



OSAGE NATION CONGRESS
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MEMBERS OF CONGRESS
ELI POTTS ~ JOE TILLMAN ~ JOHN MAKER

FOR IMMEDIATE RELEASE: Joint Statement
Call for Congressional Oversight
11/20/2020 11:20AM

OSAGE NATION:

“The powers and duties of the Treasurer of the Osage Nation shall be prescribed by the Osage Nation Congress and will include the mandate that an annual financial statement for the Osage Nation government be audited by a Certified Public Accountant approved by the Congress or by committee of the Congress and presented to the Congress in a timely manner. The Treasurer shall accept, receipt for, keep and safeguard all tribal funds as directed by the Congress and shall maintain and provide an accurate record of such tribal funds.” *Osage Nation Constitution, Article VII Section 13*

Article VII Section 13 mandates an annual audit that must be presented to Congress in a timely manner. The 7th Osage Nation Congress has failed to receive an audit for Fiscal Year 2019 (10/1/18~9/30/19) or Fiscal Year 2020 (10/1/19~9/20/20).

Article VII Section 13 states that the Treasurer “shall maintain and provide an accurate record” of funds.

The following is a timeline of events surrounding appropriations from the Retained Revenue Fund:

- March 31st, 2020: As the Chairman of the Appropriations Committee, Congressman Potts filed communication 20-263 with the Clerk of Congress and later asked the Congressional Budget Analyst, Mr. Jordan Fraser, to confirm the balances with the Treasury Department.
- March 31st, 2020: Congresswoman Brandy Lemon filed ONCA 20-26 requesting \$1,406,000 be appropriated from the Retained Revenue fund.
- April 1st, 2020: Mr. Fraser e-mailed Treasurer Littleton and Controller Tasha Fox to seek reconciliation of the “appropriated revenue report”, which included the balance of the Retained Revenue Fund.
- April 2nd, 2020: Mr. Fraser received an e-mail from Office of the Chief’s General Counsel, Ms. Terry Mason Moore, that references an April 1 e-mail from Ms. Fox stating:
“I have attached my corrections. These corrections will not lead to a reconciled report. However, I have already exhausted too much effort in trying to reconcile his [Mr. Fraser’s] PDF...”

No further communication was received from the Treasury Department to the Chair of the Appropriations Committee who had requested reconciliation of a Congressional document.

- April 13th, 2020: Treasurer Littleton filed Communication 20-305 with the Clerk of Congress addressing the balance of the retained revenue fund:
“Please be advised that the amount of Retained Revenue is presently made up of \$1,337,563.11 that is invested in the custody of Bank of Oklahoma and the remaining \$68,436.89 is included in the General Fund.” These amounts equal: \$1,406,000. (the exact amount filed in ONCA 20-26).
Communication attached for your convience.
- April 16th, 2020: Congress passes ONCA 20-26, unanimously, having acted upon the information provided to the Congress and Congresswoman Lemon, notwithstanding requests from the Chair of the Appropriations Committee to verify account balances.

CONGRESSMAN ELI POTTS: 918.949.0354
CONGRESSMAN JOE TILLMAN: 918.277.2538
CONGRESSMAN JOHN MAKER: 918.740.5484



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Congress has since learned that the Treasurer's memo of April 13th, 2020 failed to provide an accurate record of appropriation legislation drawn from the Retained Revenue Fund.

Treasurer Littleton's memo of April 13th, 2020 failed to account for the passage of ONCA 19-39, legislation that had passed in June of 2019. The result is the "balance" presented by Treasurer Littleton was approximately \$250,000 more than what Congress had available to appropriate from the fund. Congress acted upon the 4/13/20 memo from Treasurer Littleton and appropriated more money than was legally available at the time.

Timeline attached for your convivence.

No deposits have been made to the Retained Revenue Fund since Congress enacted legislation drawing funds in April of 2020 in excess of an available balance and yet Congress is again being asked to appropriate more funds during the 3rd Special Session of the 7th Osage Nation Congress from the Retained Revenue Fund.

According to Osage Law, 26 ONC § 13-103 B, funds identified "upon completion of the audit" are to be deposited into the retained revenue fund. Some in Congress are seeking to appropriate funds from FY 2020 before the completion of the annual audit.

Seeking legal approval to expend retained revenue funds prior to the audit, the appropriations committee suggested Treasurer Littleton request an opinion from the Attorney General.

The Attorney General responded that "the fiscal year audit needs to be completed and the funds declared by the Treasurer as unobligated before any funds can be deposited into the Retained Revenue Fund".

Opinion attached for your convivence.

After receiving the opinion from the Attorney General, Congresswoman Brandy Lemon notified Congress of her intent to amend the Special Session Proclamation and introduce legislation that would change or suspend 26 ONC § § 13-101 through 13-103 and allow for the expenditure of unaudited tribal dollars.

Congressman Potts said "this isn't difficult: complete the audits and follow the law. We shouldn't be changing or suspending laws to get what we want. We have an obligation to be fiscally responsible and sensible, especially during the continued worldwide pandemic."

The Congress is already in an embarrassing situation where appropriations are in excess of available funds in the Retained Revenue Fund. "I strongly believe, the over appropriation of the Retained Revenue Fund is more proof that we must demand the timely completion of the audits before continued spending" said Congressman Potts.

"This is the latest in a string of occurrences that raise questions about the Osage Nation Treasury Department and I have spoken with multiple Members of Congress who feel the same. Now isn't the time to change laws so we can appropriate millions of dollars to build brick and mortar when we have people worried about food and water. My preference is to wait until the Spring, when hopefully the audits are completed, reevaluate, and then make better decisions for the sake of the Osage Nation and its People." said Congressman Tillman

"It is our duty to provide accurate legislation and information to the Osage citizens. The Congress has to be transparent in everything we do, and we can't make good decisions concerning our Osage Nation revenue without updated accurate numbers from the Treasurer." said Congressman Maker.

CONGRESSMAN ELI POTTS: 918.949.0354
CONGRESSMAN JOE TILLMAN: 918.277.2538
CONGRESSMAN JOHN MAKER: 918.740.5484

20-305

Shana Robedeaux

From: Jason E. Zaun <jzaun@osagenation-nsn.gov>
Sent: Monday, April 13, 2020 12:49 PM
To: Shana Robedeaux
Subject: Fund Availability Letter from Treasurer
Attachments: 2020-04-13 Funds Availibility.pdf

Shana,

Please stamp this letter in as support documentation for ONCA 20-26 and 20-27 on the agenda for this afternoon’s 1:30pm meeting of the Appropriations Committee. Also, please send it out to Congress.

Thank you.



Respectfully,
Jason Zaun
Chief of Staff, Osage Nation
627 Grandview Avenue, Pawhuska, OK 74056
Office:918-287-5480 | Fax: 918-287-5562
[Email](#) | [Website](#)



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From: Jim W. Littleton <jim.littleton@osagenation-nsn.gov>
Sent: Monday, April 13, 2020 12:42 PM
To: Geoffrey Standing Bear <gstandingbear@osagenation-nsn.gov>; Raymond W. Red Corn <rredcorn@osagenation-nsn.gov>
Cc: Tasha Fox <tasha.fox@osagenation-nsn.gov>; Jonna Hopper <jhopper@osagenation-nsn.gov>; Sheryl Decker <sdecker@osagenation-nsn.gov>; Corinthian Lorenzo <clorenzo@osagenation-nsn.gov>; Jason E. Zaun <jzaun@osagenation-nsn.gov>; Christian Johnson <cjohnson@osagenation-nsn.gov>; Josephine K. Revard <jkrevard@osagenation-nsn.gov>
Subject: Corrected Fund Availability

Please see the memo with corrections to wording.

Respectfully,



Jim W Littleton

Treasurer, Osage Nation Treasury Department

1071 Grandview Ln, Pawhuska, OK 74056

Office:918-287-5357 | Fax: 918-287-5251

[Email](#) | [Website](#)



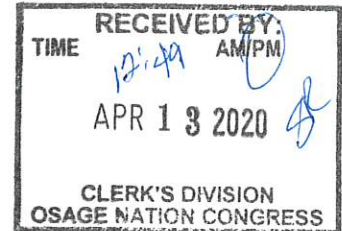
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THE OSAGE NATION
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April 13, 2020

Principal Chief Standing Bear
Assistant Principal Chief Red Corn



Dear Sirs;

Please be advised that the amount of Retained Revenue is presently made up of \$1,337,563.11 that is invested in the custody of Bank of Oklahoma and the remaining \$68,436.89 is included in the General Fund.

The \$900,000 from the Capital Asset fund is included in the General Fund at this time and can be readily accessed for the purposed appropriated by the Osage Nation Congress.

The Permanent Fund of the Osage Nation is also presently invested in the custody of Bank of Oklahoma.

Please let me know if you need additional clarification.

Respectfully,

Jim W. Littleton

Jim W. Littleton
Treasurer, Osage Nation

RETAINED REVENUE FUND

Reference	Date	Description	Amount	Amount
FY 2015	July 19, 2016	Deposit per ONCA 16-107 (Communication 16-602)	2,923,015	2,923,015
ONCA 17-24	April 12, 2017	Wah-Zha-Zhi Health Clinic Medical Equipment	(516,124)	(516,124)
ONCA 17-37	April 20, 2017	Osage War Memorial Fund	(1,100,000)	(1,100,000)
FY 2016	September 12, 2017	Deposit per ONCA 16-107 (Communication 17-833)	1,153,032	1,153,032
ONCA 17-45	October 4, 2017	Health Clinic Construction Fund	(1,500,000)	(1,500,000)
ONCA 17-102	September 27, 2017	Capital Asset Expenditures	(947,000)	(947,000)
FY 2017	August 10, 2018	18-494)	2,365,513	2,365,513
ONCA 18-32	September 24, 2018	Grayhorse Village Committee for additional construction costs of a community building	(1,100,000)	(1,100,000)
ONCA 18-54	September 18, 2018	Baker Tilly and the debts identified by it as incurred on behalf of Osage, LLC, its subsidiaries and Tallgrass	(850,000)	(850,000)
FY 2018	July 16, 2018	Deposit per ONCA 16-107 (Communication 19-362)	1,932,759	1,932,759
ONCA 19-39	June 26, 2019	Wakon Iron Building in Pawhuska	(250,000)	Missing from ONC 20-305
ONCA 19-62	September 27, 2019	Headstone at the St. Francis Cemetery in St. Paul, Kansas	(20,000)	(20,000)
ONCA 19-87	September 26, 2019	Osage Nation Foundation for donations / grants	(130,000)	(130,000)
ONCA 19-90	September 27, 2019	Wakon Iron Building in Pawhuska Indian Village	(700,000)	(700,000)
ONCA 20-06	November 21, 2019	DV Shelter Pawhuska	(104,950)	(104,950)
ONC 20-305	April 13th, 2020	Balance	1,156,245	1,406,245
ONCA 20-26	April 16, 2020	Makes funds available to cont. govt. ops & services	(1,406,000)	(1,406,000)
FY 2019	N/A	Deposit per XXXXXXXXXXXXXXXXXXXX	Audit not complete	Audit not complete
FY 2020	N/A	Deposit per XXXXXXXXXXXXXXXXXXXX	Audit not complete	Audit not complete
		Total Retained Revenue Balance	(249,755)	245



Sent Via Email.

November 18, 2020

Jim Littleton
Treasurer, Osage Nation
627 Grandview
Pawhuska, OK 74056
Jim.littleton@osagenation-nsn.gov

RE: Retained Revenue

Dear Treasurer Littleton,

This is in response to your request for an informal opinion “as to if the amount that the Osage Nation received from the Osage Casino on 09/30/20, can be classified as Retained Revenue prior to the completion of the FY 09/30/20 audit.” The answer is no.

The Osage Nation Retained Revenue Fund Act, at 26 ONC § 13-103(B) states:

The Retained Revenue Fund shall be funded by the tribal funds unobligated from the previous fiscal year as reported by the Treasurer of the Osage Nation upon completion of the annual audit. In this Act. “previous fiscal year” shall mean the most recent fiscal year for which an annual audit has been completed.

In reading the plain meaning of each word in context, unobligated funds cannot be considered retained earnings until the audit is completed. This position is bolstered when read in context with Section D, which requires the Treasurer to report the amount of unobligated funds to the Principal Chief and Congress within fourteen days “(u)pon completion of an annual audit”. Therefore, the fiscal year audit needs to be completed and the funds declared by the Treasurer as unobligated before any funds can be deposited into the Retained Revenue Fund.

Respectfully,

Clint Patterson,
Attorney General

Cc: Geoffrey Standing Bear, Principal Chief