

Department of Labor
Office of Inspector General—Office of Audit

**EMPLOYMENT AND TRAINING
ADMINISTRATION**



**EVALUATION OF ALLEGATIONS
INVOLVING THE INTER-TRIBAL
COUNCIL OF ALABAMA
(PROGRAM YEARS 2000-2002)**

**Date Issued: September 30, 2004
Report Number: 04-04-006-03-355**

BRIEFLY...

Highlights of Report Number O4-04-066-03-355, a report to the Assistant Secretary, Employment and Training Administration (ETA). September 30, 2004.

WHY READ THE REPORT

The Intertribal Council (ITC), a nonprofit organization located centrally in Millbrook, Alabama, manages the Workforce Investment Act (WIA) program for Native Americans in the state. The agency receives all of its funding from the Department of Labor (DOL) to provide a range of employment training and supportive services. In PY 2000, DOL awarded ITC a 2-year \$462,120 grant under the WIA's Title I Indian and Native American (INA) programs. By PY 2003, the grant had increased to over \$933,000. ETA's Division of Indian and Native American Programs (DINAP), which administers INA grants, had not done a program review of ITC since 1997. DINAP said that they did not consider ITC a "high risk" grantee.

WHY OIG DID THE AUDIT

The OIG evaluated a Hotline complaint to determine if allegations made against the ITC by a former board member had merit. Several allegations involved wage and hour violations, misuse of funds, conflict of interest, discrimination acts, and other issues that occurred from November 1999 through March 2003.

READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2004/04-04-006-03-355.pdf>

September 2004

MOST ALLEGATIONS AGAINST INTER-TRIBAL COUNCIL OF ALABAMA HAD NO MERIT, BUT AGENCY SHOULD IMPROVE FINANCIAL MANAGEMENT and RECRUITMENT

WHAT OIG FOUND

We concluded that 7 of the 13 allegations were not substantiated. However, we found the following financial and programmatic issues:

- a lack of participation by some tribes;
- inconsistent reporting of program expenses;
- inadequate support for participants' eligibility determinations;
- a lack of support for the education credits listed on the ITC Director's resume;
- weak internal controls over payroll disbursements; and
- no access to ITC's office building for people with disabilities.

WHAT OIG RECOMMENDED

We recommended to the Assistant Secretary for ETA that the agency provide technical assistance to the ITC to help it increase participation from some tribes and ensure that ITC:

- Accurately reports program costs.
- Verifies and supports participant eligibility.
- [The Board] takes action to either affirm or remove the Director.
- Complies with existing internal controls so that financial transactions are properly authorized.
- Compensates its Director for the unauthorized salary reduction of \$4,680.

ITC agreed with most of our findings, but disagreed with our questioning the eligibility of seven sampled participants. Before OIG's fieldwork ended, ITC provided documentation of building renovations to make their office accessible. Therefore, we made no recommendation on this finding.

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EXECUTIVE SUMMARY

The Office of Inspector General (OIG) has evaluated a complaint made against the Inter-Tribal Council of Alabama (ITC or Agency) located in Millbrook, Alabama. The Agency manages the Workforce Investment Act (WIA) program for Indians and Native Americans in the State.

Our objective was to determine if allegations discussed in the complaint could be substantiated. A former board member of ITC made several allegations that generally involved wage and hour violations, misuse of funds, conflict of interest, discrimination acts, and a variety of other issues that occurred during November 1999 through March 2003.

We concluded that most of the allegations were not substantiated. Allegations that were substantiated or other issues that stemmed from allegations in the complaint involved: lack of participation by some recognized tribes; inconsistency in reporting program expenses; lack of support for participants' eligibility determinations; lack of support for the education credits listed on the ITC Director's resume; internal control weaknesses over payroll disbursements; and lack of handicap access to ITC's building.

We recommend that the Assistant Secretary for Employment and Training ensure that ITC takes corrective action to resolve these issues. Specifically, we recommend that ETA:

- Provide technical assistance to help ITC find effective ways to encourage and promote the program to members of all recognized tribes.
- Ensure ITC's program costs are accurately reported.
- Ensure ITC verifies that all participants have satisfied WIA eligibility requirements. ITC should also ensure WIA participants' eligibility determinations are properly supported with verifiable information.
- Ensure the ITC's Board takes action to either affirm or remove the Director after a complete review of her educational achievements and the events leading up to the Director's employment at ITC.
- Direct ITC to comply with its existing internal controls to ensure financial transactions are properly authorized and traceable and to compensate the Director for the unauthorized salary reduction of \$4,680.

ITC's Response to Draft Report

In response to our draft report, ITC's Project Director generally agreed with our findings and recommendations. The Project Director also described corrective actions that ITC has begun to take in response to the draft report.

Auditor's Conclusion

ITC's entire response is included as Appendix D of this report and should be considered by ETA's Grant Officer during the audit resolution process.



Assistant Inspector General's Report

Emily S. DeRocco
Assistant Secretary for
Employment and Training
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

We evaluated a complaint made against the Inter-Tribal Council of Alabama (ITC or Agency) located in Millbrook, Alabama. The Agency manages the Workforce Investment Act (WIA) program for Indians and Native Americans in the State. A former board member of ITC made several allegations against the Agency that occurred during November 1999 through March 2003. Specifically, the complainant alleged:

- All tribes located in the designated 63 counties¹ in Alabama were not served. Also, only 50 participants were served over a 3-year period.
- Funds were limited after ITC increased staff salaries.
- Participants were not eligible for WIA Program.
- Director worked without pay due to lack of funds.
- ITC office building is not handicap accessible.
- Advisory Board Members were allowed to vote at ITC's meetings.
- Director did not meet the education requirement for the position.
- Accounting firm employed to prepare ITC's financial reports also performed its audits.
- ITC required different information for some program applicants.
- ITC's entire staff are members of the same tribe.
- Director also serves on the Alabama Indian Affairs Commission.
- A former employee filed a discrimination lawsuit against ITC and the Director.
- The Echota Cherokee tribe was not eligible for ITC services.

¹ The allegation cites 62 counties; however, based on a 1990 Census Report, a total of 63 counties were to be served by ITC.

The OIG conducted the evaluation to answer the following question:

- Could the allegations against ITC in the complaint be substantiated?

We concluded that 7 of the 13 allegations made against ITC could not be substantiated. However, we did substantiate four of the allegations as well as identifying two other financial and programmatic issues that required corrective action by ITC.

The evaluation was conducted in accordance with the Quality Standards for Inspections issued by the President's Council on Integrity and Efficiency. Our audit scope, methodology, and criteria are detailed in Appendix B.

FINDINGS AND RECOMMENDATIONS

I. Substantiated allegations and other issues identified

We substantiated four of the allegations and identified two other financial and programmatic issues that required corrective action by ITC. These issues involved:

- lack of participation by some recognized tribes;
- inconsistency in reporting program expenses;
- lack of support for participants' eligibility determinations;
- lack of support for the education credits listed on the ITC Director's resume;
- internal control weaknesses over payroll disbursements; and
- lack of handicap access to ITC's office building.

In these instances, we recommend that the Assistant Secretary for Employment and Training take steps to ensure ITC takes corrective action.

Finding 1: Limited Program Funds and Older Tribal Populations Among Factors that Contributed to Low Participation by Some Tribes.

The complaint alleged that all tribes in the designated counties of Alabama were not served by ITC and that ITC only served 50 participants over a period of 3 years. We interviewed the Director and Board members to determine which tribes should have been served by ITC. We also reviewed ITC's Plan, as well as WIA applicants' files and participant enrollment information to determine the level of participation of each tribe. Although the allegation had some merit, the

lack of participation by some tribes was not due to applicants being improperly denied program services.

According to the Director, ITC provides assistance to members of all state-recognized and federally-recognized tribes.² Members of non-recognized tribes are referred to the State WIA program for assistance. In PY 2003, two additional tribes (Piqua Sept of Ohio Shawnee and United Cherokee Nation) gained state recognition and became eligible to receive assistance from ITC.

ITC admitted that it has declined program assistance to some eligible applicants due to limited funds. As discussed in ITC's Plan (Description of General Program Design and Goals), ITC officials state:

An average number of 50 participants are served in the program at any given time. Every year we have to decline applicants that meet the requirements of the Intertribal Council of Alabama's WIA program due to our limited available funds.

Despite its limited funding, the Director said that ITC utilizes several sources to promote its WIA program to all recognized tribes. Promotional sources used by ITC include:

- website for the Indian population of Alabama;
- ITC Board Members publicize the program on the reservations;
- meetings and pow-wows in rural areas;
- Alabama Indian Affairs Commission and State Workforce Investment Board publicize the program;
- educational institutions are aware of financial aid from ITC; and
- advertisement through the media (local newspaper and radio).

Applicants may apply in person or by mail. As previously noted, applicants from non-recognized tribes, or non-Native individuals are referred to the WIA programs administered by the State and local Service Delivery Area.

Table 1 below illustrates the tribal population and number of participants ITC served during PY 2000 through PY 2002.

² According to the Bureau of Indian Affairs (BIA), Indian tribes that have a legal relationship to the U.S. Government through treaties, Acts of Congress, executive orders, or other administrative actions are "recognized" by the Federal Government as official entities and receive services from Federal agencies. Some tribes are state-recognized, but do not necessarily receive services from the state.

Table 1

NUMBER of PARTICIPANTS SERVED by ITC				
Tribes Served	Tribe Population³	Program Year		
		2000	2001	2002
State-Recognized Tribes				
Cherokee of Northeast AL	476	3	1	1
MaChis Creek	328	7	1	1
Mowa Choctaw	1,598	22	36	30
Cherokee of Southeast AL	182	0	0	0
Echota Cherokee	4,846	16	18	16
Star Clan	76	1	0	0
Federally-Recognized Tribes				
Poarch Band (in AL)	792	0	0	2
Lakote Souix	1	0	1	1
Tobique	unknown	0	1	1
Houma Nation	57	1	2	1
Tribes from other states				
Living in AL	unknown	1	1	1
Total		51	61	54

Based on the results in Table 1, ITC met its goal of serving a minimum of 50 WIA participants for each of the years referred to above. However, this is at odds with the complainant’s claim that ITC only served 50 participants over the same 3-year period. Nonetheless, either none or very few participants were served for four of the six state-recognized tribes (Cherokee of Northeast, MaChis Creek, Cherokee of Southeast, and Star Clan).

According to the Director, there is no requirement to serve a minimum number of participants for any state-recognized tribe in Alabama. The Director also said that efforts are made to reach out to all tribal members, but not all members seem to have a desire or need for the services ITC offers. For example, according to the Director, the Cherokee of Southeast Alabama tribe has an older population who is mostly interested in retirement rather than improving educational and job training skills.

³ The population of American Indian and Alaska Native Tribes located in Alabama was obtained from the U.S. Census Bureau, Census 2000, special tabulation. Internet release date: September 2002.

By contrast, the Mowa Choctaw and Echota Cherokee tribes have experienced greater participation in ITC's WIA program. The Director said that these tribes have much larger and younger populations. Younger members tend to have a greater need for educational and job training assistance than older members.

We also interviewed Board members from the Star Clan and Cherokee of Southeast Alabama tribes. As illustrated in Table 1, WIA participation by members of these tribes was very low. These board members said among the factors contributing to the low participation rate of tribal members are small tribal population; long travel distance to the Agency, and personal pride of some members prevents them from accepting services offered. We did not interview the Board representative from Cherokee of Northeast Alabama, who was ill during the time of our fieldwork. By the Director's account, the Cherokee of Northeast Alabama tribe has not provided a representative on the Board for at least 2 years despite the Director's efforts to get such representation.

Another possible contributing factor for the lack of participation by other tribal members is that many Native Americans are still not aware that the program exists. As explained in its Plan, ITC officials faced difficulties in reaching many members who may be in need of assistance but do not know the program exists.

Applicants were not improperly denied program services. We also reviewed all (18) applications from ITC's "Rejected" file to determine the reason(s) for rejection, and if applicants were improperly denied program assistance. The applications reviewed were submitted from a variety of tribes in the State. We determined these applications were rejected or not initially processed due to:

- 12 - lacked sufficient documentation;
- 2 - lacked training funds
- 1 - selected training in an occupation not in demand (cosmetology);
- 1 - wanted 4 year course; and
- 2 - did not meet income level requirements.

Two of the 18 rejected applicants later enrolled in the program after providing sufficient documentation. The two applicants not accepted in the program due to lack of funds were told to reapply in 45 days, but did not do so. Notices of insufficiency and ineligibility were mailed to the remaining applicants who did not satisfy the program eligibility requirements.

The allegation was not substantiated, as we found no evidence that eligible applicants were improperly denied access to program services. In addition, the

Agency met its goal of serving a minimum of 50 participants per program year. Despite ITC's promotional efforts, the Agency was challenged to increase participation by tribal members in 4 of the 6 state-recognized tribes under ITC's jurisdiction. In addition to limited funds, other factors such as older tribal populations and long travel distance to the Agency for some tribal members further complicated ITC efforts to increase participation for some recognized tribes.

Promotional efforts by ITC will be even more critical now that the Piqua Sept of Ohio Shawnee and United Cherokee Nation tribes have been recognized by the State. Given the importance of a viable strategy to broaden participation among members of all recognized tribes, ITC will likely require some assistance from ETA.

Recommendation:

We recommend that the Assistant Secretary for Employment and Training provide technical assistance to help ITC find effective ways to encourage and promote the program to members of all recognized tribes.

Auditee's Response:

ITC implicitly agreed with OIG's finding. ITC stated that it plans to use other sources such as the Alabama Advertising Agency, local cable stations, and Auburn University web site as other avenues for advertisement. Members of ITC's Council agreed to make a major effort to inform their tribal members of the Program.

Auditor's Conclusion:

We believe the promotional efforts planned by ITC and the additional efforts by Council members could improve participation among all tribal members. We hope that tribal members are fervently encouraged to take full advantage of the Program services and benefits. The recommendation remains unchanged; however, ETA should consider ITC's response to our draft report when issuing its final determination.

Finding 2: Available Program Funds Were Not Materially Affected by Salary Increase. However, Program Costs Were Not Consistently Reported on Financial Reports.

The complaint alleged that no funds were available to serve participants after ITC increased staff salaries in August 2002. Results from the information gathered did not substantiate the allegation. However, we found that certain program costs were not consistently reported on ITC’s financial reports.

The ITC Board approves all salary increases for ITC’s staff. The Director’s salary increase (\$4,575 per year) was approved in July 2002 and was effective August 2002. This was the first time the Director’s salary had been increased since November 1994, according to the Board’s minutes and payroll records. The Director’s salary increase represents about 2 percent (\$4,575 of \$234,844) of the total available funds. No other salary increases were authorized during PY 2002.

We also reviewed ITC’s financial records for the months of July 2002 through September 2002, as the complainant claimed that no funds were available less than one month after staff salaries increased in August 2002. We did not find an unreasonable decrease in the amount of available funds during this time period. As of September 2002, a significant amount of funds was available for program services. Table 2 provides the amount of available funds and the expenses for the time period in question.

Table 2

Expense Category	Program Expense As of		
	July 2002	August 2002	September 2002
Management Services	\$1,328	\$2,072	\$1,602
Program Services	\$14,859	\$14,614	\$15,796
Total Available	\$218,657	\$201,971	\$184,573

As we previously noted, ITC met its annual goal of serving a minimum of 50 participants in PY 2002. Based on ITC’s Revenue and Expense Statement, we determined the Agency spent \$99,966 (42.6 percent) of the \$234,844 on classroom training, work experience, and support services. ITC also spent \$100,902 (42.9 percent) for staff salaries.⁴ A total of \$29,950 (12.8 percent) was spent for other

⁴ The staff salaries contain both management services (\$14,541) and program cost (\$86,361).

operating costs. The balance of \$4,026 (1.7 percent) remained for closeout. We believe the change in total available funds was reasonable.

Inconsistency in reporting program costs. Because ITC had not prepared an annual Financial Status Report (FSR) for PY 2002, our initial analysis was based on the Agency’s general ledger, Statement of Revenue and Expense, and Federal Tax Form 990 (Return of Organization Exempt From Income Tax) for PY 2002. We examined these records and found material differences between the Statement of Revenue and Expense report and Form 990 for individual expense categories. However, the overall difference was negligible compared to specific cost category differences. Table 3 illustrates the differences we identified.

Table 3

Inconsistent Reporting of Program Expenses			
Expense Title	Rev. & Exp. Statement	Fed. Tax Form 990	Difference
Program Services	\$206,178	\$171,789	\$34,389
Management Services	\$24,640	\$59,737	(\$35,096)
Total Expense	\$230,818	\$231,526	\$707

We determined the differences noted above were due to the way in which the Director’s salary was recorded on each financial report. We found the Director’s entire salary (\$46,967) was reported as management services on Form 990. By contrast, only \$14,541 was reported as management services on the Statement of Revenue & Expense report. Conversely, the Director’s salary was similarly recorded for program services. According to the Director, the accounting firm employed by ITC is responsible for preparing both financial reports based on raw data (checks, receipts, employee and participant time sheets, etc.) provided by ITC.

The Director attributes the inconsistency in reporting the salary expense to high turnover and use of temporary service employees by the accounting firm. The Director also said that ITC had found other accounting transactions prepared by the accounting firm that needed to be corrected.

While the allegation was not substantiated, we did identify inconsistencies in the way ITC reported the Director’s salary on key financial reports that should be

corrected. Although ITC utilizes an accounting firm for bookkeeping purposes, ITC is ultimately responsible for the accuracy of its financial reports.

Recommendation:

We recommend that the Assistant Secretary for Employment and Training take steps to ensure ITC properly reports program costs.

Auditee's Response:

ITC informed the accounting firm of past inconsistencies and have received assurances that future reports will be rectified. ITC also stated that it would change accounting firms if problems continued.

Auditor's Conclusion:

We believe ITC has taken the proper steps toward resolving this issue, and ETA should consider ITC's response to our draft report when issuing its final determination.

Finding 3: Participants' Eligibility Determinations Were Not Always Supported.

The complainant alleged that some participants were not eligible for the WIA program. From a universe of 90 participants, we reviewed 14 participant files, and two individual's correspondence file to verify the participants' eligibility determinations. The complainant specifically identified six individuals that the complainant believed were ineligible (four were actual participants and two individual never enrolled in the program). We reviewed 10 additional participant files after identifying discrepancies with 5 of the initial 6 files. (*See Exhibit A - Review of Participants' Eligibility Determinations*).

Based on our review of the 14 participant files, the allegation that some participants were not eligible for the WIA program was substantiated, as we determined one participant was ineligible and six participants' eligibility questionable.

ITC's policy provides that participants are eligible for program assistance when all of the applicable requirements are met:

- Proof of Native American heritage;
- Meet Low-income families requirement

- Proof of Pell Grant for Classroom Training; and
- In compliance with Selective Service Act.

We determined 7 of the 14 participants were eligible for the WIA program. Of the remaining 7 participants, we found that one participant was not eligible. This participant did not meet the low-income requirement.

Six participants' files lacked verifiable income and employment documentation. ITC's staff relied on applicants' Federal tax returns to document the income of the six participants who lacked verifiable information. This information was usually more than 6 months old and had not been verified by ITC's staff. The Director said the Agency lacked the means to verify income information.

Two other individuals, identified by the complainant, did not enroll in the program. One individual submitted invoices/receipts for reimbursement of training supplies, even though the individual never enrolled in ITC's WIA program. The other individual did not have proof of a Pell Grant at the time of application. We determined these individuals never enrolled or received any reimbursements from the program.

The allegation that participants' eligibility determinations were not always supported was substantiated. ITC did not utilize reliable information to verify employment and income information. The ITC Director maintains that ITC was limited in its ability to obtain more reliable information.

Recommendation:

We recommend that the Assistant Secretary for Employment and Training ensure that ITC verifies that all participants have satisfied WIA eligibility requirements, and that WIA participants' eligibility determinations are properly documented with verifiable information.

Auditee's Response:

ITC generally agrees that better documentation is needed to support participants' eligibility determinations, and has established a policy that requires staff to provide additional written documentation into participants' files. However, ITC disagrees with OIG's conclusion for seven sampled participants' deemed to be ineligible or whose eligibility determinations were questionable.

Auditor's Conclusion:

The additional file documentation ITC's new policy requires should provide adequate support for participants' eligibility determinations. However, ITC's explanations for the seven participants we deemed to be ineligible or whose eligibility determinations were questionable were not sufficient enough for us to reconsider our initial conclusions. Specifically, ITC failed to provide documentation to support its assertions. Also, the fact that ITC agrees that better documentation is needed to support participants eligibility determinations lends support to our conclusions for each of the seven sampled participants. Our recommendation is unchanged.

Finding 4: ITC Director Was Unable to Provide Documentation to Support the Statement on her Resume Claiming 2 Years of College Credit

The complainant alleged that the ITC Director did not have the educational background that the Director claimed to have on her resume.

The Director's resume, dated August 1994, presented the following information regarding her education:

Education: Graduate, Boone High School – Orlando, Florida

College Credits: Two years
Stetson University, Deland, Florida
UAB, Birmingham, Alabama
University of Oklahoma – CEU
Auburn University at Mtg – Master Grantmanship

When we asked the Director about her educational achievements, she stated that she did not believe she met the 2-year college requirement for the position. According to the Director she attended three summer sessions at Stetson University in DeLand, Florida, during the 1960s. The Director did not have any documentary evidence of her attendance. We contacted Stetson University and officials at the University stated that they have not retained attendance records from the 1960s for the type of summer sessions the Director states she attended.

The Director stated that she was recruited by the Board for the position and was assured by the Board that she met the education requirements for the position of Director. We received a letter (dated February 26, 2004) from the person who was the Vice Chairman of the Board when the Director was hired. The former Vice Chairman stated:

We had been trying to hire a Director since February [1994] of that year when the vacancy occurred. We advertised the job, statewide, three times in the following months. No applicant qualified until August, when we had two that did qualify. One of these applicants decided to take a job with the MOWA Band of Choctaw Indians as the Housing Director. After reviewing the application of [Director's Name] we agreed that she met all of the requirements and the Board voted to hire her.

We find the allegation to be substantiated, as the ITC Director could not provide evidence that she had completed 2 years of college credits and admitted that she did not believe she met the 2-year college requirement for the position. We found no formal evidence of Board meeting minutes or memoranda to substantiate the contention of the Director that the Board approved her appointment with knowledge she did not fully meet the education requirement.

Recommendation:

We recommend that the Assistant Secretary for Employment and Training Administration ensure the ITC's Board takes action to either affirm or remove the Director after a complete review of her educational achievements and the events leading up to the Director's employment at ITC.

Auditee's Response:

On September 2, 2004, ITC's Board voted unanimously to affirm the Director's employment after reviewing all of the events leading up to the Director's employment.

Auditor's Conclusion:

ITC's Board has taken the appropriate steps toward resolving this issue, and ETA should consider the Board's actions when issuing its final determination.

Finding 5: ITC Director Was Generally Paid for Time Worked; However, Interim Reductions of the Director's Pay Were Not Authorized.

The complainant alleged the Director worked 2 months without pay due to lack of funds. We interviewed the Director, a representative of the accounting firm that was responsible for ITC bookkeeping, and reviewed the Board's minutes and payroll ledgers for the period PY 1999 through PY 2002. We determined the allegation was not substantiated; however, we found interim pay reductions to the Directors salary were not authorized.

According to the Board's minutes (dated August 30, 1999), the Director requested leave without pay to care for a family member. The Board approved the unpaid leave of absence. The Director was on leave without pay from September 24 through October 22, 1999. We examined payroll records for this time period and determined there were no payroll disbursements for the Director during October 1999.

Interim Reductions to Director's Pay Were Not Authorized - During our examination of ITC's payroll records, we discovered that the Director's pay from November 1999 through August 2000 had been reduced by \$468 each month (a total of \$4,680). The Director's biweekly salary during this time period was reduced from \$1,600 to \$1,366. According to payroll records, the regular biweekly salary (\$1,600) resumed on September 8, 2000.

The Director said that any changes to the payroll must be in writing and approved by the Board. Neither the Director nor the accounting firm representative could explain the interim pay reductions. The Director also claimed not to have noticed the salary reductions. The Director stated that the reductions occurred after she returned from leave and while she was preoccupied with the death of a family member she cared for while on leave.

The allegation was not substantiated. However, unauthorized personnel actions, such as reductions or increases in payroll, are a significant internal control weakness.

Recommendation:

We recommend that the Assistant Secretary for Employment and Training direct ITC to comply with its existing internal controls to ensure financial transactions are properly authorized and traceable and to compensate the Director for the unauthorized salary reduction of \$4,680.

Auditee's Response:

ITC has created a form to document all financial transactions regarding personnel. In addition, the reduction of the Director's salary was voted on by the Board but not recorded due to a malfunction in the tape recorder. The Director has no desire to recover the unauthorized reduction amount of her salary. The Director believes that the funds were put to better use by assisting program participants.

Auditor's Response:

ITC's decision to use a form to document all financial transactions regarding personnel may not be adequate to prevent unauthorized transactions from occurring in the future. Staff and contractors should have a clear understanding as to who has the authority and under what circumstances personnel changes should be made. Policy and procedures ITC established in this area will need to be evaluated for adequacy due the crucial and sensitive nature of personnel matters. The Director's desire not to be compensated for the unauthorized reduction of her salary needs to be properly documented to avoid future claims against DOL. We continue to recommend that ETA review ITC's corrective action.

FINDING 6: ITC Office Building Was Not Handicap Accessible.

The complainant alleged that the ITC's office building was not handicap accessible. We inspected the office building and confirmed the building was not handicap accessible.

As required by 29 CFR 32.28, program facilities receiving Federal financial assistance must be handicap accessible. The regulation states:

Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by qualified handicapped individuals. . . .

As of September 4, 2003, the building was not handicap accessible. However, on February 24, 2004, the Director provided a copy of an invoice that showed renovations to the ITC office building, including the installation of two handicap ramps, had been completed. The ITC office building has been made handicap accessible therefore, no recommendation is warranted.

II. Many allegations could not be substantiated.

We also determined 7 of the 13 allegations in the complaint could not be substantiated. ITC officials provided plausible explanations to our satisfaction or information that factually disproved these allegations. Accordingly, in these instances, no further action is considered necessary.

Board Members Are Allowed to Vote at ITC's Meetings. The complainant stated that Advisory Board Members were allowed to vote at ITC's meetings. We reviewed the ITC's bylaws and minutes to determine if this was permissible.

We determine ITC's bylaws do not make reference to an "Advisory Board." The bylaws state that members of the Board serve as policymakers. As previously indicated, the Board consists of nine members, one member from each of six state-recognized tribes, and three professional business members. Each member is entitled to one vote; however, no proxy or absentee ballot is permitted per Article II, Section 4 of ITC's bylaws.

Accounting Firm Employed to Prepare ITC's Financial Reports Also Performed Its Audits. The complainant alleged that the accounting firm used to prepare ITC's financial reports also performed its audits. According to the Director, the current accounting firm has prepared ITC's financial records since 1998, and during this time has never conducted an audit of the Agency.

In response to whether the agency should be audited, the Director referred to Article VIII, Section 1 of ITC's bylaws:

Fiscal records of the Council shall be subject to an annual audit by an independent auditor as required by the funding agencies.

As a nonprofit organization, the ITC is subject to audits under Office of Management and Budget (OMB) Circular A-133 (Audits of States, Local Governments, and Non Profit Organizations) provided certain requirements are satisfied. OMB Circular A-133 requires states, local governments and nonprofit organizations that expend over \$300,000 annually in Federal awards be subject to audit. On average, the ITC has received \$233,000 per year in Federal awards. As a result, ITC is not required to obtain an audit.

ITC Required Some Applicants to Provide Different Documentation than Others for Enrollment. The complainant alleged that ITC required some applicants to provide different documentation than other applicants in order to enroll in the WIA program. According to the complainant, ITC requested one

applicant to provide evidence of the tribe's 501(c) status⁵ as proof of being a member of a state-recognized tribe.

The ITC Director stated that applications are provided to anyone requesting admission to the WIA program. Also, ITC staff utilizes a checklist to ensure all applicants complete the same application package for the Program. The Director also stated in some instances ITC requests a notarized statement from employers or childcare providers when applicants are unable to provide the information themselves.

We found no evidence to support that ITC unreasonably required different information from certain WIA applicants. No further action is considered necessary.

ITC's Entire Staff Is Comprised of Members from the Same Tribe. The complainant alleged that ITC's entire staff is comprised of members of the Echota Cherokee tribe, which the Director confirmed. Given the appearance of preferential treatment, we reviewed the recent hires and the method for hiring. We found nothing in ITC's policies that prohibited this hiring practice. In fact, the Board approved the hiring of all ITC staff members.

ITC has three staff members (Program Director, Management Information Specialist [MIS]/Secretary, and an MIS/Assistant Secretary). The Council's minutes, dated February 1994 and July 2003, indicated that the Director and Assistant Secretary positions were advertised in the local newspaper and among the Board tribal members. Two applications for the Director's position and one application for the Secretary position were received.

In August 1999, the previous MIS/Secretary (member of another tribe) resigned and the Board temporarily assigned a WIA Work Experience participant (who is the current Secretary) to the position. In January 2000, the Board made the position permanent.

The allegation implies that it was improper for ITC to employ its entire staff from a single tribe (Echota Cherokee tribe). The allegation was not substantiated, as we found no evidence to suggest that hiring ITC's staff from a single tribe violated the Agency's policy. Further, we found the positions were advertised and these individuals were hired with the approval of ITC's Board.

⁵ A nonprofit organization

ITC Director Violated WIA Conflict of Interest Provisions by Serving on the Alabama Indian Affairs Commission. The complainant alleged that the Director serves as the representative of the Echota Cherokee tribe on the Alabama Indian Affairs Commission (AIAC). The complainant contends this violated conflict of interest provisions under WIA or possibly some other authority. The Director, who is also the Chairman of the Echota Cherokee tribe, serves as the tribal representative on the AIAC. The Director said AIAC is a state agency whose members are appointed by the Governor. In addition, there is no business relationship between the two organizations.

We reviewed WIA regulations to determine if the Director is prohibited from serving on other Native American commissions. According to Administrative Provisions under Title I of the Workforce Investment Act;

Neither membership on the State Board, the Local Board, the Youth Council nor the receipt of WIA funds to provide training and related services, by itself, violates conflict of interest provisions.

We also reviewed the ITC's bylaws and found no provisions that prohibit the Director from serving on other Native American commissions.

A Former Employee Filed a Discrimination Lawsuit Against ITC. The complainant stated that a former employee filed a discrimination lawsuit against ITC and the Director. While the allegation or statement is true, we determined that the lawsuit was properly dismissed.

The file showed that a former employee of ITC filed a complaint with the Equal Employment Opportunity Commission (EEOC) claiming discrimination based on race. EEOC dismissed the case on May 23, 1997. The complainant subsequently filed the complaint with the:

- U. S. District Court for the Middle District of Alabama;
- U. S. Court of Appeals for the 11th Circuit; and
- U. S. Supreme Court.

ITC prevailed in each attempt by the complainant of the lawsuit to get a favorable judgment. On July 9, 2001, the U. S. Court of Appeals concluded:

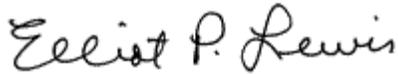
... that [Complainant] claim against the AIC [Alabama Inter-Tribal Council], and the individual board members should have been dismissed, as Indian sovereign immunity protects them from claims alleging race discrimination against non-Indian employees in favor of Indian employees when the employment concerns tribal

self governance, reservation administration and other intramural Indian matters.

On May 13, 2002, the U. S. Supreme Court refused to hear the complainant's case.

Members of the Echota Cherokee Tribe Are Not Eligible for ITC Program Assistance. The complainant alleged that the Echota Cherokee tribe was dissolved, suggesting that members of the Tribe were not eligible to receive services from ITC. We interviewed the Director and obtained information from the Echota Cherokee tribe to determine its status as a state-recognized tribe.

The Echota Cherokee tribe was incorporated and gained state recognition in April 1981. In June 1993, the Tribe changed its name to the *Echota Cherokee Tribe of Alabama, Inc.* Not aware that the name change of the tribe was only to accommodate the new entity structure, the complainant believed that Echota Cherokee tribe had been dissolved, and could no longer participate in ITC's WIA program. We are satisfied that the Echota Cherokee tribe remains a state-recognized tribe, and is eligible to participate in ITC WIA Program.



Elliot P. Lewis
March 11, 2004

EXHIBIT

Review of Participants' Eligibility Determinations

Sample No. ⁶	Not Enrolled	Eligible	Not Eligible	Eligibility Questionable
1				X
2				X
3		X		
4				X
5				X
6				X
7		X		
8		X		
9		X		
10		X		
11	X			
12		X		
13	X			
14			X	
15				X
16		X		
TOTALS	2	7	1	6

Not Enrolled

Sample 11 (Not a Participant - Identified by Complainant)
 - Individual did not enroll in WIA program; Submitted invoices and receipts after completing the Police Academy. No financial assistance was provided.

Sample 13 - Never enrolled in WIA program - Identified by Complainant.

Not Eligible

Sample 14 - Employed and high income.

Eligibility Questionable

Participant's eligibility is questionable due to lack of sufficient documentation.

⁶ Random sample numbers were 1 through 10; the complainant referred sample numbers 11 through 16.

APPENDICES

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BACKGROUND

OIG's Involvement

The evaluation resulted from an OIG "Hotline" complaint from a former board member of ITC. The Atlanta Regional Office evaluated the allegations and our conclusions are discussed in the "Findings and Recommendations" section of this report.

ITC's Program

ITC was formed in 1991 under Title IV of the Job Training Partnership Act (JTPA), Native American Programs. The Program was reestablished under Title I of the WIA as the Indian and Native American (INA) programs. The purpose of INA programs is to support comprehensive employment and training activities for Indian, Alaska Native and Native Hawaiian individuals to develop their academic, occupational and literacy skills, to make these individuals more competitive in the workforce, and to promote the economic and social development of Native communities.

The Agency is centrally located in Millbrook, Alabama, and is designated to serve 63 of the 67 counties in the State. As of February 2004, ITC reportedly served 927 Native Americans since it was established. Services offered by ITC include classroom training, work experience, on-the-job training, and other supportive services. A nine member Board⁷ supports ITC in developing the Agency's policies. The Board consists of one representative from each of the six state-recognized tribes within ITC, and three professionals from the business community.

The ITC is a nonprofit organization and receives all of its funding directly from the U. S. Department of Labor (DOL). In Program Year (PY) 2000, the Agency was awarded a \$462,120 grant to administer a 2-year Comprehensive Service program under WIA. The grant amount increased by \$234,844 and \$236,112 in PY 2002 and PY 2003 respectively.

⁷ Bylaws state a nine member Council; however, this report refers to the Council as Board per the allegation.

Appendix A (Continued)

ETA's Oversight

ETA's Division of Indian and Native American Programs (DINAP) administers over 186 grants. The last program review of ITC by DINAP was in 1997. Program reviews are scheduled based on "high risk and dollar amount" of the grant. The DINAP does not consider ITC as "high risk."

SCOPE, METHODOLOGY AND CRITERIA

Scope and Methodology

Our evaluation primarily focused on allegations against ITC that occurred during PY 2000 through PY 2002. However, we examined other issues outside of the evaluation period that came to our attention after we began fieldwork. We examined ITC's Comprehensive Service Plan (or Plan), policies and procedures, employee records, and financial reports for compliance with applicable laws and regulations. We interviewed the complainant to obtain additional information and to ensure we had a clear understanding of each allegation listed in the complaint. We interviewed ITC's board members, Director, staff members, and representatives of the accounting firm employed by ITC to obtain information that might assist us in achieving our objective. We also interviewed DOL's Project Manager responsible for the oversight of ITC's activities and reviewed other related material provided by the Manager.

We examined all applications that were "rejected" by the Agency to determine whether any applicants were improperly denied access to program services. To verify participants' eligibility determinations, we reviewed a total of 14 participant files, and two files of individuals who we later determined never enrolled in the program. The complainant referred 6 of the 16 participants, including the two individuals who never enrolled in the program. We randomly selected 10 additional files, from a universe of 90 files, after discovering discrepancies in the original six files referred by the complainant. Finally, we examined controls over payroll disbursements to determine if disbursements were correct and properly authorized.

The evaluation was conducted in accordance with the Quality Standards for Inspections issued by the President's Council on Integrity and Efficiency. Our evaluation began on August 20, 2003, and continued through March 11, 2004.

Appendix B (Continued)

Principal Criteria

Section 166 of the WIA authorizes programs to serve the employment and training needs of Indians and Native Americans. Requirements for these programs are set forth in the WIA regulations at 20 Code of Federal Regulations (CFR) Part 668⁸.

ITC's bylaws provide the general powers of the Board as policy makers. The bylaws also detail voting rights on the Board and describe the Board's fiscal responsibilities.

⁸ 20 CFR, Part 668, Indian and Native American Program Under Title I of the Workforce Investment Act.

ACRONYMS AND ABBREVIATIONS

AIAC	Alabama Indian Affairs Commission
CFR	Code of Federal Regulations
DINAP	Division of Indian and Native American Programs
DOL	U.S. Department of Labor
ETA	Employment and Training Administration
FSR	Financial Status Report
ITC	Inter-Tribal Council of Alabama
JTPA	Job Training Partnership Act
MIS	Management Information Specialist
OIG	Office of Inspector General
OMB	Office of Management and Budget
WIA	Workforce Investment Act

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RESPONSE TO DRAFT REPORT

Attached is a copy of ITC's complete response to each of the findings in the draft report. Due the length ITC's response to some of the findings, the report contains excerpts of its response to each findings.

ITC also provided additional information for each of the participant files we reviewed. This information has not been included due the privacy act consideration but is available upon request to authorized parties.

Appendix D (Continued)

Alabama Intertribal Council
Workforce Investment Act (WIA)
P.O. Box 369 / Millbrook, Alabama 36054-0369
(334) 290-2900 or Fax (334) 290-2902
E-mail: micwia@aol.com

Chief Wilford "Longhair" Taylor
Chairman

Charlotte Hallmark
Director

RE: Report Number 04-04-006-03-355

September 22, 2004

Mr. Michael K. Yarbrough
Regional Inspector General for Audit
U.S. Department of Labor – OIG
61 Forsyth Street, S.W., Room 6T20
Atlanta, Georgia 30303-3104

Dear Mr. Yarbrough,

We have enclosed the comments of the Board of Directors in the papers titled "AIC Solutions" and "AIC Response". We are still working with the accounting firm that handles our financial reports as to why there are discrepancies in the way they report to us and on Form 990. They have assured us this will not happen again. Enclosed is a copy of the statement they gave us.

We feel that we have carried out our duties here as honestly and fairly as we possibly could, considering all the circumstances and the limited funds available to us.

We genuinely appreciate all the suggestions and guidance offered to us by the OIG Staff.

Most Sincerely,



Charlotte Hallmark
Project Director

Enclosures

Appendix D (Continued)

O.I.G. Recommendations	AIC Solutions
<p>Recommendation 1</p> <p>Find effective ways to encourage and promote the program to members of all recognized tribes.</p>	<p>Promotional sources currently used are: AIC-WIA web-site; AIC Board Members publicize the program; Alabama Indian Affairs Commission publicize in their office and on their web-site; State Workforce Investment Board publicize the program; educational institutions are aware of program; Indian Educational Programs are aware of the AIC program and AIC publishes occasionally through local newspapers and radio. AIC-WIA has limited funding. AIC Board voted to use the Alabama Advertising Agency, local cable stations, Al. Press Association, The Network of Educational Television, Dr. Sabino will see that information is placed on the Auburn University web site. All tribes will make a major effort to inform more of their tribal members.</p>
<p>Recommendation 2</p> <p>Ensure ITC's program costs are accurately reported.</p>	<p>Have informed Bern, Butler, Capilouto & Massey, P.C. of past inconsistencies and have received a letter from above mentioned stating future reports will be rectified. AIC Board stated that we would change Accounting Firms if problem continued.</p>
<p>Recommendation 3</p> <p>Ensure ITC verify that all participants have satisfied WIA eligibility requirements. ITC should also ensure WIA participants' eligibility determination is properly supported with verifiable information.</p>	<p>Proof of last 6 months income is required, instead of using previous years income tax forms; verifying end date at last place of employment if not employed at the time the application is received; have created forms to support that participants have updated Pell grant information, number of semesters active on WIA program, and application check-off list to ensure all documentation is included with application. We have also adopted a policy requiring further documentation be written into participants file by staff members, and that all other pertinent information be placed in file.</p>
<p>Recommendation 4</p> <p>Ensure ITC's Board takes action to either affirm or remove the Director after a complete review of the events leading up to the Director's employment at ITC.</p>	<p>The AIC Board met on September 2, 2004 and reviewed all of the events leading up to the present Directors employment. They also heard testimony from a former Board member who was present at the meeting when the Director was hired. They voted unanimously to affirm the Directors employment.</p>
<p>Recommendation 5</p> <p>Ensure ITC complies with existing internal controls over payroll disbursements. ITC should ensure that all financial transactions are properly authorized and traceable. Also, ensure ITC compensates the Director for the unauthorized salary reduction of \$4,680.</p>	<p>ITC has created a form to document all financial transactions regarding personnel. Remarks made concerning the reduction of Directors salary was that the issue had been voted on, however that information escaped the minutes of the meeting due to a malfunction in the tape recorder. Ms. Hallmark stated that she still desired that the money not be returned to her since she felt that she had given the funds to assist the participants on the program.</p>

Appendix D (Continued)

To: Office of Inspector General
U.S. Department of Labor
Office of Audit

During an audit by the Office of Inspector General of the Inter-Tribal Council of Alabama there was an inconsistency found in the reporting of program costs for PY 2002. There was a difference between the Statement of Revenue and Expense report and the Form 990 for individual expense categories. The Director's entire salary (\$46,967) was reported as management services on Form 990. By contrast, only \$14,541 was reported as management services on the Statement of Revenue & Expense report. Conversely, the Director's salary was similarly recorded for program services.

Solution:

The accounting firm employed by the Inter-Tribal Council of Alabama (Bern, Butler, Capilouto & Massey, P.C.) recognizes the inconsistency found in the reporting of the program costs and agrees it should be rectified. Future reports will support the rectification of these reports.



Bruce A. Moore, CPA
Bern, Butler, Capilouto & Massey, P.C.

8/26/04

Date