



U.S. OFFICE OF SPECIAL COUNSEL

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202-254-3600

Mr. Xxx XXxxx
Attorney Advisor
Department of XXxxxxx
Office of the General Counsel, Ethics Division

VIA E-MAIL: XXXXXXXXXXXXX

Re: OSC File No. AD-04-xxxx

Dear Mr. Xxxxxx:

This letter is in response to your request for an advisory opinion concerning the Hatch Act. The Office of Special Counsel (OSC) is authorized pursuant to 5 U.S.C. § 1212(f) to issue binding opinions under the Act. Specifically, you ask whether the Hatch Act would prohibit Department of Xxxxxxx (XXX) employees, while on duty and in the federal workplace, from participating in a voter registration drive conducted by the organization Blacks in Government (BIG). As explained below, we do not believe that the Hatch Act would prohibit such activity.

The Hatch Act, 5 U.S.C. §§ 7321-7326, governs the political activity of federal executive branch employees, including XXX employees. The Act permits most covered employees to actively participate in partisan political management and partisan political campaigns. Covered employees, however, are prohibited from, among other things, engaging in political activity while on duty, in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof, while wearing a uniform or official insignia identifying the office or position of the employee, or using any vehicle owned or leased by the Government of the United States or any agency or instrumentality thereof. 5 U.S.C. § 7324. Political activity has been defined as activity directed toward the success or failure of a political party, candidate for a partisan political office or partisan political group. 5 C.F.R. § 734.101.

Therefore, the Hatch Act would prohibit a XXX employee, while on duty or in his or her workplace, from participating in a partisan voter registration drive, e.g., a drive aimed at helping a political party or candidate succeed. As explained in our April 14, 2004, advisory opinion, with which you are familiar, OSC considers all of the circumstances surrounding the drive in determining whether a voter registration drive is partisan.

You indicated that XXX has received a request from BIG to conduct a voter registration drive at the Xxxxx xxxxxxxx on September 23, 2004. We understand that BIG is incorporated as a non-profit organization established to organize African Americans in public service to address issues of mutual concern and use their collective strength to address workplace and community issues. One of BIG's goals and objectives is to "provide a nonpartisan platform on major issues

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of local, regional, and national significance that affect Blacks in government.” BIG Const., Art. II, § 6.

Based on the research we have done, it is our understanding that BIG is very involved in promoting voting and voter education. According to its website, BIG’s nonpartisan “Project Big Vote” program is an aggressive campaign designed to empower the African American community by increasing awareness and participation in the full political process in local, state and federal elections. Everything we have learned about the BIG organization supports this assertion. We have found no indication that BIG has endorsed, or has otherwise become identified with the success or failure of, any candidates for partisan political office. In addition, nothing in our research suggests that BIG is unable at this time to conduct a truly nonpartisan voter registration drive.

Therefore, provided that the voter registration drive remains nonpartisan, for example, registrants are not solicited on the basis of political party or candidate preference and there is no advocacy or display of support for a particular party or candidate during the drive, we do not believe that the Hatch Act would prohibit XXX employees, while on duty or in the federal workplace, from participating in a voter registration drive conducted by BIG. Please contact me at 202-254-3650 if you have additional questions regarding this matter.

Sincerely,

/s/

Erica N. Stern
Attorney
Hatch Act Unit