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Financial And Management Activities Of The Lummi Indian Business Council, Marietta, Washington B-170214

Office of Economic Opportunity
Department of Commerce

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

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JUNE 24, 1971

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-170214

Dear Senator Jackson:

This is our report on the financial and management activities of the Lummi Indian Business Council, Marietta, Washington, funded primarily by the Office of Economic Opportunity and the Department of Commerce. Our review was made pursuant to your request of June 25, 1970.

As agreed with your office, we are sending copies of this report to the Director, Office of Economic Opportunity; the Assistant Secretary for Economic Development, Department of Commerce; and the Chairman, Lummi Indian Business Council, in order that appropriate corrective actions in areas in need of improvement may be undertaken. Also as agreed with your office, we are sending copies of this report to Senator Warren G. Magnuson and Congressman Thomas M. Pelly.

We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report.

Sincerely yours,

Elmer B. Staats

Comptroller General
of the United States

The Honorable Henry M. Jackson
United States Senate

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-170214

Dear Mr. Meeds:

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Elmer B. Staats

Comptroller General
of the United States

The Honorable Lloyd Meeds
House of Representatives

COMPTROLLER GENERAL'S REPORT TO THE HONORABLE HENRY M. JACKSON, UNITED STATES SENATE AND THE HONORABLE LLOYD MEEDS, HOUSE OF REPRESENTATIVES

FINANCIAL AND MANAGEMENT ACTIVITIES OF THE LUMMI INDIAN BUSINESS COUNCIL, MARIETTA, WASHINGTON
Office of Economic Opportunity and Department of Commerce B-170214

D I G E S T

WHY THE REVIEW WAS MADE

Senator Henry M. Jackson and Congressman Lloyd Meeds requested the General Accounting Office (GAO) to review certain financial and management activities of the Lummi Indian Business Council, the Community Action Agency which conducted antipoverty and economic development programs on the Lummi Indian Reservation. These programs were financed primarily by the Office of Economic Opportunity (OEO) and the Economic Development Administration, Department of Commerce.

From April 1966 through September 1970, about $3.6 million was provided for such programs as housing, community development, recreation, manpower training, and an Aquaculture development project designed to establish tribally operated commercial fish and shellfish production ponds on the Lummi Indian tidelands. Of the $3.6 million, $3.3 million was for the Aquaculture project.

Senator Jackson and Congressman Meeds stated that Mr. Forest L. Kinley, the former director of the Lummi Community Action Program, and Mr. Vernon Lane, the chairman of the tribal council, had each requested that GAO make an audit of Federal funds expended under the tribe's programs.

GAO evaluated the council's fiscal procedures and controls and inquired into charges made by Mr. Kinley involving financial administration and management of the tribe's federally funded projects.

FINDINGS AND CONCLUSIONS

Project implementation

Mr. Kinley indicated that the Aquaculture project had not been carried out in the manner originally intended because construction of facilities for commercial production of fish and oysters was started before research designed to demonstrate the feasibility of the project had been completed.

Tear Sheet

JUNE 24, 1971

The research phase of the project was started in June 1969. By June 1970 the Economic Development Administration had determined that sufficient research had been performed to demonstrate the feasibility of the commercial phase of the project so that construction of a 750-acre aquafarm pond could begin. (See p. 10.)

Control over project operations

Mr. Kinley charged that the council had no real voice in matters relating to the Aquaculture project because the project director and business manager had formulated policies and made decisions relating to management of the project without obtaining the council's approval.

GAO found no evidence that they had formulated policies and made decisions that were outside the scope of the authority delegated to them by the council. The project director and the business manager, however, did have considerable influence on the Aquaculture project. (See p. 13.)

Project reporting

Mr. Kinley said that research results had not been disseminated to the Lummi Tribe. Also, Mr. Kinley stated that he had requested results on the research phase of the project from the council but that they had not been provided to him.

Mr. Kinley did not make a direct request to the council for research information on the Aquaculture project. The project director said that the information would have been provided if Mr. Kinley had requested it and that data on research results was available to members of the tribe. (See p. 15.)

Hiring practices

Mr. Kinley charged that the council had practiced favoritism in employment because members of the immediate families of council members had been employed on council projects while other persons with more serious needs had not been employed. OEO instructions preclude the employment of council members or members of their immediate families on OEO-funded projects.

GAO found some basis for this charge. Of the 103 persons (86 were Lummis) on the employment rolls of the council in calendar year 1969, 33 either were members of the immediate families of council or personnel board members or were council or board members. Of the 86 Lummis, 52 received some form of public assistance or unemployment benefits during 1969, which indicated that they were in need of employment.

Also, of the 33 persons who either were members of the immediate families of council or personnel board members or were council or personnel board members, 21 received some form of public assistance or unemployment benefits during 1969. (See p. 17.)

Hiring of non-Lummis and off-reservation Lummis

Mr. Kinley charged that, although the Aquaculture project was intended to aid the Lummis living on the reservation, they had not been notified of job openings and that, as a result, non-Lummis and off-reservation Lummis had been hired for managerial and lower echelon positions that could have been filled by Lummis living on the reservation.

GAO found that there had been very limited employment of non-Lummis and that neither OEO nor the Economic Development Administration had required that only Lummis living on the reservation be hired. Publicity given by the council to job openings on the reservation, however, was not adequate. (See p. 22.)

Employment of tribal chairman and vice chairman

Mr. Kinley questioned the propriety of expending OEO and Economic Development Administration funds for the employment of the tribal chairman and vice chairman on council projects.

The tribal chairman and vice chairman were employed at various times by the council in either OEO- or Administration-funded positions. The Administration's contract with the council contained no restrictions regarding employment of council members, and OEO had given verbal approval for the temporary employment of council members on OEO projects. (See p. 25.)

Dismissal of employees

Mr. Kinley charged that Lummi tribal members had been discriminated against because they had been dismissed without proper notifications or hearings.

GAO found that certain Lummi tribal members had been dismissed without the required formal notifications. There was no indication, however, that hearings had been requested by the dismissed employees, except in one case where the request was later withdrawn. (See p. 26.)

Transfer of funds

Mr. Kinley stated that there appeared to have been numerous transfers between OEO and Economic Development Administration funds. The council maintained separate accounts for various funds, and its method of paying expenses necessitated numerous transfers between the two agencies' funds. Because of delays in posting to the records, the accounts for the tribal funds did not show that about $25,000 was owed to the other funds. (See p. 30.)

Matching funds not received

Mr. Kinley said that matching funds of $31,000 to be donated by the Oceanic Foundation for OEO activities for the program year ended March 31, 1970, had not been received by June 1970.

GAO found that the funds had not been received as of that time but had been received in July 1970. These funds, however, were deposited in the Economic Development Administration and tribal fund accounts rather than in the OEO account. An OEO official informed GAO that the council would be required to transfer the funds to the OEO account and to properly record them in the records. (See p. 31.)

Administration of funds

The council's control over and administration of Federal funds revealed certain weaknesses in the council's financial management system and personnel administration. Many of these weaknesses were disclosed by earlier audits. Although the council has made efforts to improve its financial administration, GAO believes that further corrective actions are required to ensure adequate internal control over assets and expenditures and to ensure compliance with the requirements of OEO and the Economic Development Administration. (See p. 34.)

A need existed to improve internal controls over procurements, travel, payrolls, personnel administration, and accounting for non-Federal contributions and property. (See p. 35.)

The fact that certain of the weaknesses identified by earlier audits continued to exist at the time of GAO's review should not be considered indicative of a lack of concern by the council and management officials over matters that were in need of attention. Since the advent of the Aquaculture project in May 1969, the council has taken on significantly greater financial management responsibilities but has been unable to keep up with the increased levels of accounting, personnel, and procurement activities.

Council officials were receptive to GAO's findings and seemed willing to initiate corrective action. (See p. 34.)

RECOMMENDATIONS OR SUGGESTIONS

The Director of OEO and the Assistant Secretary for Economic Development, Department of Commerce, should

--require the council to adequately publicize job openings and to apply hiring procedures that will result in the selection of the most qualified low-income applicants for employment on the council's federally funded projects (see p. 28),

--require the council's personnel board to provide written notices to employees in advance of the effective dates of their terminations of employment (see p. 28), and

--provide for continuing assistance to the council in effecting improved financial and administrative control and for carefully monitoring the council's actions (see p. 38).

AGENCY ACTIONS AND UNRESOLVED ISSUES

Both OEO and the Economic Development Administration agreed with GAO's findings and stated that the council either had taken or would be required to take action in line with GAO's recommendations.

The Deputy Director of OEO stated that

--OEO had been informed by the council that it would regularly publicize job openings in the Lummi newsletter, that the newsletter reached most of the reservation residents, and that weekly listings of job openings would be posted in six or more public places (see p. 29);

--OEO had reemphasized to the council that personnel actions were the responsibility of the personnel board (see p. 29);

--the council and personnel board would follow their established procedures, including the issuing of written termination notices (see p. 29); and

--the OEO Indian Division would provide assistance to the council to effect improved financial and administrative controls (see p. 39).

The council's formal comments on GAO's findings were included in OEO's reply and are reproduced in appendix II.

Tear Sheet

Contents

		Page
DIGEST		1
CHAPTER		
1	INTRODUCTION	6
2	PROJECT IMPLEMENTATION, CONTROL, AND REPORTING	10
	Project implementation	10
	Control over project operations	13
	Project reporting	15
3	PERSONNEL ACTIVITIES	17
	Hiring practices	17
	Hiring of non-Lummis and off-reservation Lummis	22
	Employment of tribal chairman and vice chairman	25
	Dismissal of employees	26
	Recommendations to OEO and EDA	28
4	OTHER ACTIVITIES	30
	Transfer of funds	30
	Matching funds not received	31
5	ADMINISTRATION OF FUNDS	34
	Weaknesses reported as a result of prior audits	34
	Need for continued improvement in financial and personnel management	35
	Recommendations to OEO and EDA	38
APPENDIX		
I	Letter dated June 25, 1970, to the Comptroller General of the United States from Senator Henry M. Jackson and Congressman Lloyd Meeds	43

APPENDIX		Page
II	Letter dated April 8, 1971 ffrom the Deputy Director, Office of Economic Opportunity, to the General Accounting Office	44
III	Letter dated April 15, 1971, from the Assistant Secretary of Commerce to the General Accounting Office	47

ABBREVIATIONS

EDA	Economic Development Administration
GAO	General Accounting Office
OEO	Office of Economic Opportunity

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The council's formal comments on GAO's findings were included in OEO's reply and are reproduced in appendix II.

CHAPTER 1

INTRODUCTION

The Lummi Indian Business Council, a Community Action Agency, is responsible for the conduct of antipoverty and economic development programs on the Lummi Indian Reservation in Marietta. The programs were funded by the Office of Economic Opportunity; the Economic Development Administration (EDA), Department of Commerce; the Department of Labor; and the Bureau of Indian Affairs, Department of the Interior.

Our review was performed pursuant to the request contained in a letter dated June 25, 1970, to the Comptroller General from Senator Henry M. Jackson and Congressman Lloyd Meeds. Senator Jackson and Congressman Meeds stated that Mr. Forest L. Kinley, the former Lummi Community Action Program director, and Mr. Vernon Lane, the council chairman, had each requested that we make an audit of Federal funds expended for the Lummi Indian Tribe's programs. (See app. I.)

Our review, which was conducted primarily at the council's office on the Lummi Reservation, was made during the period July through October 1970. Our review included an evaluation of the council's fiscal procedures and controls over expenditures and transactions and an inquiry into charges made by Mr. Kinley in a letter dated June 20, 1970, to Senator Jackson and in interviews.

We reviewed grant agreements and contracts and the council's policies, procedures, and records. We interviewed Federal officials, council members and employees, Mr. Kinley, and other persons who we had reason to believe had information concerning the matters under review. We also made tests of the financial transactions of the council for the months of October 1968 and January and July 1970. We did not make an evaluation of the effectiveness of the council's antipoverty and economic development programs.

The Lummi Indian Reservation is about 5 miles west of the city of Bellingham in the northwest corner of the State of Washington. In 1968 the council reported that, of the approximately 1,600 Lummis, about 1,200 lived on the

reservation. The council reported that, of the 161 Indian families living on the reservation, 111, or about 69 percent, had family incomes of less than $3,500. At that time there was a reported male unemployment rate of 46 percent.

To assist the poor and unemployed Lummis and to promote economic development on the Lummi Reservation, Federal grant and contract funds totaling about $3.6 million were approved for Lummi Reservation programs and activities from their inception in April 1966 to September 30, 1970.

The tribe received $1.2 million from OEO, $1.8 million from EDA, $560,000 from the Department of Labor, and $40,000 from the Bureau of Indian Affairs. Of the $3.6 million, about $3.3 million was provided to further the development of an Aquaculture project and the remainder was for other functions of the Community Action Program.

The concept of the Lummi Aquaculture project was formulated in April 1968 at a meeting of the council. The project was designed to establish tribally operated commercial fish and shellfish production ponds on the Lummi Indian tidelands. Financial support and technical assistance to develop the plans for the project was provided soon after by the Oceanic Foundation of Hawaii, a nonprofit organization engaged in oceanic research and resource development activities. The council submitted an application to EDA in October 1968 for a grant to study the feasibility of the project. EDA awarded the grant in May 1969. Grants were also requested and awarded by OEO for construction, by the Department of Labor for training, and by the Oceanographic Commission of Washington State for baitworm studies.

As indicated in its long-range plan, the tribe expects to dike more than 2,500 acres of tidelands. The EDA-funded technical assistance feasibility study showed that 5,000 pounds of trout and 200,000 oysters could be successfully grown in a 1-acre pond of seawater.

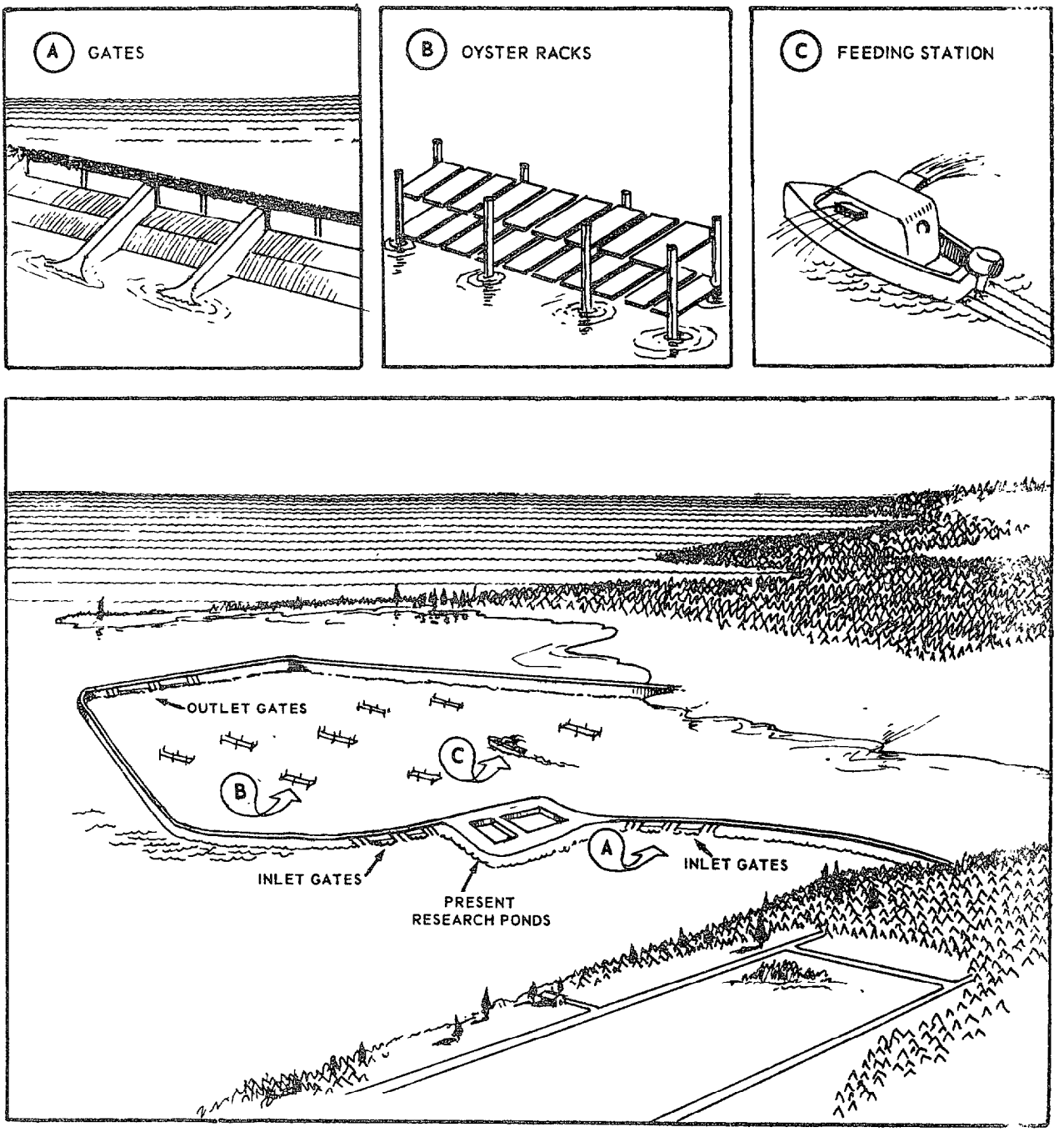
OEO awarded grants for the construction of the dikes and research ponds, which were used in the feasibility study. The council reported that the Lummis had proved that they were capable of doing the difficult construction work

themselves. On the basis of this demonstration, EDA provided the tribe with $1,500,000 to build a 750-acre commercial production aquafarm which in May 1971 was reported to be about 85 percent complete.

The first-year Manpower Development and Training Act program in aquaculture--funded by the Department of Labor--was completed in August 1970. In September 1970 the council reported that the 20 Lummis who had graduated from the training program either were employed in the Aquaculture project or were receiving university training. The program for the second year provided for the training of 64 Lummis in aquaculture on the reservation to provide a trained work force for the tribe to operate its aquafarm.

By applying the results of the feasibility study to the 750-acre pond, the council anticipates that the project will provide the tribe with a gross income of up to $3 million a year and will employ about 200 Lummis in all phases of management and technical operations. As the project expands to 2,500 acres, the tribe expects that a work force of over 600 will be directly or indirectly employed.

An illustration of the Aquaculture project, which was provided by the council, is shown on the following page.



Aerial perspective of phase II of the Lummi Aquaculture Project. The 750-acre pond fills at high tide through the inlet gates which close automatically after the tide begins to drop. The outlet gates allow the pond level to drop about 25 percent between tides. Through this action the tide acts as a pump to pulse about 700 acre-feet of water per day through the ponds. A. Fish screens on one-way gates retain pond fish and keep out trash fish, crabs, etc. B. Oyster trays on racks produce high quality and high volume meat. C. Mobile feeding stations at fixed sites in pond give maximum food dispersion for fish.

CHAPTER 2

PROJECT IMPLEMENTATION, CONTROL, AND REPORTING

PROJECT IMPLEMENTATION

Mr. Kinley was of the belief that the Aquaculture project had not been carried out in the manner originally intended because construction of facilities for commercial production of fish and oysters was started before research designed to demonstrate the feasibility of the project had been completed.

We found that, as early as June 1969, the council had started the research. We found also that, by June 1970, EDA had determined that sufficient research had been performed to demonstrate the feasibility of the commercial phase of the project so that construction of a 750-acre aquafarm pond could begin.

The council's application to EDA, dated October 10, 1968, requested that $143,220 be provided for an aquaculture feasibility study. The application stated that the duration of the proposed work would be 1 year and that the work performed could lead to the construction of the commercial phase of the Aquaculture project. EDA, under a 3-year grant contract with the council, dated May 9, 1969, provided $143,220 for the first year of operations to determine the commercial feasibility of an aquaculture business and to assist in training Lummis in the technical and commercial procedures necessary to operate an aquaculture business.

On May 29, 1969, OEO awarded a grant of $200,000 to the council for the construction of ponds and facilities for research on the project.

The council's progress report to EDA, dated June 19, 1969, showed that the construction of the research ponds and facilities on the Lummi Reservation had been scheduled to begin in July 1969 and that fish were to have been transferred to the ponds in September 1969. Because of problems with rights-of-way, permits, and local opposition to the project, actual construction did not begin until September 1969. The research ponds were completed in March 1970, and the first fish were placed in the ponds at that time.

The council's monthly progress reports to EDA showed that, even though the research ponds had not been completed until March 1970, fish had been obtained as early as June 1969 and were being raised in Federal hatcheries. In addition, the June 1969 progress report showed that research was being continued on oysters, baitworms, and oyster rack design. The progress reports from June 1969 through March 1970 showed that research had continued throughout this period and had not necessarily been dependent upon the completion of the research ponds and facilities on the reservation.

On April 10, 1970, the council submitted a request to EDA for a grant of $180,000 for the second year of the aquaculture research which had begun in 1969 under the 3-year contract with EDA. The request stated that the research was to concentrate on oyster and fish production and on water quality.

An EDA technical assistance report dated April 22, 1970, included numerous comments on a review of the research accomplished in the first year and recommended that the additional grant of $180,000 be approved. In considering the recommendation, the Director of EDA's Office of Technical Assistance stated that technical assistance might have to be provided for at least 1 to 2 more years. EDA awarded the grant in June 1970.

The council, in an application to EDA, dated February 23, 1970, requested a grant of $1.5 million for the construction of a 750-acre oyster and fish pond. The council, on the basis of information obtained from its research and from other sources, estimated that the 750-acre pond would produce fish and oysters that would provide the tribe with an annual gross income of $3 million. The EDA Western Area Office recommended approval of the grant on the basis that the then-available results of the technical assistance study of the Aquaculture project initiated in 1969 had shown that the project was feasible. In June 1970 EDA awarded the grant, and in July 1970 construction of the 750-acre aquafarm pond began.

We inquired of the director of the Aquaculture project whether it was necessary to complete the research before

initiating construction. The director stated that he and others had begun research on certain aspects of the project long before the project was proposed to EDA and that, in his opinion, research would continue throughout the life of the project. He said that, although there had been a delay of about 2-1/2 months in the construction of the research ponds and facilities, sufficient research had been accomplished to demonstrate the feasibility of the project.

The council, in its comments dated February 19, 1971, to OEO on this matter, stated that the research phase of the Aquaculture project was and is a continuing program and that its feasibility had been proven to the satisfaction of the council, OEO, EDA, and numerous other Federal and State agencies.

CONTROL OVER PROJECT OPERATIONS

Mr. Kinley charged that the council had had no real voice in matters relating to the Aquaculture project because the project director and business manager had formulated policies and had made decisions relating to management of the project without the council's approval.

Our review showed that the project director and business manager had had considerable influence on the Aquaculture project; however, we found no evidence that they had formulated policies or had made decisions that were outside the scope of the authority delegated to them by the council.

Council Resolution L-82 dated July 4, 1969, defined the responsibilities of the project director and business manager. These responsibilities are as follows:

> "The Project Director under EDA contract and the OEO grant having management and supervision over the research project, is also authorized to incur obligation for supplies, materials, equipment, rentals, etc., and shall inform the Business manager of such obligations within 5 days after incurred.
>
> "The Business Manager shall have responsibility for and authority over (1) approval of the purchase of supplies, materials, and equipment, except for those items mentioned in paragraph B above, (2) with the advice of the Financial Secretary shall establish and supervise the accounting and cost data systems to be used, including the pay roll function, (3) approval for payment by the Financial Secretary of all pay rolls, invoices, travel vouchers, consultant fees, and other financial obligations for which authority has not been otherwise delegated, (4) prepare periodic invoices to EDA, Washington, D.C., for reimbursement of expenditures made by the Lummi Indian Business Council under the terms of its contract with EDA, and (5) render other business managerial services as required."

The council's resolution delegating the responsibilities to the project director and business manager and other decisions were deemed invalid by certain members of the council. These members alleged that not all council members had been notified of special council meetings during which certain decisions involving the Aquaculture project had been made.

This matter was the subject of a suit filed on September 4, 1969, in the U.S. District Court, Western District of Washington, Northern Division, by Mr. Kinley and three council members against the council and eight other council members. As a result of this suit, the council chairman notified all council members in writing of a special meeting to be held on November 21, 1969. At this special meeting the previous decisions, including the assignment of responsibilities to the project director and business manager, were ratified by the council. Two days earlier the plaintiffs had requested and obtained dismissal of the court action without prejudice.

The project director undoubtedly has had a significant role in the implementation of the Aquaculture project. He prepared proposals for financing the project, spoke for the council in defense of the project, and advised the council on many matters that were directly or indirectly related to the future of the Aquaculture project.

The business manager has been responsible to the council for the financial aspects of the Aquaculture project and has advised the council on other matters pertaining to the financial position and operational structure needed for economic development of the Lummi Reservation.

The project director and business manager are accountable to the council and, ultimately, to the Lummi Tribe. Because both the project director and the business manager are employees of the council, it seems that the council can redefine, if it so chooses, the duties and responsibilities of the project director and business manager.

The council, in its comments to OEO on this charge, stated that the council had had, and would continue to have, the final say on all matters related to the

activities of the project director and business manager. The council stated also that the project director and business manager were employees of the tribe and were capable and responsible individuals.

PROJECT REPORTING

Mr. Kinley stated that information on the results of the research on the Aquaculture project had not been disseminated to the Lummi Tribe. Mr. Kinley stated also that he had requested the research results from the council but that they had not been provided to him.

Our review showed that Mr. Kinley had not made a direct request to the council for research information on the Aquaculture project. The project director informed us that, if Mr. Kinley had made a request, the information would have been provided. He also said that data on research results was, and had been, available to members of the tribe.

The project director and the council chairman informed us that the monthly progress reports to EDA had been made available to the council; that several of the reports had been presented at council meetings; and that, although most of these meetings were special, the minutes--which included information on the results of the Aquaculture project--had been available to tribal members.

The local Lummi Reservation newsletter, which had a circulation of about 450, included a statement on the progress of the Aquaculture project in at least four of the 13 issues between June 1969 and July 1970. Also the progress of the Aquaculture project was discussed in a January 1970 general council meeting for all tribal members. In September 1970 the council published a pamphlet on the Aquaculture project which provided information on the results and expectations of the project.

In October 1970 Mr. Kinley informed us that he had not made a direct request to the council for the research data but had requested a council member to obtain the information for him. Our review showed that the council member, by letter dated May 12, 1970, had requested the council to provide only financial and personnel data on the project.

The council's records did not show whether the data had been provided. The treasurer of the Lummi Tribe informed us that, although the data had not been provided, the council member had been told that he could review the records.

The project director told us that at no time had he refused to provide information on the project to members of the tribe. He also said that, if Mr. Kinley had requested information on the research results, the information would have been provided to him. The project director further stated that the pamphlet published in September 1970 had been the first of a series of progress reports on the project that would be issued quarterly.

The council, in its comments to OEO, stated that:

"The Council, due to lack of funding, has not always been able to issue data on Aquaculture on a regular basis. However, since March 1970, an average of 3 tours per week were conducted for various groups and individuals of the entire Aquaculture Project. Any interested member of the tribe should not feel the need for a formal invitation to see the project. We have at this time a proposal to fund a Public Relations position which will ensure members of the tribe as well as others, of information on the progress of Aquaculture. The Council is very proud of the project and does not wish to keep it a secret from any individual or group."

CHAPTER 3

PERSONNEL ACTIVITIES

HIRING PRACTICES

Mr. Kinley charged that the council had practiced favoritism in employment because members of the immediate families of council members had been employed on the council projects while other persons with more serious needs had not been employed. OEO instructions preclude the employment of council members or members of their immediate families on OEO-funded projects.

We found some basis for this charge. Of the 103 persons (86 were Lummis) on the employment rolls of the council in calendar year 1969, 33 either were members of the immediate families, as defined by OEO, of council or personnel board members or were council or personnel board members. Of the 33 persons, 21 received some form of public assistance or unemployment benefits during 1969. Of the 86 Lummis, 52 received some form of public assistance or unemployment benefits during 1969, which indicated that they were in need of employment.

The EDA contract with the council for the Aquaculture project did not preclude the employment of council members or their relatives on the project. The OEO Community Action Program instructions on nepotism and conflict of interest provide, however, that:

> "No person shall hold a job while he or a member of his immediate family serves on a board or committee of a grantee or delegate agency if that board or committee has authority to order personnel actions affecting his job."
>
> * * * * *
>
> "No person shall hold a job while either he or a member of his immediate family serves on a board or a committee which, either by rule or by practice, regularly nominates, recommends, or screens candidates for the agency or program by

which he is employed. For purposes of this PART, a member of an immediate family shall include any of the following persons:

Husband	Wife
Father	Father-in-law
Mother	Mother-in-law
Brother	Brother-in-law
Sister	Sister-in-law
Son	Son-in-law
Daughter	Daughter-in-law

"Grantees and delegate agencies not in compliance with these rules *** may apply to the appropriate OEO Regional Office for a temporary waiver of the rule and permission to phase compliance over a period of time. Such a request shall include a plan for accomplishing the required compliance and a deadline for its completion."

In October 1970 OEO distributed to OEO officials and grantees for comment a draft of a proposed revision of the instructions which would relax the current conflict of interest and nepotism instructions when applied to Indian tribes. The draft recognized the special circumstances existing on Indian reservations involving lack of outside sources of employment, underdevelopment of the area, large families, isolation, and the need to make serving on a governing body an attractive job to tribal members rather than a family hardship.

The draft instructions provided for a governing board to establish a personnel selection committee that would be appointed by the entire board and that would serve staggered terms and for the governing board to delegate to the committee the final responsibility for all board decisions concerning selection of employees and other duties. If these instructions are adopted, the instructions on conflict of interest would apply only to the committee and not to the governing board.

The chairman of the council informed us that, during the first half of 1969, the council had performed the hiring

function. He stated that the council, by a resolution dated July 4, 1969, had delegated the responsibility of selecting and hiring employees for the Aquaculture project to a personnel board consisting of five members. The personnel board also handled personnel actions for the Lummi Community Action Program.

We noted, however, that, after July 4, 1969, council members had continued to make decisions relating to hiring of employees on the Aquaculture project and that, as a result, the personnel board did not have complete responsibility for hiring Aquaculture project employees. Therefore the OEO instructions previously quoted would continue to apply to those relatives of council members who were hired after the delegation of the hiring function to the personnel board.

The table which follows shows the total employment by the council from January 1, 1968, through June 30, 1970.

Period	Number of persons employed during period	Number of employees on rolls at end of period
January 1 through December 31, 1968	58	15
January 1 through December 31, 1969	103	25
January 1 through June 30, 1970	82	38

To test the council's hiring practices for compliance with OEO instructions on nepotism and conflict of interest, we reviewed the records of the 103 persons on the employment rolls during calendar year 1969. We found that 86 were members of the Lummi Tribe and that, of these, 33 either were members of the immediate family, as defined by OEO, of at least one council or personnel board member who was in office at the time that the employee was hired or were council or personnel board members. Of the 33 employees, 12 were paid with EDA funds, 15 with OEO funds, and six with OEO or EDA funds at different times.

We identified 71 persons who had applied for employment on the Aquaculture project and/or the Lummi Community Action Program in 1969 and who had not been hired. Of the 71 applicants who were not hired, seven were members of the immediate family of at least one council or personnel board member in office at the date of application. The records did not show why the 71 applicants had not been hired.

OEO instructions require that preference be given to the employment of poor persons in OEO-funded projects. The council's personnel records did not contain information on family incomes or other information showing the employment needs of families of those persons who had applied for employment or who had been employed in 1969.

Information obtained from the Washington State Department of Public Assistance and the Employment Security Department, however, showed that, of the 86 Lummis on the employment rolls of the council during 1969, 52 had received some form of public assistance or unemployment benefits in 1969. Also, of the 33 persons who either were members of the immediate families of council or personnel board members or were council or personnel board members, 21 had received some form of public assistance or unemployment benefits during 1969.

The 33 employees included three members of the council who had worked on the Aquaculture project in various OEO-funded temporary positions while serving on the council and three personnel board members who had been employed in non-aquaculture, OEO-funded positions while serving on the personnel board.

The council chairman told us that verbal waivers of the OEO Community Action Program instructions concerning conflict of interest had been obtained from OEO for the council and personnel board members.

The project director informed us that in May or June 1969 an OEO representative had given the council a verbal waiver of the instructions, provided that the council members employed on OEO projects would refrain from voting on any matter concerning the Lummi Community Action Program and would be employed in temporary positions. We noted,

however, that the three council members employed by the council in 1969 had not refrained, in all instances, from voting on matters concerning the Lummi Community Action Program.

In a letter to OEO, dated May 4, 1970, Mr. Kinley questioned the employment of six council members who had been employed during calendar year 1970 on various federally funded tribal projects. Five of the council members held temporary positions, and one council member was employed on an EDA-funded program. OEO, responding by letter dated May 25, 1970, stated that the council had sanctioned this apparent conflict of interest for five of the council members on the basis that the instructions were not applicable to temporary positions. We discussed this matter with OEO officials who told us that the instructions on conflict of interest did not apply to temporary positions.

We believe that, when an Indian reservation has a relatively small population, of which the majority are poor, the application of the OEO instructions on conflict of interest can cause a hardship by denying employment to the poor persons who are members of families of council members. With respect to the Lummi Reservation, we believe that poor persons who are members of families of council members should be afforded opportunities for employment on council projects. OEO's proposed revision of its instructions on conflict of interest, if adopted, would sanction the employment of members of the immediate families of council members.

We believe, however, that, even if OEO were to adopt the proposed revised instruction, the Lummi council should be required, in filling job vacancies, to adequately publicize the available jobs and to apply hiring procedures that would result in the selection of the most qualified low-income applicants.

The council, in its comments to OEO on this charge, stated that:

> "The Council, by resolution, had given all responsibility for hiring and firing to a five member Personnel Board on 7-4-69. In certain emergency or temporary situations, the Council

hired without Personnel Board approval. However, this was on a rare occasion and later ratified by the Board. The Council has also on limited occasions delegated employment authority for construction crews and algae harvest."

HIRING OF NON-LUMMIS AND OFF-RESERVATION LUMMIS

Mr. Kinley charged that, although the Aquaculture project was intended to aid the Lummis living on the reservation, they had not been notified of job openings and that, as a result, non-Lummis and off-reservation Lummis had been hired for managerial and lower echelon positions that could have been filled by Lummis living on the reservation.

We found that there had been very limited employment of non-Lummis and that neither OEO nor EDA had required that only Lummis living on the reservation be hired. We believe, however, that publicity given by the council to job openings on the reservation was not adequate.

The EDA contract and OEO grant awarded to the council during calendar year 1969 did not contain any provisions precluding the employment of non-Lummis or Lummis living off the reservation. The council's proposals to OEO for (1) a Community Action Program stated that all poverty-level persons were potentially eligible to take part in the program and (2) the construction of the aquaculture research facilities stated that all households of the Lummi Tribe would be notified of the work opportunities in the project through the local newsletters.

The proposal to EDA for the study of the feasibility of the project stated that it appeared that all the Lummi tribal members would prefer to live on the reservation and that the project was intended to develop an aquaculture system for the Lummi Indian Tribe.

Of the 103 persons employed by the council during 1969, 13 were non-Lummis. Of these, three were hired between April 1 and December 31, 1969, in the managerial positions of project director, shellfish director, and business

manager. The other 10 non-Lummis held a variety of positions, such as clerk typist, cement finisher, and truck driver. Of the 10, eight were employed in temporary jobs of a duration of a month or less and two--who were members of Lummi families as a result of marriages to Lummis--held the positions of secretary and carpenter trainee.

The three managerial positions were provided for in the EDA contract. The persons employed as project director and shellfish director were approved by EDA. The business manager had extensive managerial experience, and the records showed that he was well qualified for the position. We reviewed all the available job applications submitted by Lummis to the council during 1969 and were unable to identify from the applications any individuals who had the experience required for the three managerial positions. Because the business manager position had been filled before the position was advertised, however, qualified Lummis may not have had knowledge that the position was available and therefore did not apply.

Information available at the council indicated that during 1969 nine Lummi newsletters had been issued. Of the eight newsletters that we were able to locate, only the June 1969 newsletter announced job openings. This newsletter announced job openings under the EDA contract for a business manager, a personnel specialist, a fishery and maintenance assistant, and a secretary. The business manager position had been filled at the time of the newsletter announcements, and the personnel specialist position had been eliminated before anybody was hired for it. In addition, the June 1969 newsletter stated that 19 job openings under the OEO grant were contingent upon the council's receiving the grant. The council chairman informed us that he was not aware of any other job announcements that had been made in the Lummi newsletters during 1969.

Although only 23 job openings had been advertised in the Lummi newsletter, we noted that 88 persons had been hired in 1969. It appears, therefore, that a significant number of job openings were made known by word of mouth. The lack of formal job announcements might have resulted in members of the Lummi Tribe not obtaining employment and in limiting the opportunity of the council to employ the most qualified Lummis.

The council's records showed that some of the temporary positions held by 10 non-Lummis in lower echelon positions were attributable to short-term needs. We believe that the council made a reasonable effort to employ Lummis because only two of the 10 non-Lummis worked for more than 1 month.

The council, in its comments to OEO, stated that the council and the personnel board had made every attempt to hire Lummis, regardless of where they lived, for every available opening and that many job qualifications had been waived in favor of on-the-job training to provide employment to Lummis rather than non-Lummis.

EMPLOYMENT OF TRIBAL CHAIRMAN AND VICE CHAIRMAN

Mr. Kinley questioned the propriety of expending OEO and EDA funds for the employment of the tribal chairman and vice chairman on council projects.

Our review showed that the tribal chairman and vice chairman had been employed at various times by the council in either OEO- or EDA-funded positions. The EDA contract with the council contained no restrictions regarding employment of council members on EDA projects, and, as stated on page 20, OEO had waived its restriction by giving verbal approval for the temporary employment of council members on OEO projects.

During the period January to September 1970, the tribal chairman held two EDA-funded positions--as a carpenter foreman for 1 month and as a community relations specialist for 8 months. The position of carpenter foreman paid $6.10 an hour, and the position of community relations specialist paid $3.85 an hour.

The council chairman's job as a carpenter foreman involved work on an OEO-funded project, but his salary was mistakenly paid from EDA funds. The business manager of the Aquaculture project told us that the council chairman had been hired because he was the only available qualified carpenter foreman on the reservation. The carpenter foreman's job was a temporary position, and, as discussed earlier, OEO had interpreted the instructions as not applying to temporary positions.

The council chairman stated that his job as a community relations specialist consisted of acting as a tour guide of the Aquaculture project and answering questions about the project. The business manager informed us that there was no job description for the community relations specialist position. The council chairman still held this position as of September 30, 1970.

During the period August 1969 through September 1970, the council vice chairman held numerous jobs funded by OEO or EDA. The major jobs held, the periods of employment, and the pay rates were as follows:

Job title or function	Period	Pay rate	Funding agency
Baitworm production	Aug. 1969	$3.85	EDA
Truck spotter (spots trucks for dumping fill material)	Sept. to Dec. 1969	4.70	OEO
Pond custodian	Dec. 1969	4.70	EDA
Pump house construction	Jan. 1970	4.70	OEO
Dike construction	Jan. 1970	4.70	OEO
Community specialist	Aug. 1969		
	Jan. to July 1970	3.85	EDA
Pond construction	Feb. 1970	5.25	OEO
Dumper	Aug. 1970	5.00	EDA
Tractor operator	Aug. and Sept. 1970	7.43	EDA

The council chairman informed us that the vice chairman's duties as a community specialist had been similar to his own.

The chairman and vice chairman informed us that, prior to the vice chairman's initial OEO employment, an OEO representative had provided verbal approval for the vice chairman's employment.

The council, in its comments to OEO, stated (1) that EDA had no restrictions on the employment of council members and, in fact, had encouraged it where necessary for community development, (2) that the chairman had never been paid from OEO funds, and (3) that the vice chairman had been employed on a temporary basis over a period of 5 months and that prior verbal approval had been given by an OEO representative.

DISMISSAL OF EMPLOYEES

Mr. Kinley charged that Lummi tribal members had been discriminated against because they had been dismissed without proper notifications or hearings.

Our review showed that certain Lummi tribal members had been dismissed without the required formal notifications. We found no indication, however, that hearings had

been requested by the dismissed employees, except in one case where the dismissed employee subsequently withdrew his request.

We discussed this matter with Mr. Kinley who identified seven employees, including himself, who, he believed, had been dismissed without proper notifications or hearings. The individuals identified had been employees of the Lummi Community Action Program; six were Lummis and one was a non-Indian.

Prior to February 1969 Lummi Community Action Program personnel policies required a written notice of termination or resignation of an employee except that immediate dismissals could be made in cases of delinquency and misconduct. In February 1969 the council considered a proposed change in personnel policy which subsequently was adopted by the council personnel board in December 1969. This change provided that, in all cases, a written notice of termination or resignation of each employee be effective not earlier than the expiration of a period of time equivalent to the number of days in the employee's normal pay period.

Mr. Kinley's position prior to January 1, 1969, as the Community Action Program director was terminated by council action during a special meeting held December 12, 1968. In a letter dated December 30, 1968, the chairman of the council formally notified the Community Action Program director of his dismissal and stated that it was to take effect immediately. After several inquiries to OEO about a possible hearing, Mr. Kinley was informed by OEO that a hearing would have to be requested from the council. Mr. Kinley informed us that he had not requested a hearing before the council.

Also, four employees were dismissed at March 31, 1969, the end of the then-current grant year. According to the chairman of the council, the reason for dismissal was the nonavailability of funds to continue the Community Action Program activities. The records did not show, however, that OEO had intended to discontinue funding the Community Action Program; actually, OEO awarded a grant in April 1969.

We found no evidence that the four employees had received notifications, verbal or written, of their dismissals. These four employees were members of an eight-member staff of the former Community Action Program director, Mr. Kinley. Mr. Kinley told us that the dismissals of the four employees had been discriminatory. We found no indication that the four persons had requested hearings before the council.

The sixth employee mentioned by Mr. Kinley was also a Community Action Program director. The chairman of the council informed him of his dismissal in a letter dated April 27, 1970, which gave him 30 days to request a hearing. He requested the hearing and a list of the charges against him. The council provided him with a list of charges, whereupon he declined a hearing and resigned effective June 30, 1970.

The seventh person mentioned was employed initially as a laborer and then as a carpenter trainee. His last week of employment ended December 17, 1969. One week later, 11 other carpenter trainees also were dismissed.

The chairman of the council informed us that he had given verbal notices to the trainees about 1 week prior to their termination of employment. The chairman stated that the reason for termination had been the lack of funds. We found no evidence that any of the trainees had requested a hearing.

The council, in its comments to OEO, stated that at times it had been forced to take direct action in the dismissals of employees; however, no employee had ever requested a hearing except for the one who withdrew his request.

RECOMMENDATIONS TO OEO AND EDA

We recommend that the Director of OEO and the Assistant Secretary for Economic Development, Department of Commerce, require (1) the council to adequately publicize job openings and to apply hiring procedures that will result in the selection of the most qualified low-income applicants for employment on the council's federally funded projects and (2) the council's personnel board to comply with its

policy that requires written notices to employees in advance of the effective dates of their termination of employment.

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By letter dated April 8, 1971, the Deputy Director of OEO stated that OEO was in general agreement with our recommendations. He stated also that (1) OEO had been informed by the council that it would regularly publicize job openings in the Lummi newsletter, that the newsletter reached most of the reservation residents, and that weekly listings of job openings would be posted in six or more public places, (2) OEO had reemphasized to the council that personnel actions were the responsibility of the personnel board, and (3) the council and personnel board would follow their established procedures, including the issuing of written termination notices.

By letter dated April 15, 1971, the Assistant Secretary for Economic Development informed us that he concurred in our recommendations and that EDA would take the necessary action to have the council follow our recommendations.

CHAPTER 4

OTHER ACTIVITIES

TRANSFER OF FUNDS

Mr. Kinley stated that there appeared to have been numerous transfers between OEO and EDA funds. We found that the council maintained separate accounts for the various funds and that its method of paying expenses necessitated numerous transfers between the OEO and EDA funds. Because of delayed posting to the records, the records for the tribal funds did not show that about $25,000 was owed to the other funds.

During the period of April 1969 through June 1970, the council activities were financed by OEO funds for dike construction, algae harvest, and Community Action Program activities; by EDA funds for research and technical assistance; by Department of Labor funds for training; and by council funds for other council activities. The OEO and Department of Labor funds were provided on an advance-grant basis, and the EDA funds were provided on a cost-reimbursable basis. Most of the council tribal funds were used for a student loan program and for tribal administrative expenses, such as power and heating costs of the council administrative building.

To maintain control over the funds, the council established a separate bank account for each activity for which it had responsibility. The Department of Labor funds were under the control of the Oceanic Institute, which was responsible for teaching aquaculture vocational skills, and were also maintained in a separate bank account. Accounting for all funds was the responsibility of the council.

To facilitate the payment of payrolls and other expenses, the majority of cash disbursements were made through the EDA bank account. The other funds were required either to advance moneys to the EDA account or to reimburse the EDA account for expenses paid. The accounting records for the various funds, if maintained on a timely basis and in accordance with established methods, should have shown the amounts due or amounts owed by the various funds.

Our review of the financial transactions, which included a determination of the source and the resulting application of the various Federal funds provided during the period April 1969 through June 1970, showed that 40 transfers were made among the various funds. Of the 40 transfers, 24 were between OEO and EDA funds, seven were between EDA and Oceanic Institute funds, and nine were between the other funds. Also, as of June 30, 1970, except for the transfers between EDA and the Oceanic Institute funds, the records of the other funds were not in agreement. These differences were minor, except for about $25,000 which was recorded in the records of the other funds as being due from the tribe but which was not recorded on the tribe's records as payable to those funds. The $25,000 included payments of expenses of the tribe and loans to the tribe.

The accountant for the Aquaculture project informed us in September 1970 that the postings to the tribe's records were not then current and that, once they were brought up to date, the amounts due the other funds would be properly recorded on the tribe's records. He informed us further that this problem had diminished because the number of transfers in recent months had been substantially reduced.

We believe that the recordkeeping should be accurate and timely to ensure that the fund transfers are properly recorded and that the account for each of the various funds accurately shows, on a current basis, the amounts receivable or payable.

The council, in its comments to OEO, stated that (1) it had retained a certified public accounting firm to provide financial service because the tribe lacked professional accounting personnel, (2) the firm designed, installed, and maintained all accounting records, and (3) the firm's accounting system necessitated the numerous transfers and the firm did not maintain adequate controls or current postings to reflect the fund balances on a regular basis.

MATCHING FUNDS NOT RECEIVED

Mr. Kinley said that $31,000 of matching funds to be donated by the Oceanic Foundation for OEO activities for the

program year ended March 31, 1970, had not been received by June 1970.

Our review showed that the funds had not been received as of that time but that, of the $31,791 due, $31,500 had been received by the council in July 1970. These funds, however, were deposited in the funds accounts of EDA and the tribe rather than in the funds account of OEO and therefore were not properly recorded in the council's records.

The OEO grant agreement dated May 29, 1969, under which $200,000 in funds were provided for the construction of the aquaculture research facilities, required a non-Federal matching-fund contribution of $31,791. The council's proposal to OEO for this grant stated that the matching funds would be provided by the Oceanic Foundation.

On February 6, 1970, the director of the Aquaculture project, in a letter to the Oceanic Foundation, stated that the matching funds of $31,791 were due by March 31, 1970. He requested from the foundation a letter of commitment stating that the contribution would be made by March 31, 1970. The director informed us that the letter of commitment was received from the Oceanic Foundation but that it could not be located.

OEO guidelines provide that required non-Federal contributions be recorded as an amount due in the records of the grantee and that a further entry be made when the funds are received. We found that the council had not recorded the $31,791 due the OEO fund from the Oceanic Foundation.

On July 14, 1970, we discussed the required non-Federal contribution with members of the council and the Aquaculture project director. The project director stated that the matching funds should be forthcoming soon from the Oceanic Foundation. A check for $31,500 from the Oceanic Foundation was received by the council on July 16, 1970. The Aquaculture project director stated that the delay in obtaining the matching funds resulted because the Oceanic Foundation had not received certain funds it had relied upon to meet this commitment. He also said that the difference of $291 between the $31,500 and the $31,791 required by the OEO grant

must be attributed to an error. The business manager stated that an effort would be made to obtain the $291.

The records showed that the matching funds of $31,500 for the OEO grant was deposited to the EDA fund account and that, subsequently, $500 of this amount was contributed to a special Lummi fund for education and other purposes. The project director stated that, because the EDA fund was depleted, OEO had provided verbal approval to use the $31,000 for EDA purposes. An OEO official informed us that there must have been some misunderstanding because OEO could not provide verbal approval to use OEO matching funds for EDA activities. The OEO official stated that the council would be required to transfer the funds to the OEO account and to record them in the records. The business manager of the Aquaculture project informed us that the matching funds of $500 that were donated to the special Lummi fund were considered to be in excess of those required by the OEO grant. He said that he understood that only $31,000 was due from the Oceanic Foundation. He also stated that the $500 would be returned and deposited to the OEO account.

The council, in its comments to OEO, stated that the $31,500 in matching funds were posted through a misunderstanding to the EDA account and that it had instructed its staff to correct the posting and to apply to the Oceanic Foundation for $291, the balance due.

CHAPTER 5

ADMINISTRATION OF FUNDS

Our review of the council's administration of Federal funds revealed certain weaknesses in its financial management and personnel administration. Many of these weaknesses were disclosed by earlier audits. Although the council has made efforts to improve its financial administration, we believe that further corrective actions are required to ensure adequate internal control over assets and expenditures and compliance with OEO and EDA requirements.

We examined into the council's accounting procedures and practices to ascertain whether they were in accordance with OEO guidelines, EDA contract requirements, and generally accepted business practices and whether corrective actions had been taken on financial management deficiencies disclosed by prior audits of the tribe's programs.

During the period covered by our review of financial activities (April 1, 1968, to July 31, 1970), the council expended about $821,000 for OEO- and EDA-funded activities. To test the validity of accounting procedures and practices, we examined into expenditures of about $137,200, or 17 percent of the funds expended during the test period.

WEAKNESSES REPORTED AS A RESULT OF PRIOR AUDITS

A number of audits made of the council's OEO project disclosed weaknesses in the administration of funds. During the program year ended March 1969, two audits were made--one by a licensed public accountant and one by a certified public accounting firm. The licensed public accountant, in his report dated February 5, 1969, which covered the period April through November 1968, indicated that the accounting system and internal controls were adequate.

The audit by the certified public accounting firm covered the entire program year ended March 31, 1969. The certified public accounting firm in its audit report dated July 9, 1969, stated that the internal controls were inadequate. It appears that some accounting and internal

control problems occurred about the time of the change in the management of the council's OEO program on December 31, 1968. Also, we observed that the quality of the recordkeeping decreased during the period January 1 to March 31, 1969.

The certified public accounting firm reported that (1) travel records had been kept improperly, (2) telephone charges had not been properly recorded, (3) an inventory of property obtained from surplus stocks of other agencies had not been taken, (4) social security taxes had not been withheld from employees, (5) expenditure limitations for certain program components had been exceeded, and (6) several unauthorized expenditures had been made.

In December 1969 an OEO technical assistance contractor in a fiscal review and audit follow-up made for OEO found a number of deficiencies in the council's accounting system and internal controls and made a number of recommendations to correct the deficiencies. The contractor recommended that (1) documentation of the non-Federal contributions should be prepared on a monthly basis, (2) procedures and controls over purchases should be implemented and maintained, (3) improved procedures and controls over the payment of vouchers should be established, (4) procedures for preparation and approval of employee time and leave reports should be improved, and (5) property and equipment records should be brought up to date.

NEED FOR CONTINUED IMPROVEMENT IN FINANCIAL AND PERSONNEL MANAGEMENT

Although the council has taken actions to correct some of the deficiencies noted by the earlier audits, our review indicated that further corrective efforts were required to develop and implement an adequate accounting system, including effective internal controls. Of particular concern is the fact that certain types of transactions, such as purchases and non-Federal contributions, were reasonably well documented during the 1968-69 period but were not adequately documented in later periods. Part of the problem, in our opinion, stems from the fact that the council's accounting personnel were unable to adequately cope with the significantly increased level of financial activity since the advent of the Aquaculture project in May 1969.

At that time the council recognized that it would have to establish improved accounting procedures to correct existing deficiencies and control the increased level of expenditures in future periods. To accomplish this, the council engaged a certified public accounting firm in July 1969 to establish and maintain the necessary accounting records. The services of the certified public accounting firm were terminated in June 1970, however, because the council had hired a full-time controller in May 1970. We found, however, that improvements were still needed in the council's financial and personnel management system as evidenced by the following types of deficiencies revealed by our review.

Procurements

1. Discounts offered by vendors for prompt payment were not taken. On the 11 billings in July 1970 with discount terms, no discounts were taken.

2. Receiving reports prepared by or invoices signed by the receiving clerk to evidence that items purchased had been received were not always on file. Of the 130 procurements in July 1970 which had been paid or approved for payment, 24 were not supported either by receiving reports or signed invoices.

3. In October 1970 the council's controller informed us that invoices were being paid about 6 weeks after receipt. These delayed payments resulted, in some instances, in the assessment of late charges by vendors.

4. In July 1970 we found several instances where the same person authorized the purchase of an item and the payment for the item. No receiving reports were on file for these transactions. Internal control over procurement procedures should be strengthened to ensure that duties and responsibilities for authorizing purchases and payments are appropriately separated and that procurements are supported by adequate documentation.

Travel

In our review of travel vouchers paid in January and July 1970, we found that:

1. There was no evidence that out-of-town travel was authorized in advance.

2. Times of departure and return of travelers were not always shown on travel vouchers, which precluded accurate verifications of per diems claimed. Standard Government Travel Regulations, which are applicable to federally funded travel, require that per diems be computed on a quarter-day basis.

3. Odometer readings were not always provided in support of claims for car mileage.

Payroll and personnel administration

1. Employee personnel files and job descriptions had not been prepared as of October 1970.

2. Records authorizing appointments, terminations, position classifications, and salary rates had not been prepared as of October 1970.

3. Leave records had not been properly maintained. Our examination of the leave records for 14 council employees in July 1970 showed that 10 of the employees' leave records did not agree with the time and attendance reports showing the leave taken and earned.

Non-Federal contributions

The non-Federal share contributed was not recorded in the books. Although required by OEO, in-kind contributions were not adequately documented. Cash contributions were not properly recorded, and, as stated earlier, the contribution of $31,500 from the Oceanic Foundation was deposited in the wrong account and was recorded incorrectly.

Property

1. Formal records for nonexpendable property were not being maintained.

2. A general ledger control account for nonexpendable property had not been established.

Other expenditures

Legal fees amounting to $2,400--which, for the most part, pertained to tribal activities--were paid from EDA funds rather than from tribal funds.

- - - -

Council officials agreed that the aforementioned weaknesses existed and said that a concentrated effort would be made to correct them. Management officials informed us that action had been taken to strengthen the control over property and travel. They pointed out that internal tribal conflicts and changes in fiscal personnel in the past had contributed to these weaknesses.

The fact that certain of the weaknesses, identified by earlier audits, continued to exist at the time of our review should not be considered as indicative of a lack of concern by the council and management officials over matters that were in need of attention. The council, since the start of the Aquaculture project, took on significantly greater financial management responsibilities and was unable to keep up with the increased levels of accounting, personnel, and procurement activities. The council officials were receptive to our findings and seemed willing to initiate corrective action.

The fact that many of the weaknesses which we identified had been previously reported indicates a need not only for the council to continue its actions to improve the controls over its financial and personnel matters, but also for both OEO and EDA to carefully monitor the tribe's financial activities and to periodically follow up on recommended actions to ensure that the weaknesses are corrected.

RECOMMENDATIONS TO OEO AND EDA

We recommend that the Director, OEO, and the Assistant Secretary for Economic Development, Department of Commerce, provide for continuing assistance to the council in effecting improved financial and administrative control and require OEO and EDA officials to monitor the council's corrective actions.

- - - -

By letter dated April 8, 1971, the Deputy Director of OEO informed us that the OEO Indian Division would provide assistance to the council to effect improved financial and administrative controls. He informed us further that the council's problem had been a lack of administrative manpower and financial support for manpower and that negotiations between the Indian Division and the council were under way to provide the necessary financial support for the building of an administrative unit.

By letter dated April 15, 1971, the Assistant Secretary for Economic Development informed us that he concurred in our recommendation.

APPENDIXES

United States Senate

WASHINGTON, D.C. 20510

June 25, 1970

The Honorable Elmer B. Staats
Comptroller General of the United States
General Accounting Office Building
441 G Street
Washington, D. C. 20548

My dear Mr. Comptroller General:

Enclosed for your kind attention is a letter from Mr. Forrest L. Kinley, and a telegram from Mr. Vernon Lane, Chairman of the Lummi Indian Business Council, Marietta, Washington, requesting that an audit be performed by the General Accounting Office on expenditures of federal funds, in connection with programs of the Lummi Indian Tribe.

We believe that such an audit would be of great benefit to the Tribe, and we are pleased that they wish to take advantage of the expertise of the General Accounting Office.

Any action that you may take in regard to this request will be greatly appreciated. Please contact our offices if you require any further information.

Sincerely yours,

Henry M. Jackson, U.S.S.

Lloyd Meeds, M.C.

OFFICE OF ECONOMIC
OPPORTUNITY

EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C. 20506

APR 8 1971

Mr. Henry Eschwege
Associate Director
Civil Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

We have reviewed the General Accounting Office audit of the Lummi Indian Business Council. We are in general agreement with the observations and recommendations of the GAO. Corrective action has been taken.

The Lummi Indian Business Council has informed us that job openings will be publicized regularly in the Lummi paper. This paper reaches almost all of the reservation residents. Other methods of publicizing openings will also be utilized.

It has been re-emphasized to the Lummi Tribal Council that personnel actions are the responsibility of the personnel committee. The Council and Personnel Committee will follow their set procedures including written termination notice.

OEO's Indian Division will provide assistance to effect improved financial and administrative controls. To date, the grantee's problem has been lack of administrative manpower and financial support for that manpower. Negotiations between the Indian Division and the grantee are presently underway to provide the necessary financial support for the building of an administrative unit.

We have included a response from the Lummi Tribe as a formal portion of the reply.

We appreciate the opportunity to review this report and hope that our comments are helpful.

Sincerely,

Wesley L. Hjornevik
Deputy Director

LUMMI INDIAN BUSINESS COUNCIL
MARIETTA, WASHINGTON 98268

G.A.O. Audit Review
2-19-71

The Lummi Indian Business Council would like to briefly reply to the 9 spacific charges made by Mr. Kinley, and to have this reply appended to and made an integral part of the G.A.O. audit report. In addition, we would like to comment on the recommendations as shown on page 7 of the audit.

Reply to Charges

1. Project Implementation - The research phase of Aquaculture was and is a continuing program. Feasability has been proven not only to the satisfaction of the Council but to OEO, EDA and numerous other State and Federal agencies.

2. Control Over Project Operations - The Council has and will continue to have the final say on all matters referring to the activities of the Project Director and Business Manager. They are employees of the Tribe and are capable and responsible individuals.

3. Project Reporting - The Council, due to lack of funding, has not always been able to issue data on Aquaculture on a regular basis. However, since March 1970, an average of 3 tours per week were conducted for various groups and individuals of the entire Aquaculture Project. Any interested member of the tribe should not feel the need for a formal invitation to see the project. We have at this time a proposal to fund a Public Relations position which will ensure members of the tribe as well as others, of information on the progress of Aquaculture. The Council is very proud of the project and does not wish to keep it a secret from any individual or group.

4. Hiring Practices - The Council, by resolution, had given all responsibility for hiring and firing to a five member Personnel Board on 7-4-69. In certain emergency or temporary situations, the Council hired without Personnel Board approval. However, this was on a rare occasion and later ratified by the Board. TheCouncil has also on limited occasions delegated employment authority for construction crews and algae harvest.

5. Hiring of Non-Lummis & Off-Reservation Lummis - The Council and Personnel Board madeevery attempt to hire Lummis, regardless of where they live, in every available opening. Many job qualifications have been waived in favor of on-the-job training to provide employment to Lummis rather than non-Lummis.

6. Employment of Tribal Chairman and Vice Chairman - EDA has no restrictions on employment of Council members, but in fact encourage it where necessary for community development. The Chairman was never paid from OEO funds. The Vice Chairman was employed on a temporary basis spread over a period of 5 months and prior verbal approval was given by an OEO representative.

7. Dismissal of Employees - The Council at times were forced to take direct action in this area. However, no employee ever requested a hearing except for one individual who withdrew his request by his own action.

8. Transfer of Funds - The Council retained the CPA firm to provide financial services because the tribe lacked professional accounting personnel. The CPA firm designed, installed, and maintained all accounting records. Their system necessitated the numerous transfers. The CPA firm was totally at fault for not maintaining adequate controls or current postings to relfect the funding balances on a regular basis.

9. Matching Funds Not Received - The matching funds were due by 3-31-70 in the amount of $31,791.00. They were received in the amount of $31,500.00 in early July 1970 and were posted through a misunderstanding to the EDA account. The Council has instructed their staff to reverse this erroneous entry to the OEO account and to apply to the Oceanic Foundation for the balance due of $291.00. The Council would like to advise that the CPA's failed to provide in their accounting system for the recording in the General Ledger of In-Kind money or services.

Comment on GAO Recommendations

1. As of January 1, 1971, the tribe has provided a position for a personnel clerk, whose primary responsibility is to publish weekly job listings which will be posted in 6 or more public places as well as mailing with each issue of the Squol Quol (Tribe newsletter). In addition the personnel clerk will maintain personnel files and applications will be accepted on a daily basis and held in active files for a period of 6 months whereupon they will be transferred to inactive files for another 6 months and if no action is taken by that time they will be retired.

2. The Personnel Board, as of November 30, 1970, has initiated a standard form for termination as well as employment notices. These forms are being used and files maintained by the personnel clerk.

3. It has always been the wish of the Council that the funding agencies provide adequate support for financial and administrative control, and would be more than pleased to work with the various agencies to ensure that the funds are properly administered and accounted for. At the present time we have submitted proposals to EDA and OEO to provide for the additional administration and accounting personnel to enable us to refine our procedures and systems.

Respectfully submitted,

Vernon A. Lane

Vernon A. Lane, Chairman
Lummi Indian Business Council

THE ASSISTANT SECRETARY OF COMMERCE
Washington, D.C. 20230

April 15, 1971

Mr. Max A. Neuwirth
Associate Director
Civil Division
General Accounting Office
Washington, D. C. 20548

Dear Mr. Neuwirth:

This is in reply to Mr. Eschwege's letter of February 9, 1971, requesting comments on a proposed report to the Congress on the "Review of Financial and Management Activities of the Lummi Indian Business Council, Marietta, Washington, Funded Primarily By-Office of Economic Opportunity and Department of Commerce."

We have reviewed the comments of the Economic Development Administration and believe they are appropriately responsive to the matters discussed in the report.

Sincerely yours,

Larry A. Jobe

Larry A. Jobe

Enclosure

THE ASSISTANT SECRETARY OF COMMERCE
Washington, D.C. 20230

Henry Eschwege, Associate Director
Civil Division
United States General Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:

This is in response to your February 9, 1971, communication transmitting the draft audit report entitled, "Review of Financial Management Activities of the Lummi Indian Business Council, Marietta, Washington."

We have reviewed the subject draft report and concur with its recommendations or suggestions, namely:

(1) - require the Council to adequately publicize job openings and apply hiring procedures that will result in the selection of the most qualified needy applicants for employment on the Council's federally funded projects;

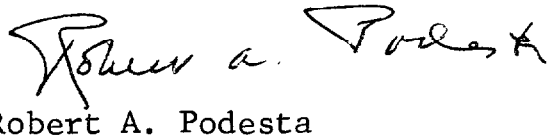
(2) - require the Council's Personnel Board to comply with its policy that requires written notice to employees in advance of the effective date of their termination of employment by the Council; and,

(3) - provide for continuing assistance to the Council to effect improved control and require that (OEO and) Economic Development Administration officials carefully monitor the Council's action.

The Economic Development Administration first approved the Lummi Aquaculture Development Feasibility Study on February 20, 1969, and on June 4, 1970, a year's extension was approved. Currently, it is expected that the project will be extended for one more year (from May 21, 1971).

The Economic Development Administration concurs with this report and will take the necessary action to have the Lummi Indian Business Council follow the recommendations or suggestions made therein as soon as the report is finalized by your office.

Sincerely,



Robert A. Podesta
Assistant Secretary
for Economic Development