would not meet the criteria for acknowledgment under 25 CFR 83, which acknowledges only those Indian groups that have continued to exist as social and political entities from historical times. The regulations do not allow acknowledgment of newly formed groups of Indian descendants who come together after several generations apart and want to "reestablish" an Indian tribe.

Bear in mind that demonstrating Indian descent alone will not be enough to qualify the group as an Indian tribe. The requirement for "continuous existence of the tribal entity" as a political body since first sustained contact with non-Indians is the foundation of the acknowledgment regulations and the basis for acknowledgment policy.

Petitioner #227 must demonstrate that the group's members are not only Indian descendants, but also participants in a continuously existing Indian community. Historically and contemporarily, the petitioner needs to show its group doing things together, such as making decisions, having arguments, resolving disputes, marrying each other, living in close proximity in a settlement, following their leaders, maintaining property such as a cemetery, or doing any number of other activities that show the members acting together. The petition contains a few contemporary examples of these types of activities, but examples must be broadened to include historical activities. In order to demonstrate a continuously existing political and social entity, the petitioner should provide further examples along with descriptions of past and present activities of the group. The petitioner is particularly encouraged to include taped interviews with various members of the group in order to allow the recollections and opinions of the entire community to be collected and submitted as part of the petition.

The petition materials include copies of letters signed by Joe Harlan White to various offices within the Department and members of Congress, and a document entitled "Note: To Archives" accusing government agencies and officials of genocide, anti-Semitism, other wrong-doing, and making other misrepresentations. The Federal acknowledgment process is a thorough and thoughtful examination and evaluation of historical evidence provided by the petitioner in relation to the criteria of Federal regulations. Any future submission from the group should address only the seven mandatory criteria of 83.7 (a) - (g).

DNA Information

Your February 9, 2002, letter to Michael Goode of Representative Van Hillery's staff stated that "The BIA does not accept DNA Scientific Proof." This is correct in the context of the petitioner's claims. DNA evidence has not been utilized by the Federal acknowledgment process because Federal acknowledgment is not based on racial categories, or a group's claimed genetic descent from Indian ancestors. Petitioner claims a genetic relationship to Ashkenazi Jews proves their Cherokee ancestry as theorized by James Adair's *The History of the American Indians* in 1775. In this context, DNA cannot be used to prove a group's existence.

DNA has been used by some petitioners to prove or disprove paternity for the possibility of individual membership in the petitioner's group. Use of DNA for determining individual paternity may be acceptable evidence.

"Black Dutch" and Time period for Evidence

The group claims that the regulations put an impossible burden on petitioners by requiring they prove descent from a pre-Columbian or pre-colonial Indian entity. This misinterprets the

regulations, which require the group demonstrate it has maintained a distinct community and political authority only from historical times to the present.

In the case of a petitioner claiming descent from the historical Cherokee tribe, the group would need to demonstrate that its ancestors were part of the tribe and demonstrate descent and maintenance of a separate community from the time when the ancestors left the historical tribe, such as the early 1800's or Trail of Tears era (1830's) as the case may be.

The group's February 20, 2005, letter to OFA stated, "All Cherokee in this area went silent and hid their Race out of Fear. Black Dutch was invented. We still have Great Fear of bad treatment from the U.S. Government, unfortunately." Again, the petition needs to describe this group and describe how the hidden "Black Dutch" and the non-Indian individuals merged and became the petitioning group. Please send photocopies of any historical documents addressing the "Black Dutch" and identifying the members or ancestors of the petitioning group as "Black Dutch."

The petitioner relies heavily on written materials about the historical Cherokee tribe. The group must provide supportive documents that their ancestors were associated or directly connected with the historical Cherokee tribe. You reference the "Trail of Tears." Please submit any documentation of any individual in your organization whose lineage can be traced to any Cherokee ancestor who escaped the "Trail of Tears." Please provide the names of such ancestors who "escaped" the "Trail of Tears" or the names with their birth and death dates of the group's ancestors who were reportedly Cherokee. Similarly, regarding the "Black Dutch" claims, the petition must identify the historical individuals labeled as such, and provide a rational of how individuals perceived as "Black Dutch" maintained a group identification through time. The petition infers that the surrounding non-Indian population merged with the "Black Dutch," or Indians, in some historical time period. Please explain how your group and its ancestors maintained a separate and distinct community, whether periodically identified as "Indian" or "Black Dutch," from historical contact to the present.

II. Specific Comments of Petitioner's Criteria 83.7 (a) through (g)

This TA review indicates that there are significant deficiencies and omissions in the current petition as it addresses acknowledgment criteria (a) - (g) in the current petition. It is important for the petitioning group to review the Federal acknowledgment criteria 25 CFR 83.7(a) - (g) carefully and direct any additional efforts and research toward providing the evidence that will demonstrate it meets each criterion. The following is a discussion of specific criteria, or a review of petitioner's statements, which may be followed by questions and/or comments. The petitioner is reminded that this is not a complete review of all submitted documents. This review highlights only major deficiencies and omissions that are readily apparent.

25 CFR Part 83— Procedures for Establishing that an American Indian Group exists as an Indian Tribe: 83.7 Mandatory criteria for Federal acknowledgment:

Criterion (a): The Petitioner demonstrates that it has been identified as an American Indian entity on a substantially continuous basis since 1900.

This TA review indicates that there are significant deficiencies and omissions in the current petition materials addressing acknowledgment criterion (a).

Criterion (a), requires external identification of the group as an American Indian entity since 1900. The criterion is intended to exclude from acknowledgment those entities which have been identified as Indian only in recent times or those whose "Indian identity" is based solely on self-identification. The materials that the petitioner has submitted are inadequate to make an evaluation of the group under criterion 83.7(a). None of the documents the group has provided at the time of this TA review constitute external identification of the group as an American Indian entity. Generally, the petition does not adequately track the "Cherokees of Lawrence County" as a group through time.

The petition contains many hand-written assertions regarding certain documents or events in the form of notes addressed "To: Archives" which were memoranda apparently to the group's own files. These "notes to the archives" do not constitute external identifications of the group for purposes of 83.7(a).

Identifications of individual "Indians" are not useful in demonstrating the group meets criterion 83.7(a). For example, statements such as the following are generally not useful to meet this criterion: "The grandmother of someone is identified as an Indian on the Federal Census," someone "looks like a Cherokee," or someone "descends from a chief." Statements such as these by themselves do not help the petitioner meet 83.7(a), and have not been accepted as evidence in other petitions.

Documentation for criterion 83.7(a) should focus on external identification since 1900 of the group as an Indian entity rather than on the identification of past or present individual members as "Indians." Generally speaking in order to satisfy criterion 83.7(a), the group should submit examples from each decade since 1900 which demonstrate that external observers identified the petitioning group or predecessor community as an Indian entity. It is important that the identifications refer specifically to the petitioning group and its ancestors.

Other successful petitioners have used contemporary records such as newspaper articles, reports by visiting anthropologists, historians, or other scholars, relationships with state governments based on identification of the group as Indian, dealings with county or other local authorities, or church records as evidence that an Indian group was being identified in the 1900's, 1910's, 1920's, etc. to the present. Retrospective letters or histories are not acceptable as evidence.

The petition included a letter of appreciation for a monetary donation to the Native American Rights Fund (NARF) that petitioner declares is recognition of their tribal entity. An invitation by the Administration for Native Americans' (ANA) to attend the Administration for Children and Families (ACF) 2004 "ACF Tribal Consultation Luncheon," petitioner claim is "recognition by

the U.S. government." The petitioner's claims concerning these letters are not supported by the evidence. Neither document demonstrates that NARF nor the Federal government or any of its agencies, dealt with the CLCT as an Indian entity or tribe.

The letter to OFA on February 20, 2005, stated: "There is a very important document in our Petition where Chief Chad Smith of the Cherokee Nation, publicly admitted that we exist." However, in the e-mail and website materials submitted, Chief Chad Smith stated, "There are people like the Johnsons with undeniable Cherokee heritage who don't meet enrollment requirements. ... That doesn't mean they can't claim their ancestry. ...people whose Cherokee ancestors emigrated from the Cherokee Nation before the Dawes Rolls were taken cannot claim Cherokee citizenship." Earlier in the article, Chief Smith stated that he "thinks the Johnsons are handling the reality of their situation well by participating in Cherokee culture without aligning themselves with a group that is seeking recognition." Thus, Chad Smith's correspondence did not provide evidence that the Cherokee Nation identified the CLCT as an Indian entity.

The group's February 20, 2005, letter stated:

> You will also find resolutions, and copies of letters written by our Mayors, Commissioners, and others to our Senators and Congressman, requesting Legislative Recognition for our Tribe. They know who we are. Their families knew our families for generation after generation, and knew that we are Cherokee.

The petition contains supportive letters from various individuals who claimed "knowledge" or "awareness" of Cherokees in Lawrence County; however, the letters did not identify the Cherokee families by name and referred only vaguely to observations within the last 50 years. While these identifications may provide some evidence for the most recent time period, they do not provide evidence that the current petitioner is the same group being discussed. OFA suggests that the petitioner take oral histories from these individuals, have them name members of the Indian group, and provide a fuller description. How did these individuals become "aware" of the Cherokees in Lawrence County? Are any of these individuals or others aware of Cherokee groups or organizations in Lawrence County, and, if so, what were their activities before and during the last 50 years?

The note "To Archives (d)" dated February 11, 2003, stated:

> All of the Wars that our Cherokee ancestors agreed to fight in for the U.S. Gov. is a Gov to Gov. Relationship in that the Clans agreed to fight for the U. S. Gov.... The Wars that the Clans decided not to fight in, and/or against the U.S. Gov. i.e. The War between the States is one Gov. saying No to the other Gov. and fighting the other Gov. (U.S.) is a Gov. to Gov. Relationship.

Besides this personal note, is there any contemporary, written documentation to support these assertions? Such a group action may be evidence of a political entity dealing with the Federal

Government. However, an individual serving the military is not evidence of a government-to-government relationship between the U.S. government and a tribal entity.

Likewise, the February 11, 2003, note "To Archives (d)," stated: "When the Social Security System was established, some Clans agreed to it and other Clans did not participate, until it was required. Thus a Gov. to Gov. Relationship." This assertion is not an external identification of the petitioner as an Indian entity.

If the petitioner has correspondence or other documents from the 1930's from individuals representing an Indian group who refused to participate in the Social Security program, the petitioner should submit that evidence for evaluation under criteria (b) and (c).

Criterion (b): The petitioner demonstrates that a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present.

Our TA review indicates that there are significant deficiencies and omissions in the current petition materials addressing acknowledgment criterion (b).

Criterion (b) requires the petitioning group to show that it has existed as a community from historical times until the present. The materials that the petitioner submitted were inadequate to make an evaluation of the group under criterion 83.7(b). The notes and letters in the petition do not provide evidence to demonstrate the maintenance of a distinct Indian community throughout history up to the present. Information found in the petition appears to pertain to individuals in modern times joining together to form a group. Social events seem to be limited to meetings of a newly formed organization with a very narrow, specific purpose and do not demonstrate the required social connections among the members.

The petitioning group's task is to show composition of the group at different times throughout history and identify the specific activities of the group. This may include individuals who were part of the group in the past, but who do not have descendants in the present group. The OFA suggests that the petitioner use the Federal censuses from 1930, 1920, and 1910 on back to the early 1800's, if necessary, to identify the group's ancestors and other relatives or neighbors who were a part of the historical group.

The group should describe what the community looked like at different historical times. This can be achieved by describing the community as it exists today, and then working backward in time. The genealogies should define the membership at different points in time and related historical documents need to demonstrate how they interacted with each other to preserve their community. The OFA advises the petitioner to begin its analysis with the present members and their genealogies to define the group's relationship to a historical community.

The petitioner will also need to enhance documentation concerning current social events of the group as well as document similar events that may have been conducted by the group's

ancestors. Petitioner #227 needs to explain and document how social events and activities past and present demonstrate that a predominant portion of the group comprises a distinct community as required by the regulations.

The petitioner should submit evidence of surviving group institutions throughout history that served to maintain a cohesive community. The activities described in the petition do not seem to be distinct from those of the surrounding non-Indian population in Lawrence County. The activities described in the petition seem to be of a recent nature and are not found historically among the members of the group or their direct ancestors. Detailed descriptions of activities that provided social cohesiveness or unity throughout history were lacking. Contemporary activities were generally referred to, but even these recent activities need to be described in full context of how the activities reinforced social cohesiveness or unity of the group.

The petitioner's membership criteria are open and it seems that anyone can become a member by claiming descent from Cherokees who occupied lands nearby, or by claiming descent from escapees during the "Trail of Tears." According to the group's bylaws, anyone claiming to be a Native American can become a member of the group. Apparently, non-Indians are allowed to be members also. This membership criteria does not provide evidence that a distinct community continued to exist or exists today. Rather, with such an open membership the likelihood of community within the meaning of the regulations is unlikely.

The current petition does not reference outside sources that were well informed and able to describe the community of the petitioner's ancestors participating in activities in Lawrence County. Letters from local individuals and religious leaders, stating they were "aware" of Cherokees in their midst, failed to identify the group and explain what the group was doing. In this regard, the petition does not contain descriptions of any historical event in which the "Cherokees of Lawrence County" group participated.

Discrimination and Cultural Factors

The December 19, 2002, note "To Archives," stated, "We are under continuous attack by White men for the past 3 years. 25 acres desecrated," to which is attached a newspaper article entitled, "Indian graves in Lawrence are being robbed by intruders." However, there is no evidence in the record concerning any connection between the cemetery and the petitioner, how long the cemetery has been in use, if it was exclusive to the group's ancestors, or if it was a pre-historic burial area. How long has the group been aware of the cemetery? Are there any records that associate the cemetery with a historical Indian community? How long has the group been caring for cemetery? What has been taken from the cemetery? The group should submit additional information about this cemetery, but most importantly describe the group's complete past and present activities regarding it.

The January 30, 2005, letter stated, "We are also shocked that the books, and music were not properly interpreted by the BIA, in that this type of art, emits from the heart of our Cherokee People and serves very well in telling our story and preserving our heritage." Personal

interpretations of contemporary fine arts or emotions, no matter how sincere, are not evidence that a tribe has continued to exist.

The group's February 20, 2005, letter stated,

> Some of the most important evidence is our 1806 Treaty that established the Congressional Reservation that as 'Old Settlers' we were issued Land Grants, and requested by the U.S. Government to move West. ... A 'Pass Port' was issued to a Pennington that staked out present day Heneryville, and was later issued the 1st Land Grant, other Cherokee followed with more Land Grants.

Please provide supportive documents for these historical events and link your group to them. Describe the scope of this "Congressional Reservation" and list the Land Grantees who are ancestral to members of your group. Please note that the "History of the Cherokee, Descendants of Chief Tuttle & Pokerhunter of South Carolina" stated that the Pennington's Mary Tuttle Indian connection was not proven and was unclear. The OFA suggests that the group apply standard genealogical research techniques to verify the Pennington's claimed ancestry.

The same letter also stated, "You will also find in our Petition Maps and deeds that prove that we have owned and stayed in the same locations in Lawrence County, TN for over one hundred years." However, only one deed is found in the submitted materials. Please provide photocopies of the documentation and explanation of long-term land holdings of petitioner's members or ancestors who were living in Lawrence County. To support your assertion that the group has been in Lawrence County since the early 1800's or the Trail of Tears era in the 1830's, the group must submit evidence documenting its residence in Lawrence County in the 1800's.

The November 6, 2004, "To: Archives" note stated, "Today our Tribe and Museum conducted a Memorial Day for this event and plan on expanding the Memorial each year for years to come." Please document the beginning of this Memorial Day event for the Bell's Route of the "Trail of Tears" and the participants in this event. What activities are usually conducted during the Memorial? Is the "Tennessee Trail of Tears Association" a part of your group? If not, please explain how your group cooperates with the Association.

The September 6, 2000, "To: Archives" note referred to a monthly newsletter, but the petition did not include copies. Please provide copies of any monthly newsletters that may exist.

The November 3, 2005, "To: Archives" note included a hand-written "2005 Calendar of Tribal Events." Is the hand-written Calendar of Tribal Events copied and given to members of your group? Please provide copies of other "Calendar of Tribal Events" or other circulars describing the group's current and past activities.

The November 2, 2004, "To: Archives" note stated that "...past years volume of printed, and distributed information concerning material of interest about local Cherokee and their

activities.... 205,000 Pages Total." Please submit these materials, if they pertain to your group and if they differ from the materials previously submitted as part of the current petition.

The assertions in the hand-written notes concerning fishing and hunting habits are not evidence of Cherokee culture or a distinct Indian community. In order for such "habits" to provide meaningful evidence under criterion (b), the petitioner must provide evidence that such activities were widespread among group members as shared cooperative labor or other economical activities, and that the habits differ from those of the surrounding population. The petitioner should provide oral histories from members of the group who participated in such traditional cultural activity. If the petitioner has historical documents or records regarding the hunting and fishing activities of the group's ancestors, they should submit them in response to this TA.

The October 24, 2004, "To: Archives" note stated:

> Of all of the marriages that I am personally aware of Cherokee people 100% have been Cherokee to Cherokee.
>
> Cherokee Blood is strong, and I promise to pay special attention to all future marriages as to the percentage of Cherokee to Cherokee and will make periodic notes as to the results for our Archives.

Please provide documentation to support these assertions such as marriage licenses or certificates that identify the bride and groom, the date and place where the marriages occurred and other evidence that confirms the bride and groom were Cherokee Indians. Are any of these individuals part of your group? The OFA needs documentation concerning marriages of the group's ancestors and current members in order to more fully evaluate these claims.

The current CLCT petition includes several examples of actions, such as an individual receiving a land grant, a White man receiving a pass to travel through Indian lands, or individuals serving in the U.S. military, which the petitioner asserted were examples of a "government-to-government relationship." The activities described individuals and individual actions that do not, by themselves, establish governmental relationships and do not establish group activity. The petitioner furnished numerous examples of what it described as evidence of a government-to-government relationship between Petitioner #227 and the Federal Government. However, the described activities do not demonstrate that a tribal entity dealt with the Federal Government or that the Federal Government interacted with a tribal government.

The petitioner also claimed that the Indian Arts and Crafts Act, and other regulations that deal with state recognized groups, were evidence that the Federal Government "recognized" these groups as tribes or as a "political or racial group," and provides a copy of an e-mail from BryanHickman2001@aol.com, January 4, 2003, to this effect. Such statutes and e-mail opinions are not acceptable evidence of a government-to-government relationship between the United States and your group.

Criterion (c): The petitioner demonstrates that it has maintained political influence or authority over its members as an autonomous entity from historical times until the present.

Our TA review indicates that there are significant deficiencies and omissions in the current petition materials addressing acknowledgment criterion (c). The petitioner did not address this criterion or provide supporting documentation and evidence of the creation of a distinct and autonomous political entity in Lawrence County, Tennessee, from historical times to the present.

Criterion (c) requires the petitioning group to demonstrate that it has exercised political influence over its membership since historical times. It requires that a form of leadership existed with followers who knew and cared about political authority and influence. It does not require a formal structure such as a chief and tribal council. Nevertheless, the group must provide information and materials concerning how the group was led, how leadership was expressed, and how political processes function within the group from historical to modern times.

The petition does not provide an explanation of the current political structure of the group. Although the petition identifies many titles and positions within the group, it does not explain the duties of each office holder, how political authority is exercised, or how influence is maintained over the group. This political structure must be reviewed from historical to modern times with important highlights as the group changes its political process. A chronological list of the group's leaders and the political structure of the group would help address part of the concern in meeting this criterion. Supportive documents must be provided to show this political process and how political authority was maintained within the group from historical times to the present.

The petitioner should describe in detail how the group responded to important issues throughout time. Details of the issues involved and how the group managed the issues are important information for the petition. Explanations of the process of resolving disputes, deciding group issues, and enforcement of authority are lacking in the petition.

Council

We noted previously that the names of the officers or council members listed on a July 1, 2002, letter differ significantly from the list of officers on a September 14, 2000, letter. Please submit minutes from meetings, newspaper notices, or records of the group's elections, past and present, which will document the changes in the group's leadership.

On February 14, 2005, the Department asked for information concerning the current leadership. "If there have been changes in your governing body since the initial letter of intent, please include evidence of the elections(s) and the names of the new council members." Any change in the officers, council members, or political organization needs to be reported to the OFA. This information will need to be updated when changes occur.

The petitioner's response to this the section of the TA should include:

- Documents and/or records showing the roles of different officeholders through time within the group.
- Documents and/or records showing the means of resolving disputes through time within the group.
- Documents and/or records of all minutes and attendance records of any meetings through time within the group and any other associated group.
- Documents and/or records showing the political roles of clans through time in relationship to the group.
- Documents and/or records of all minutes and attendance records of any meetings through time within the clan or among the clans.

Criterion (d): The petitioner provides a copy of the group's present governing document including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures.

The CLCT submitted the "By-Laws of the Cherokees of Lawrence County Tennessee, Sugar Creek Band of the SECCI," which addresses the minimum requirements of the regulations. However, the petition gives rise to several questions and issues concerning the petitioner's leadership, past and present (see Criterion (c)). A few contemporary leaders are described in the petition, however, description of any historical leaders or forms of leadership prior to the contemporary organized group is not found in the petition. The petitioner should submit descriptions or minutes of gatherings or meetings of the organization(s) to support the petition.

The February 11, 2003, note "To Archives (d)" stated:

> The Government of the Cherokee consists of Nation (Tribe), Band (operation of 2 or more Clans) and the backbone of the above, the Clans (Families and Friends) numbering from one to 14 in a group.

However, the petition did not include any evidence of how the clans and the officers identified in the bylaws have functioned in the past or at present.

Other Organizations

Over time, the petitioner has submitted documents mentioning other organizations, but the relationship to these organizations, if any, are not fully explained. The OFA requests documents showing the roles and relationship of the different organizations referenced by the petitioner, such as Sugar Creek Band of Cherokee of SECCI, or SeCCI. OFA would like to be informed if the Sugar Creek Band has advanced beyond the "band in formation.

The June 7, 2004, "To: Archives" note, the SeCCI "Talking Leaves" stated "... Many of the TN-Sugar Creek Band of SeCCI are also members of the Cherokee of Lawrence County." Is the TN-Sugar Creek Band a separate organization for the Cherokee of Lawrence County?

In your note "To: Archives," February 2, 2003, you attached a copy of the www.aiac.state.al.us/echota.htm website which is a history of the Echota Cherokee group of Alabama. Please explain how the history of the Echota Cherokee group of Alabama relates to the CLCT petition. If you have a relationship with the Echota group, please explain it.

The letter of May 24, 2000, to the Alabama Indian Affairs Commission referenced your "Bands Genealogy" and "that a great majority of our member's heritage resided in your Great State." Please explain this statement and provide all supporting documents.

This letter also stated, "Presently we are recognized in the State of Georgia by Proclamation.... Please explain this statement and provide all documents concerning such action by the State of Georgia.

Criterion (e): The petitioner demonstrates that its membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.

Our TA review indicates that there are significant deficiencies and omissions in the current petition materials addressing acknowledgment criterion (e). The petitioner submitted a membership list certified by the group's governing body and dated August 1, 2002. Petition #227, however, does not now contain adequate documentation to demonstrate that members descend from the historical Cherokee tribe. This deficiency must be remedied in order to satisfy criterion 83.7(e).

Criterion (e) is designed to show that the members of a petitioning group descend from a historical Indian tribe, or from historical Indian tribes which combined and functioned as a single autonomous entity. The regulations at 25 CFR 83.7(e)(2) require that the official membership list of all known current members of the group must include each member's full legal name (including maiden name), date of birth, and current residential address. Post Office box addresses are not acceptable. The regulations require residential addresses for all members. If some members live in remote areas and use only Post Office boxes as addresses, then the group must provide a physical descriptive address, such as "three miles west of Lawrenceburg, north of Route 7, in a blue trailer."

The petitioner should also provide a copy of available past lists of members based on the group's own relevant membership criteria, as well as a statement describing the circumstances surrounding the preparation of the lists. Copies of the petitioner's membership enrollment records and forms for each member should be submitted to the OFA. The Department has a policy to protect the privacy of living individuals. In general, membership records are protected

against release to the public under exemption 6 of the Freedom of Information Act, which protects the privacy of living individuals.

In evaluating other criteria such as 83.7(a), 83.7(b), and 83.7(c), the Department will focus on the group defined by the membership list. For this reason, it is extremely important that the membership be defined accurately. Any changes in membership (due to birth, death, legal court adoptions of children, expulsions, or voluntary resignations from the group) must be noted.

The petitioner needs to submit standardized and easy to read ancestry charts for each current member. It is advisable that the petitioner use a standard computer genealogical program to record the ancestry of its members. Supportive vital records should include, but are not limited to, clear, legible records that are certified copies of birth, marriage, divorce, death, and any other legal documents. Documentation must be submitted to demonstrate the links between the generations of individuals of the group and to verify the submitted ancestry charts.

The July 19, 2000, letter to Congressman Bob Clement stated, "It took my family and myself 50 years of hard research for us to legally become Cherokees," and "There is 132 members locally that are Cherokees..." Please provide supportive documents and records, and explain the meaning of "to legally become Cherokees."

The February 20, 2005, letter to OFA stated, "As a condition of Recognition, we as a Tribe volunteer and will re-qualify each and every member of our Tribe to insure that we are absolutely satisfied that our Membership is Cherokee." The acknowledgment criterion 83.7(e) requires that the petitioner submit its membership list that is certified by the governing body as accurate and complete. The petitioner is required to submit the genealogical evidence to demonstrate that the individuals on the membership list descend from the historical tribe. All of this must be done before the group is ready for active consideration. Petitioners are not "recognized" on "condition" that the group will later verify its descent from a tribe.

Several individuals are mentioned in the petition as being Cherokee or having Cherokee ancestry, however, accurate genealogical documentation has not been submitted. For instance, on October 5, 2004, "My Native American Heritage" by Dale Casteel, was submitted as petition materials. Mr. Casteel stated, "...I discovered that my great grandmother was a full-blooded Indian, and that her name was Annie Moore." He indicates that Annie Moore was a member of the Cherokee tribe. Documentation to support these statements has not been submitted. Further, it is not clear whether Annie Moore was or Dale Casteel is a part of CLCT. Similarly, in an October 11, 2004, document, Byron Yocom stated, "My Grandmother (Molly) always told me that she was one-fourth Cherokee Indian." Again, documentation to support this statement must be submitted and it should be clarified whether Grandmother Molly was associated with CLCT. Such individual assertions of Indian ancestry are not acceptable evidence of descent from the historical tribe.

The September 6, 2000, "To: Archives" note stated, "Attached local history has two independent stories of a John & Francis Ross that were Indian living in Lawrence County, TN on Sugar Creek

in an area known as Steadman Ridge." Please submit any records that either John Ross or Francis Ross were "Indian" and document how they are related to present members of your group. Also, are there any records that indicated which Indian tribe that either John Ross or Francis Ross belonged? Since the 1840 census stated that "Francis Ross was listed as a single man between the age of 60 and 70 years old," are there any records documenting his family tree?

Name searches in RootsWeb.com's "Native American Data" need to be supported by genealogical evidence documenting each individual's ancestry back to the Cherokee Indian claimed, and to members of your group. The internet sources alone are not acceptable evidence.

The October 30, 2004, "Genealogical Information" submission listed several names and comments asserting Cherokee or other Indian heritage (See Appendix A). However, the petition did not include documentation to connect any of these individuals to a historical tribe. The petition did not include evidence that those claiming to be Indians were contemporaries to each other or living in the same community, and that your members descend from them. The review of the materials submitted did not find an apparent Cherokee connection. Please provide additional evidence concerning their ancestry. See the types of evidence listed under 83.7(e).

The August 1, 2002, handwritten membership list is difficult to read and lacks required information. Addresses are missing or residential addresses are not recorded fully for each member of the organization. Names are lined out without any reasons given. It is recommended that a revised current, typed membership list be submitted to OFA in an electronic format such as Microsoft Access ™ or other standard database that can be read on OFA's computers.

Clans

The January 10, 2003, note "To Archives (c)" made claims that the "Luffman Clan," the Williams (Deer) Clan," and the "Brown Clan" were examples of "communal living," and attached aerial photographs of trailers or other houses set close together were submitted. Satellite or aerial photos of a residence cannot be accepted alone to document the existence of a clan, clan activities claims of communal living or the composition of the Brown or Luffman "clans." Please provide evidence that Brown families live in these trailers and that they are members of the petitioning group. Please submit historical and contemporary documents and records of the communal living arrangements of the different families with each other. Describe the process of the formation of the "clans" which are part of your group and the historical time frame of their formation. Are the "clans" traceable to a historical Cherokee or another Indian person or entity? What is the political and social relationship of the "clans" to the group? Can each clan member trace their Cherokee ancestry with supportive historical documents? Can each clan or family document political activities with each other?

A review of the petitioner's documents show that the "clans" under discussion, are extended families who are blood related. Usually a clan is a much larger social structure beyond the extended family and could not live within a family compound as shown in the petitioner's aerial

photos. The petitioner will need to submit further documentation of their "clans" to be evaluated under criteria (b) and (c).

Visual Evidence

For these photographs to be of value in the acknowledgment process, the petitioner must identify each member of the group by name and birth date and relationship to other members of CLCT. If the photograph is of a group activity, then the date and place of the event and others who were involved, but not pictured, should be included.

Non-Cherokee Members

With different submissions, the petitioner's membership numbers have changed. The petitioner must provide accurate membership numbers and should explain why different membership numbers were used in each submission.

The bylaws state that "the membership of the corporation shall be open to all persons of Native American ancestry." Who are the Native American members of the group? The bylaws also state that "Non-Native Americans are eligible for associate membership in the corporation." Who are the non-Native American members of the group? What are the responsibilities or privileges of associate members?

The bylaws state "Spouses of full members are automatically accepted as blood members of the corporation..." How many and what percentage of non-Native American spouses have been accepted as "blood members?" Who are the non-Native American spouses of the group?

Number of Members

The May 24, 2000, letter to the Alabama Indian Affairs Commission stated that CLCT had "112 members." The July 19, 2000, letter to Congressman Bob Clement stated that CLCT had "132 members." The July 9, 2000, letter to the BIA stated that, "We presently have over 150 members, and 50 members are also members of the SECCI within the past 10 months. Presently we are only a 'band in formation' to the SECCI." The January 11, 2002, letter to Allison Martin, Legislative Assistant to Senator Fred Thompson stated, "We are 171 souls..... We would estimate that there is over 1,000 Cherokee's [*sic*] in Lawrence County."

The fluctuations of these membership figures need to be explained. Please remember that the accurate and complete membership list must be separately certified by the group's governing body and changes in membership must be reported to the OFA.

Criterion (f): The petitioner demonstrates that the membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe.

Our TA review indicates that there are significant deficiencies and omissions in current petition materials addressing acknowledgment criterion (f).

The purpose of criterion (f) is to demonstrate that members of the petitioning group are not a part of a federally recognized tribe. The petitioner's bylaws states that membership is open to all "Native Americans," which could include members of federally-recognized tribes. Mr. Joe White stated that the group has Cherokees only. However, all members of the group's governing body should sign and submit a statement that a predominant portion of the current membership is not enrolled in any other federally acknowledged American Indian tribe.

Criterion (g): The petitioner demonstrates that neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.

It appears that neither the group nor its membership, according to the materials submitted, to be the subject of Congressional legislation expressly terminating or forbidding a Federal relationship. However, please submit a formal signed statement by the governing body that "neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship."

III. Summary

This TA review letter has described a number, but not all, critical deficiencies and omissions which need to be addressed before the petition is considered "ready" for active consideration. These critical deficiencies and omissions are in six of the seven mandatory criteria 83.7: (a), (b), (c), (e), (f) and (g) under the acknowledgment regulations.

This TA review is not meant to be a preliminary determination of the petition. The review does not make conclusions which will result in a positive or negative decision. In addition, the group should not assume that positive conclusions are made about portions of the petition not discussed in this review.

Please make certain any future submissions are tailored to the criteria of 83.7 and that all additional submissions are readable, properly referenced, cited, and made available for analysis. A follow-up review of new materials may reveal other problems and issues which will need to be addressed by the group.

Petitioners have the option of responding in part or in full to this TA review, withdrawing the petition, or requesting in writing that the ASIA proceed with the active consideration of the documented petition using the materials already submitted.

If new materials are submitted, the OFA may do one of the following: 1) it may evaluate the petition and issue an expedited finding under 83.10(e), (f) or (g) of the acknowledgment

regulations; 2) it may place the petition on the list of petitioners waiting for active consideration; or 3) it may request further documentation if the petition is not considered ready for active consideration.

The petitioner may find it useful to look at selected prior findings for other petitioners on the enclosed CD-ROM. The prior findings will provide insight into the kinds of evidence other groups have utilized to demonstrate a community has continued to exist. The OFA's CD-ROM contains all Federal acknowledgment decisions to date.

Once Petitioner #227 governing body has had an opportunity to review this letter thoroughly, it should share its contents with its membership. If the group has any questions regarding this TA review letter, please feel free to contact the Office of Federal Acknowledgment, Office of the Assistant Secretary-Indian Affairs, 1951 Constitution Avenue, N.W., MS-34B-SIB, Washington, D.C. 20240.

Sincerely,

ACTING Director, Office of Federal Acknowledgment

Enclosures: Inventories
ADC CD-ROM
Official Guidelines
Federal Register Notice
Sample Forms
Acknowledgment Process
Mandatory criteria for Federal acknowledgment

Appendix A

The Petitioner #227 submitted "Genealogical Information" summaries on October 30, 2004. The following list summarizes the petitioner's claims regarding these individuals. Generally, the materials did not include clear or reliable citations to connect any of these individuals to the Cherokee tribe or other American Indian tribes. It is also not clear if descendants are current members of the petitioner's group.

- Captain Robert Messer: "Family records indicate he was a Cherokee Indian Chief, although this has not been proven." Solomon Messer Jr.: "Most people assume that Solomon and family were of native heritage, but no proof of this has been found. Minervia Stallcup Messer: "... in 1908, applied to be included on the rolls of the Cherokee Indian-Eastern Band." Nannie Robarts: "Grandfather told us that she was of Native American Cherokee descent."

- Andreas Heiss: Nannie Robarts: "She is said to be of Cherokee descent."

- Jonathan Fincher: Nannie Robarts: "She is said to be of Cherokee descent."

- William Jacob La Croix: Genealogical materials do not indicate Cherokee descent of this individual nor is it clear how this individual is connected to petitioner's group.

- James Johnston: Genealogical materials do not indicate Cherokee descent of this individual nor is it clear how this individual is connected to petitioner's group.

- John W. Thompson: Genealogical materials do not indicate Cherokee descent of this individual nor is it clear how this individual is connected to petitioner's group.

- Pies Phillips: Genealogical materials do not indicate Cherokee descent of this individual nor is it clear how this individual is connected to petitioner's group.

- Jim McDougal: Genealogical materials do not indicate Cherokee descent of this individual nor is it clear how this individual is connected to petitioner's group.

- Samuel ? Freemon: William Freemon: "William... went on down into ALA. And married an Indian (a Creek Indian) lady. Ann R. Freemon: "... herbs... She learned to do this from the Indians...."

- Andrew Frank Hunt: Genealogical materials do not indicate Cherokee descent of this individual nor is it clear how this individual is connected to petitioner's group.

- John Wesley Franks: Genealogical materials do not indicate Cherokee descent of this individual nor is it clear how this individual is connected to petitioner's group.

- William Hughes: Elizabeth W. Bates: "The hush-hush story was that Elizabeth was a child of a Cherokee woman who had a tryst with Colonel David Crockett."

- Billy Brazier: Inez Brazier: "Small woman under 5 feet, said to be of Cherokee Indian blood line.

- David Jones: Nannie Robarts: "One of her husbands nicknames for her was his little squall [sic], also... grandfather told us that she was of native American Cherokee decent, all the children of Nannie and W.A. were told that her mother was Cherokee...."

- John Love: Polly Rhea: "During the days of the Cherokee forced removal on the Trail of Tears, Cherokee refuges would hide at the home of the Rhea's, Solomon and Polly." Robert Love "Robin" Ferguson: "He bought 352 acres on Sept. 12, 1838 during the sale at Franklin after the removal of the Indians."

- Nancy Clark: Family history also states that Nancy was scalped by Indians... Family history also states that she was a Cherokee fullblood.....

- Robert Laurie: Mary Ann "Polly" Ferguson: "During the days of the Cherokee forced removal on the Trail of Tears, Cherokee refugees would hide at the home of the Rhea's, Solomon and Polly."

- William Ferguson: "In 1810 census, we find Robert Ferguson and his wife on Indian Lands of York District" SC. Mary Ann "Polly" Ferguson: "During the days of the Cherokee forced removal on the Trail of Tears, Cherokee refuges would hide at the home of the Rhea's, Solomon and Polly." Robert Love "Robin" Ferguson: "He bought 352 acres on Sept. 12, 1838 during the sale at Franklin after the removal of the Indians."

- George Robarts-Robards-Roberts: Nancy Clark: Lydia "Lid" Robarts: "Family history... also states... that Lydia was of Native American Decent. She confirms that Lydia's mother was of Cherokee decent." Nannie Robarts: "One of her husbands nicknames for her was his little squall, also... grandfather told us that she was of native American Cherokee decent, all the children of Nannie and W. A. were told that her mother was Cherokee...."

- Michael Turpin: Nannie Robarts: "She is said to be of Cherokee Indian descent."
- John Randall: Inez Brazier: "Small woman under 5 feet, said to be of Cherokee Indian blood line.
- William Grady Tidwell: Genealogical materials do not indicate Cherokee descent of this individual nor is it clear how this individual is connected to petitioner's group.