



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON 25

SEP - 6 1944

B-44174

Mr. W. H. Horning, Authorized Certifying Officer,  
Oregon and California Revested Lands Administration,  
General Land Office,  
Portland, Oregon.

Dear Mr. Horning:

I have your letter of August 24, 1944, as follows:

"In accordance with Section 3 of the Act approved December 29, 1941, (55 Stat. 875) your advice is requested as to the propriety of payment of the attached voucher in favor of George P. Lavatta, Superintendent, Taholah Indian Agency, Hoquiam, Washington. The voucher covers the Makah Tribal Council's claim of \$515 for 206,000 Douglas fir seedlings furnished the O. & C. Administration in November 1943, from the nursery operated by the Council at Neah Bay, Washington.

"For several years past, the Office of Indian Affairs has made available to this service, with cost, seedlings from the Neah Bay nursery which were surplus to its own reforestation needs. The cost of transferring the seedlings for planting on areas in Oregon under our management was borne by this service.

"As evidenced by attached copy of letter dated August 30, 1943, from the Superintendent of the Taholah Indian Agency, the Office of Indian Affairs was unable to continue the previous arrangement, but offered to supply, at approximate cost of production, part of the seedlings required by the O. & C. Administration for planting during the winter of 1943-44. It was assumed, incidentally, that the Makah Tribal Council mentioned in the Superintendent's letter was an entity of the Office of Indian Affairs.

"There were at that time no seedlings available from other federal agencies without cost, nor, to the best of our knowledge, from commercial sources at equal or less cost than quoted by the Indian Office. Accordingly, the offer of the latter service was accepted and purchase order issued on November 8, 1943, for a maximum of 250,000 Douglas fir seedlings at \$2.50 per thousand, f.o.b. Neah Bay nursery. On November 8, delivery was taken of only 206,000 seedlings, so that the total amount here involved is \$515.00. It was assumed

that the transaction would be between federal agencies, and as it appeared to be in accordance with the provisions of Section 601, Title VI, of the Economy Act, no attempt was made by this service to obtain competitive bids.

"It now appears, for reasons stated in the attached copy of letter dated May 9, 1944, from the Superintendent of the Tabolah Agency, that the use of voucher form 1080, with check drawn in favor of Treasurer of the United States for deposit in a Government fund is not satisfactory, in that such procedure will not permit reimbursement to the Makah Tribal Council. Rather, it has been requested that the O. & C. Administration make payment to Mr. George P. LaVatta personally, as representative of the Council, presumably for reimbursement to the Council's fund for operation of the nursery.

"Since there seems to be some question as to whether or not the Council is a branch of a federal agency to the extent of qualifying as 'any bureau or office thereof,' as contemplated by Section 601 of the Economy Act, will you please advise whether reimbursement should be accomplished through use of voucher form 1080, or whether the voucher herewith presented may properly be certified for payment?"

Miscellaneous revenues derived from Indian Reservations, agencies, and schools with exceptions and reservations not here material, are required by law to be covered into the Treasury of the United States under the caption "Indian Money - Proceeds of Labor" (25 U.S.C. 155), the funds accruing to the individual tribes being carried in separate accounts for the respective tribes. 25 U.S.C. 161b. An Indian tribe is not an "executive department or independent establishment of the Government, or any bureau or office thereof" within the purview of section 601 of the Economy Act, as amended, 56 Stat. 661, and, accordingly, the procedure prescribed under that act by General Regulation 78 or by the superseding General Regulation 98, using Standard Form 1080, is not for application. In the circumstances, the purchase of the seedlings should

be treated on the same basis as a purchase from a private vendor and payment therefor made on Standard Voucher Form 1034. As the superintendent of an Indian agency acts ex officio as custodian of the funds of the respective tribes under his jurisdiction, payment in this case to the Superintendent of the Taholah Indian Agency for credit to the account of the Makah Tribal Council nursery, would appear proper.

While it would have been preferable to have requested bids from commercial sources before making this purchase, in view of your statements regarding the lack of available seedlings from such sources at equal or less cost it would appear that such competition would have been of no avail, and, accordingly, no objection will be made in this case to the lack of competition.

The voucher is returned herewith and, in the absence of other objections, same may be processed for payment under an applicable appropriation--the voucher having failed to state the appropriation intended to be charged.

Respectfully,

(Signed) Lindsay C. Warren

Comptroller General  
of the United States.

Enclosure.