JOSEPH EVE
THE TRIBAL SOLUTIONS PROVIDER
Certified Public Accountants ~ Certified Fraud Examiners

December 21, 2011

Osage Nation
Jerri Jean Branstetter
Speaker of the Congress, Osage Nation Congress
813 Grandview
Pawhuska, OK 74056

Dear Ms. Branstetter:

Enclosed please find one final copy of the Assessment Report on Current Accounting Infrastructure Including the Department of Treasury.

If you have any questions or need additional copies, please do not hesitate to contact us.

JOSEPH EVE
CERTIFIED PUBLIC ACCOUNTANTS
MANAGEMENT CONSULTANTS & FRAUD EXAMINERS

Joseph Eve

Joseph P. Eve, CPA, CFE
Managing Partner

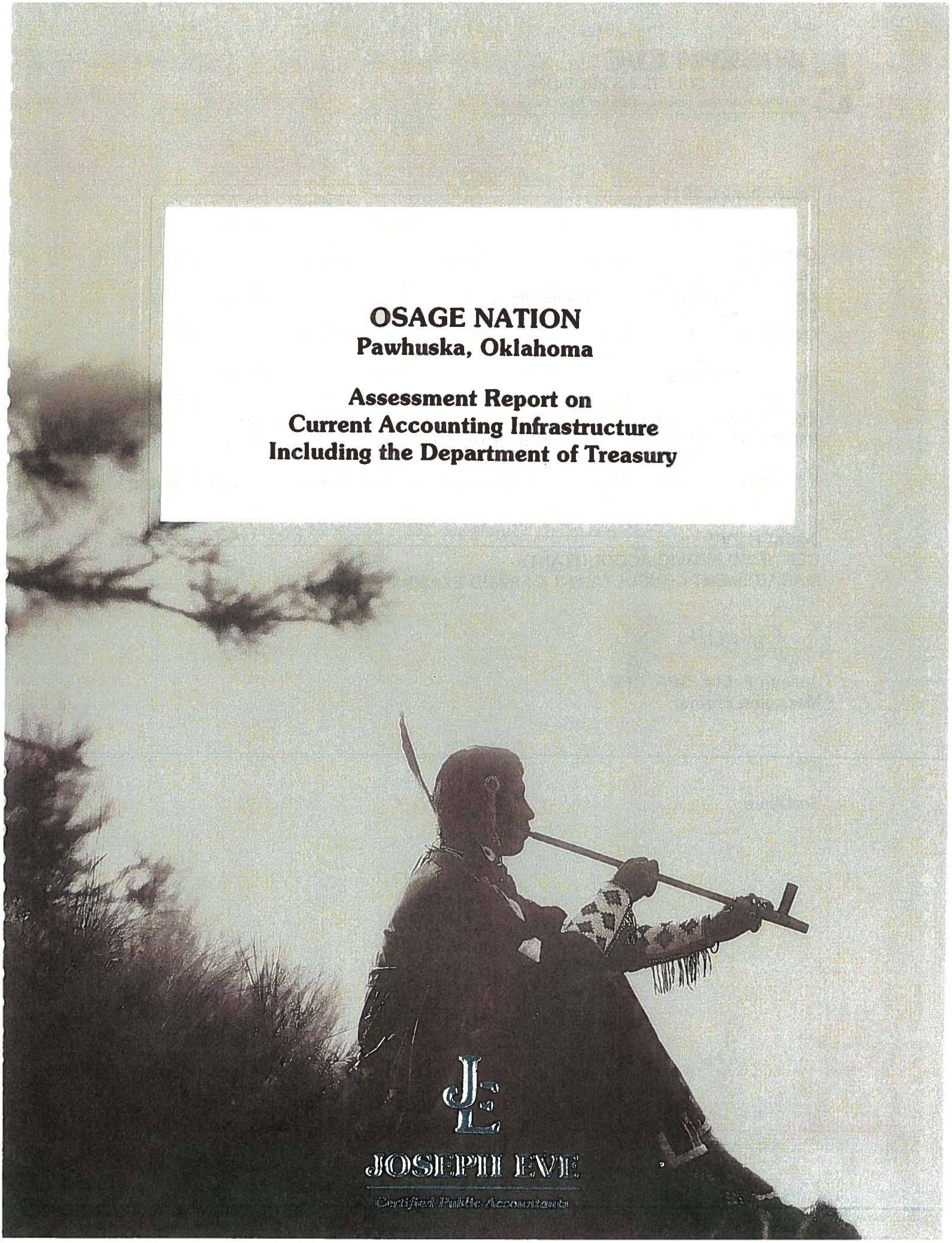
jmf

Enclosure

401 North 31st Street ~ Billings, MT 59101
(406) 252-3535 ~ Fax (406) 252-1764
Web Site: www.josepheve.com

OSAGE NATION
Pawhuska, Oklahoma

Assessment Report on Current Accounting Infrastructure Including the Department of Treasury



JOSEPH EVE
Certified Public Accountants

OSAGE NATION

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JOSEPH EVE
Certified Public Accountants

TRANSMITTAL LETTER

Honorable Executive Principal Chief
John D. Red Eagle
Osage Nation
Pawhuska, Oklahoma

We are pleased to present our report on the assessment of the current accounting infrastructure including the Department of Treasury we conducted in accordance with our engagement letter dated September 26, 2011.

This report is intended solely for the information and use of Osage Nation Executive Branch, and is not intended to be and should not be used by anyone other than those specified parties.

Please contact us with questions or if the Nation would like further assistance.

Sincerely,

JOSEPH EVE
Certified Public Accountants

Billings, Montana
December 2, 2011

OSAGE NATION

Assessment and Related Findings

The firm of JOSEPH EVE, The Tribal Solutions Provider, was engaged by the Osage Nation Executive Branch, to assess the current accounting infrastructure including the Department of Treasury.

Background

The main focus of the assessment was to determine if the findings and recommendations noted in the Government Operations Committee Report and Findings dated September 7, 2011 have been implemented by the Department of Treasury.

Scope of Work

We examined various documents including the Constitution of the Osage Nation (signed May 2006), the accounting policy and procedures manual dated January 21st, 2004, the Osage Nation Congress Bill number ONCA 06-02 "to establish the Department of the Treasury" and the four amendments to this original Bill (07-56, 08-06, 08-36 and 09-49), the Government Operations Committee Report and Findings dated September, 7, 2011, the September 30, 2010 audited financial statements, the report to management for the September 30, 2010 audit, the chart of accounts, the pledged collateral statements, the draft investment policy, the bank transfer log, October 31, 2011 bank statements and financial reports. In addition, Joseph Eve staff conducted interviews with management and employees of the Department of Treasury, Executive and Legislative branches.

Assessment

Congressional Findings:

1. The Principal Chief, Human Resources Director and the Treasurer violated ONCA 09-11, as amended, by signing and filing the Employee New Hire Information Form that authorized a rate of pay for the Executive Assistant of Treasury, which amounted to more than 1/26th of the total appropriation for that position per pay period.

AND

2. The Treasurer has breached his duty to see that all monies are disbursed according to appropriation and Osage law by authorizing the payment of compensation to the Executive Assistant of Treasury, which amounted to more than 1/26th of the total appropriation for that position per pay period.

Effective March 29, 2011, ONCA 09-11 was superseded by ONCA 11-32 and therefore is not part of our assessment.

3. The Treasurer has implemented new policies and procedures, in the absence of an emergency, without submitting them to the Osage Nation Congress for approval in violation of the Treasury law, ONCA 06-02 as amended

AND

4. The Treasurer has failed to adhere to the existing policies and procedures, in the absence of an emergency, in violation of the Treasury law, ONCA 06-02 as amended.

Congressional Findings - Continued

Per our assessment, vendor invoices are being routed directly to the Accounting Department which is in violation of the current approved Accounting Policies and Procedures. Page 76 of the Accounting Policies and Procedures indicates vendor invoices are routed to the Purchasing Department for review and comparison with the purchase order to insure that the quantity and price agrees. If this is in agreement then both forms are forwarded to the Accounting Department.

Per our assessment, the Treasurer violated his own policies and procedures as well as current purchasing policies and procedures. In a memo to Principal Chief Red Eagle dated July 7, 2011 he designated Tammy Moxley, Procurement Officer the authority to approve Purchase Orders and any other form of contractual agreement for the procurement of goods and/or services up to $25,000. Subsequent to the issuance of the Committee Review Report, We identified two instances where approvals over the $25,000 were made by Tammy in direct violation of the authorization that was given.

Per our assessment, we were not provided any documentation that a state of emergency existed that would have allowed the Treasurer to modify existing policies and procedures. It is unclear whether approval is needed from Congress or if the Treasurer can unilaterally declare an emergency.

Per our assessment, the Treasurer is currently working on updating the policies and procedures that address all applicable areas for the Osage Nation to ensure compliance with generally accepted accounting principles and Osage Nation law. However, an estimated completion date has not been established. As per Bill ONCA 06-02, Section 3-316 once this process is completed it will be subject to review and approval by the Osage Nation Congress.

Recommendations

The Treasurer should follow the existing accounting policies and procedures unless an emergency is properly declared and continue updating current policies and procedures and submit them to the Congress for approval.

5. The Treasurer has allowed funds to remain uncollateralized periodically throughout this fiscal year at First National Bank, placing funds at risk of loss.

Per our assessment, the Treasurer still has to perform a significant amount of transfers to ensure that all bank deposits are fully collateralized at the First National Bank of Pawhuska. The Bank is not willing to provide additional pledged collateral beyond the $1.75 million it currently offers to the Nation. The Nation has $2,029,992 in deposits at the First National Bank of Pawhuska as of October 30, 2011 and this leaves $29,992 uncollateralized as of month-end.

Recommendations

Deposits should be moved to another financial institution that is willing to provide adequate pledged collateral to ensure deposits are fully collateralized.

6. The Treasurer has moved Minerals Council funds without the knowledge or authorization of the members of the Minerals Council leaving C-395 funds temporarily outside the control of the Minerals Council.

Congressional Findings - Continued

Per our assessment, $300,000 was moved out of the Minerals Council account on June 21, 2011 and was not returned back to the account until July 14, 2011. No documentation was provided to show that approval was obtained from the Mineral Council to transfer the funds.

Recommendations
The Treasurer should obtain pre-approval to transfer Mineral Council funds and retain that documentation until the collateralization issue can be resolved at the First National Bank of Pawhuska.

7. The Treasurer has failed to perform his duty to submit quarterly reports of the financial status of the Nation to the Osage Nation Congress: and he has failed to perform his duty to publish quarterly executive summaries of the financial statements in the Osage News within forty-five (45) days of the end of the fiscal quarter.

Per our assessment, the Treasurer's Department did not submit quarterly financial statements as required. However, the Treasurer did submit unbalanced financial statements subsequent to the issuance of the Committee Review Report on September 7, 2011. The Treasurer indicated the reason the financial statements were submitted unbalanced is the trial balances he received from Sage MIP (MIP) were not balanced. Per conversation with Penny Bradford, Federal program accountant, she generates balanced monthly income statements and balance sheets for all the programs. Additionally she generated a fiscal year 2011 trial balance for our review which was also in balance. The Treasurer indicated he requests trial balances from all the program accountants in Excel which he then consolidates using Excel spreadsheets into the financial statements which he submitted to the Osage Nation Congress.

Recommendations
We recommend the Treasurer obtain training on MIP reporting capabilities and work with the program accountants to generate the required quarterly consolidated balance sheets and income statements using MIP so he does not have to manually re-create them using Excel.

Other Areas of Assessment
Prior year audit findings related to the Department of Treasury:

Multiple Accounting Software Applications
Per our assessment, Osage Nation is currently utilizing three different software applications: MIP, Sage Peachtree (Peachtree), and Backtrack. Peachtree is used for Tribal programs and MIP is used for Federal programs while property and equipment/inventory are managed using Backtrack and Excel. As of November 2011, the Osage Nation began converting the Tribal Programs from Peachtree to MIP. They hope to have the process fully implemented by the end of December 2011. However, until the required modules in MIP are purchased, both systems will continue to be used for those programs that require accounts receivable tracking.

Multiple Accounting Software Applications - continued

Per our assessment, Backtrack is currently being used for inventory (personal property) tracking purposes. Policies and procedures of the Osage Nation define personal property as any item with a useful life in excess of one year with a unit cost of $500 or more. Exceptions to the policy may be made when the quantity and utilization of the items deems it desirable to exercise control over such property. Further requirements deem that any item over $10,000 be capitalized. Per conversation with Jo Ellen, property and equipment clerk, on November 14th, all personal property items are inventoried regardless of the dollar amount. Fixed assets and depreciation are tracked using an Excel spreadsheet.

Per our assessment and conversations with Jo Ellen, the property and equipment clerk, the Backtrack software has not been updated to the most current version and currently has errors that she was told would be resolved by installing the latest update. The errors are such that she is unable to export data from the software. Since the fixed assets are initially entered in Backtrack and then exported to excel, she has not updated the fixed asset listing for this year and we were unable to determine if the listing agreed to the general ledger. According to Jo Ellen, she was told Backtrack was not updated because they were going to start utilizing MIP for tracking fixed assets and depreciation. However, as of November 18, 2011, the Osage Nation has not converted the fixed assets to MIP.

Recommendations

We recommend the Osage Nation convert all tribal programs to MIP. All prior year adjustments noted during the audit will need to be posted in order to have accurate beginning balances once the conversion is complete. We recommend an assessment be performed to evaluate Backtrack to determine if it will meet the needs for capitalizing and tracking fixed assets and depreciation. Regardless of whether the Osage Nation continues using Backtrack for tracking capital assets the update needs to be installed. The update once installed will ensure the inventory tracking portion of the software is functioning properly and capital assets are properly recorded so beginning balances for capital assets are carried forward to the MIP fixed asset module. Additionally, the fixed asset clerk should be trained on the fixed asset capability and tracking portion of the software they use for monitoring capital assets in order to eliminate the need to use Excel.

Accounting Policies and Procedures Manual

Per our assessment, the current Accounting Policies and Procedures manual needs to be updated to reflect the current procedures of the Osage Nation.

Recommendations

Policies and Procedures should be updated to reflect the name change from Osage Tribal Council to Osage Nation, any contradictions between Osage Nation Law and the current policy and procedure manual, policies for accounts receivables, budgets, changes in current operating policy, and updated job descriptions.

OSAGE NATION

Assessment and Related Findings

Reconciliation of interfund balances and transfers

Per our assessment and review of financial statements and conversations with William Kemble, Treasurer, Leslie Young, Tribal Program Accountant, and Penny Bradford, Federal Program Accountant, reconciliation's of the interfund transfers and interfund payables and receivables have not been completed. Additionally, prior year audit adjustments have not been posted in the Nation's books. William Kemble indicated the reason the prior year audit adjustments were not posted is he is not sure of the account structure the auditor used and therefore has not posted the adjustments. Per conversation with Penny Bradford, she had all the 2009 audit adjustments entered in MIP she just needed them reviewed and approved so she could post. She asked William to review and sign-off on them but to date he has not approved them. According to Penny and Leslie, they have not seen the 2010 audit adjustments. Monthly balance sheet accounts reconciliations are currently only done for cash accounts.

Recommendations

We recommend the Treasurer contact the prior year auditor for specifics on the account structure or talk to the program accountants. We recommend the Treasurer also verify which adjustments need to be posted and then work with the program accountants to get all adjustments posted in order to properly close the books for 2009 and 2010 and reconcile all balance sheet accounts on a monthly basis.

Computer Security Controls

Per conversation with Leslie Young, Tribal Accountant on 11/16/2011, and review of security settings for MIP and Peachtree; all three users of Peachtree (Leslie Young, William Kemble and Julie Hutson) are given administrator level access and that gives them access to all areas of Peachtree and data could be posted after month-end. Per review of the MIP security listing, employees within the accounting department have unrestricted access to all modules and programs with the exception of payroll. In addition, former accounting employees still have access to MIP.

Recommendations

We recommend Peachtree access be modified so not all users have administrative rights. Additionally, we recommend security settings for MIP be modified and be restricted to modules, programs, and levels of access to appropriate users and positions. When employees leave the accounting department their access should be eliminated.

Month-End Bank Transfers

Per our assessment, the Treasurer still has to perform a significant amount of transfers to ensure that all bank deposits are fully collateralized at the First National Bank of Pawhuska. The Bank is not willing to provide additional pledged collateral beyond the $1.75 million it currently offers to the Osage Nation. The Osage Nation has $2,029,992 in deposits at the First National Bank of Pawhuska as of October 30, 2011 and this leaves $29,992 uncollateralized as of month-end.

Recommendation

Deposits should be moved to another financial institution that is willing to provide adequate pledged collateral to ensure deposits are fully collateralized in accordance with Osage Nation policies and procedures.

OSAGE NATION

Assessment and Related Findings

Management of Minerals Council funds

Per our assessment, $300,000 was moved out of the Minerals Council account on June 21, 2011 and was not returned back to the account until July 14, 2011. No documentation was provided to show that approval was obtained from the Mineral Council to transfer the funds.

Recommendation

The Treasurer should obtain pre-approval to transfer Mineral Council funds and retain that documentation until the collateralization issue can be resolved at the First National Bank of Pawhuska.

Risk Management of Bank Account Balances

Per our assessment, the Osage Nation's accounting policies and procedures require that all deposits at financial institutions be fully collateralized. The Osage Nation is making a significant amount of transfers at month-end and during the month to ensure all deposits are fully collateralized. The majority of bank accounts are at the First National Bank of Pawhuska and they are not willing to provide additional pledged collateral. The Treasurer is currently working on an investment policy that has been submitted to the Chief for review.

Recommendation

The Osage Nation should look into finding institutions that will provide additional pledged collateral to ensure that all deposits are fully collateralized without having to perform monthly transfers. A temporary solution to this problem is Section 343 of the Frank Dodd-Act which allows all non-interest bearing accounts to be fully collateralized while attempting to find banks that will provide the additional pledged collateral needed to ensure compliance with Osage Nation policies and procedures. The Osage Nation will forgo some interest income in the short-term but that could help to reduce or eliminate the amount of transfers that are needed on a monthly basis until a permanent solution to the pledged collateral issue is reached. The investment policy would allow for the Osage Nation to safely invest some of its funds and lessen the amount of deposits that are held at the banks.

EXHIBIT A

OSAGE NATION CONGRESS

Committee Report

SECTION A.

Committee on: Governmental Operations

Date of Meeting: September 7, 2011

Presiding Officer: Daniel Boone

SECTION B.

FINAL COMMITTEE RECOMMENDATION

Draft Report and Findings

Motion-To Adopt. Raymond Red Corn made a motion to adopt the findings of the Treasury hearing dated September 12, 2011. Motion was seconded and passed with 4 yeas and 0 nays.

Motion-To Amend. Raymond Red Corn made a motion to amend the following language on Page 15 as follows:

"Individual actions of the Treasurer described in these findings may not cause the Congress to consider removal. Nevertheless, the cumulative weight of these actions and the disregard for Osage law and the Osage constitution require the committee to recommend the Osage Nation Congress form a Committee of Inquiry to determine if such actions warrant a trial for removal.

The Government Operations committee hereby recommends the Congress form a Committee of Inquiry in accordance with Rule 12.1 of the Congressional Rules for the purpose of making such a determination."

Motion was seconded and passed with 4 yeas and 0 nays.

Motion-To Amend. Shannon Edwards made a motion to amend the date on the Draft Report and Findings to September 7, 2011. Motion was seconded and passed with 4 yeas and 0 nays.

2nd Osage Nation Congress
3rd Regular Session

Daniel Boone, *Chairman*
Raymond Red Corn, *Vice Chair*

GOVERNMENT OPERATIONS COMMITTEE
OSAGE NATION CONGRESS

Report and Findings

Transmitted to the full body of the Osage Congress
September 7, 2011

September 2011

Report

The Government Operations Committee, by an affirmative majority vote of the members, on September 7, 2011, adopted the following report and findings and ordered them to be transmitted to the full body of the Osage Nation Congress.

SUBJECTS OF THE REPORT: Principal Chief John D. Red Eagle; William Kemble, Treasurer; and Bill Foster, Human Resources Director.

CONGRESSIONAL FINDINGS:

1. The Principal Chief, Human Resources Director and the Treasurer violated ONCA 09-11 as amended, by signing and filing the Employee New Hire Information Form that authorized a rate of pay for the Executive Assistant of Treasury, which amounted to more than 1/26th of the total appropriation for that position per pay period;
2. The Treasurer has breached his duty to see that all monies are disbursed according to appropriation and Osage law by authorizing the payment of compensation to the Executive Assistant of Treasury, which amounted to more than 1/26th of the total appropriation for that position per pay period;
3. The Treasurer has implemented new policies and procedures, in the absence of an emergency, without submitting them to the Osage Nation Congress for approval in violation of the Treasury law, ONCA 06-02 as amended;
4. The Treasurer has failed to adhere to the existing approved policies and procedures, in the absence of an emergency, in violation of the Treasury law, ONCA 06-02 as amended;
5. The Treasurer has allowed funds to remain undercollateralized periodically throughout this fiscal year at First National Bank of Pawhuska, placing funds at risk of loss;
6. The Treasurer has moved Minerals Council funds without the knowledge or authorization of the members of the Minerals Council leaving C-395 funds temporarily outside the control of the Minerals Council;
7. The Treasurer has failed to perform his duty to submit quarterly reports of the financial status of the Nation to the Osage Nation Congress; and he has failed to perform his duty to publish quarterly executive summaries of monthly financial statements in the Osage News within forty-five (45) days of the end of each fiscal quarter.
8. Individual actions of the Treasurer described in these findings may not cause the Congress to consider removal. Nevertheless, the cumulative weight of these actions and the disregard for Osage law and the Osage Constitution require the committee to recommend the Osage Nation Congress form a Committee of Inquiry to determine if such actions warrant a trial for removal.

RECOMMENDATION: The Committee recommends that the Osage Nation Congress adopt this report and its findings, transmit it to the subject parties and the Attorney General, and release it to the public for publishing. The Committee further recommends the Osage Nation Congress form a Committee of Inquiry in accordance with Rule 12.1 of the Congressional Rules for the purpose of determining if the Treasurer's actions warrant a removal trial.

VOTES IN THE AFFIRMATIVE: 4 yeas

Congressman Red Corn	yes
Congresswoman Branstetter	yes
Congresswoman Edwards	yes
Congresswoman Supernaw	yes

VOTES IN THE NEGATIVE: 0 nays
ABSTENTIONS: 0
ABSENCES: 0

STAFF DESIGNATED TO TRANSMIT THIS REPORT TO THE OSAGE NATION CONGRESS:
Loyed Gill, Legislative Counsel
Barbara Rice, Clerk of the Congress

FINDINGS

The Principal Chief, Human Resources Director and the Treasurer violated ONCA 09-11 as amended, by signing and filing the Employee New Hire Information Form that authorized a rate of pay for the Executive Assistant of Treasury, which amounted to more than 1/26th of the total appropriation for that position per pay period.

AND

The Treasurer has breached his duty to see that all monies are disbursed according to appropriation and Osage law by authorizing the payment of compensation to the Executive Assistant of Treasury, which amounted to more than 1/26th of the total appropriation for that position per pay period.

In April of 2009, the Osage Nation Congress passed ONCA 09-11, the "2010 Budget Parameter and Limitation Act" by majority vote and veto override. This bill was later amended to strike "2010" out of its title and to make it applicable to each fiscal year until superceded or rescinded. ONCA 09-11, although amended several times, retained one provision that is pertinent to this finding until it was superceded on March 29, 2011.[1] Until March 29, 2011, Section 4 of ONCA 09-11 restricted the pay rate of salaries to pay no more than 1/26th of the appropriated salary per pay period.[2] The purpose of this provision was to stop the practice of paying salaries at higher levels than originally appropriated when a position was unfilled for a portion of a fiscal year. Employees were being hired, and offered whole annual appropriations as salary when there were only eight or nine months left in the fiscal year, thereby increasing the pay rate to a point that if calculated annually would surpass the annual appropriation for the position. By putting in place the 1/26th salary restriction, it did not matter how much money went unspent during a fiscal year, a position could not be paid more than 1/26th of the total salary appropriated for an eighty (80) hour pay period.

Through subpoenaed documents and the hearings of July 14th and July 15th 2011, we discovered that the Treasurer, the Human Resources Director and the Principal Chief have all violated the 1/26th provision of ONCA 09-11. Section 4 of ONCA 09-11 reads as follows:

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[1] ONCA 09-11 as amended was superceded by ONCA 11-32.
[2] ONCA 09-11 as amended, Section 4.

> Annual appropriated salaries shall be paid at no more than the maximum rate of one twenty-sixth (1/26th) of the appropriated salary amount per pay period. This shall in no way restrict salary increases approved by supplemental appropriation. An exception to this provision is allowed for bonuses awarded in accordance with Osage law.[3]

The Treasurer hired a new employee, Jonna Hopper, for the position of Executive Assistant of Treasury on February 28, 2011. The "Employee New Hire Information Form" for Ms. Hopper is signed by William Kemble, Bill Foster and John D. Red Eagle.[4] At the time the Treasurer hired Jonna Hopper, ONCA 09-11 and its 1/26th pay rate provision were in effect. The Employee New Hire Information Form clearly shows that Ms. Hopper was hired at the pay rate of $15.57 or $32,500 per year, but the annual appropriation for the position of Administrative Assistant[5] is only $14.31 or $29,882 per year.[6]

The Treasurer has the responsibility to assure the proper disbursement of funds in the control of, or belonging to the Osage Nation under Section 3-312 of the Treasury Law, ONCA 06-02 as amended. In the circumstance presented, the Treasurer initiated and authorized by his signature the disbursement of funds in the form of a salary to the Executive Assistant of Treasury, and by doing so violated Osage law. Mr. Kemble stated that he consulted with Bill Foster in the Human Resources Department about the salary and that Bill Foster told him it was allowable. (Transcr. of W. Kemble at P. 181, Lns 2-19) The Treasurer, Mr. Kemble, has a duty to be aware of all appropriations and appropriation laws of the Osage Nation.

The Controller, Clint Hill, testified that he sees the vast majority of new hire forms, and that he checks the pay rates against the appropriation laws to make sure they comply with Osage law. (Transcr. of C. Hill at P. 16, Lns 2-8) The Treasurer did not present Ms. Hopper's Employee New Hire Information Form to Mr. Hill for signature, but instead signed it himself and then presented it to the Principal Chief and Human Resources Director for signature. (Transcr. of C. Hill at P. 6, Lns 10-12)

Pam Jester, the payroll accountant, testified that she enters the payroll each pay period, and she enters the new hire pay rates when they are received. (Transcr. of P. Jester at P. 71, Lns 6-12) She stated that she does not question the pay rate, nor does she have the authority to question the pay rate as long as the required signatures are present. (Transcr. of P. Jester at P. 71, Lns 20-

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[3] Id.

[4] See Employee New Hire Information Form for Jonna Hopper.

[5] The Treasurer changed the name of the position from Administrative Assistant to Executive Assistant of Treasury. See electronic mail of January 6, 2011 from William Kemble to Bill Foster.

[6] See Employee New Hire Information Form for Jonna Hopper.

25) The Employee New Hire Information Form for Ms. Hopper received the requisite signatures for approval, so by not presenting the form to the Controller for review and apptoval, the Treasurer took the responsibility upon himself to make sure that the pay rate for Ms. Hopper complied with Osage law.

In addition, the Human Resources Department is also responsible to verify that the requested pay rate for an employee does not exceed the appropriation for that position or violate any appropriation restrictions set out in Osage law. In this case the Human Resources Director, Bill Foster, signed off on the new hire form authorizing the pay rate that violated the 1/26th provision of ONCA 09-11 as amended.

Similarly, the Chief also had a duty to verify the legality of the pay rate for Ms. Hopper since his authorization is required on the new hire form. The Chief signed the form in violation of the 1/26th provision of ONCA 09-11 as amended.[7]

More information is needed to determine whether there was a direct intent to violate the law by the Human Resources Director or the Principal Chief. According to the testimony of the Treasurer, he relied on the opinion of the Human Resources Director regarding the legality of Ms. Hopper's salary. Mr. Kemble failed to verify its legality himself or check with the Controller, Mr. Hill, who is the person assigned to verify new hire and status forms against current appropriations and law in Treasury and Accounting. If the Treasurer is not familiar with current appropriations and the legal restrictions placed on those appropriations, he should first, utilize the personnel resources of the Accounting staff and second, study the appropriations and the related Osage laws to meet his duty of properly disbursing funds in the control of, or belonging to the Osage Nation under Section 3-312 of the Treasury Law, ONCA 06-02 as amended.

The Committee recommends that these findings be forwarded to the Attorney General of the Osage Nation for review and investigation for misuse of public money under Osage law.

[7] See Employee New Hire Information Form for Jonna Hopper.

The Treasurer has implemented new policies and procedures, in the absence of an emergency, without submitting them to the Osage Nation Congress for approval in violation of the Treasury law, ONCA 06-02 as amended.

AND

The Treasurer has failed to adhere to the existing approved policies and procedures, in the absence of an emergency, in violation of the Treasury law, ONCA 06-02 as amended.

The Treasurer has implemented two new policies and procedures that he has designated as "protocols."[8] One new policy and procedure is the "Procurement Protocol." Under the Treasury law, ONCA 06-02 as amended, Section 3-316, the Treasurer has unilateral authority to designate other persons who will have authority to "contract for, purchase and/or issue and approve purchase requisitions, purchase orders and authorizations for payment for any and all goods and services..."[9] but the Treasurer's ability to change the procedure for contracting is limited. Under the same section, the Treasurer is required to submit his proposed financial policies and procedures to the Osage Nation Congress for review and approval.

After being subpoenaed for documentation, the Treasurer sent a letter to the Principal Chief setting out his designees who will have contracting and purchasing authority up to $25,000, which is wholly within his authority under the law.[10] Conversely, the new procurement protocol changes the procedure for contracting by requiring that all ordering of goods and services must be performed by the Purchasing department, and further, that all vendor invoices must be sent directly to the Accounting department instead of being received by departments for review and approval before they are sent to accounting with a check request.[11] This new procedure has not been submitted to the Osage Nation Congress for approval as is required by law.

The Treasurer has made conflicting statements about whether the "Procurement Protocol" is currently in place. (Transcr. of W. Kemble at P. 96, Lns. 11-15; and at P. 129, Lns. 12-20) It does not appear to be completely implemented as of the date of this hearing, July 15, 2011. However, it must be submitted to the Osage Nation Congress for approval, prior to it being implemented to comply with ONCA 06-02 as amended,

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[8] See Procurement Protocol submitted by Treasurer.
[9] ONCA 06-02 as amended, Section 3-316.
[10] See Letter of July 7, 2011 from William Kemble, Treasurer, to Principal Chief Red Eagle.
[11] See Procedure No. 35-15, Osage Accounting Policies and Procedures.

Section 3-316. There is a provision in ONCA 06-02 as amended that allows the Treasurer to "exercise emergency fiscal authority necessary to protect life, property, and the integrity of the Osage Nation."[12] During testimony, the Treasurer stated that there was an emergency, and the emergency amounted to a lack of policies and procedures in place for Accounting and Treasury. (Transcr. of W. Kemble at P. 91, Lns. 1-17) He has claimed that he "mentioned" it to the Principal Chief, but has not put anything in writing to the Principal Chief or the Osage Nation Congress. (Transcr. of W. Kemble at P. 89, Lines 12-25; P. 90, Lines 1-2; and at P. 93, Lns. 4-9) The Treasurer has not put anything in writing to notify the Osage elected officials that he believed the financial condition of the Osage Nation was in a state of emergency. This body is not convinced that an emergency existed, and therefore the Treasurer is required to submit his proposed policies and procedures to the Osage Nation Congress for approval before they may be implemented.

In the letter of July 7, 2011, the Treasurer designated the Procurement Officer, Tammy Moxley, to authorize purchase orders up to twenty-five thousand dollars ($25,000).[13] In testimony, the Treasurer stated that Tammy Moxley has authorized purchase orders over twenty-five thousand dollars ($25,000), a direct violation of the written authority given to Ms. Moxley. (Transcr. of W. Kemble at P. 202, Ln. 25; and at P. 203, Lns. 1-20)

Mr. Kemble stated in testimony that he does not think the current Accounting Policies and Procedures are in effect because they were passed by previous Tribal Councils, and not approved by the Osage Nation Congress. (Transcr. of W. Kemble at P. 90, Lns. 7-23) Mr. Kemble is incorrect. The current Accounting Policies and Procedures are in effect and enforceable under the Savings Clause of the Osage Constitution. Article XXII of the Osage Constitution states:

> All laws, resolutions, ordinances and acts of the Osage Nation, formerly known as the Osage Tribe of Indians of Oklahoma, taken before the effective date of this Constitution, including elections and terms of office, shall remain in full force and effect to the extent that said action is consistent with the Osage Nation Constitution and until said laws, resolutions, ordinances and acts are altered by the Osage Nation government, as organized under this Constitution, after the effective date of this Constitution.
>
> Osage Constitution, Article XXII.

The second policy and procedure that has been changed by the Treasurer is the relaxation of internal controls by not requiring the Treasurer or the

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[12] ONCA 06-02 as amended, Section 3-108(H).

[13] See Letter of July 7, 2011 from William Kemble, Treasurer, to Principal Chief Red Eagle.

Controller to sign off on payables under three hundred dollars ($300.00). The current approved procedure states the "Chief Financial Officer or Controller shall approve all check requests regardless the amount of the check request."[14] The procedure implemented by the Treasurer allows the accountants in the Accounting department to sign payables as final authorization with no review or signature required of the Treasurer or the Controller. Under this procedure verbally authorized by the Treasurer, a department director and one accountant assigned to that department could conspire to purchase thousands of dollars worth of non-employment related goods and services without detection until an audit is performed. It is no guarantee that an audit would detect this activity immediately. This new procedure is out of compliance with the approved Osage Accounting Policies and Procedures, and it has not been submitted to or approved by the Osage Nation Congress.

It is of concern to this body that the Treasurer has unilaterally decided to relax the internal controls on payables making it easier for fraud to be committed upon the Osage Nation. (Transcr. of W. Kemble at Pgs. 172-173) It is also troubling that the Treasurer has implemented this new policy and procedure at a time when he believed the Nation to be experiencing a financial emergency due to a lack of policies and procedures in place. The relaxation of approved policies and procedures is inconsistent with the idea that the Nation needs more policies and procedures in place to secure its funds. The Treasurer is required to submit his policy and procedure on payables under three hundred dollars ($300) to the Osage Nation Congress for review and approval or he can designate each accountant with that authority in writing in order to comply with ONCA 06-02 as amended.[15]

The Committee recommends that Mr. Kemble, as Treasurer, submit all proposed policies and procedures to the Osage Nation Congress for approval prior to implementing them, unless there is an actual emergency or he is otherwise authorized to make the change under Osage law. In the case of an actual emergency, it is the recommendation of this body that the Treasurer notify the Principal Chief and the Osage Nation Congress in writing of such emergency, and then submit his proposed policies and procedures that address the emergency as soon as possible after they have been implemented. The Committee recommends that Mr. Kemble terminate the practice of allowing Accountants alone to have final signature authority on payables under three hundred dollars ($300) due to the increased risk of fraud created by the practice.

The Committee also recommends that the Treasurer adhere to the limits he sets forth allowing contracting signature authority to designated personnel. In the case of Tammy Moxley, she is limited to authorization of purchase orders of $25,000 until the Treasurer submits a new authorization in

[14] See Procedure No. 40-05, Osage Accounting Policies and Procedures.
[15] ONCA 06-02 as amended, Section 3-316.

writing.[16] The Treasurer is under the Executive branch, and he reports to the Principal Chief, but he is also responsible to the Osage Nation Congress, as representatives of the Osage People, due to its power of appropriation and its inherent authority of oversight over the People's money, in addition to the statutory authority contained in Osage law.

The Treasurer has allowed funds to remain undercollateralized periodically throughout this fiscal year at First National Bank of Pawhuska, placing funds at risk of loss.

The Osage Nation has accounts at several banks in Osage County, but the accounts at First National Bank of Pawhuska ("FNBP") have regularly exceeded the collateralization limit of two million dollars ($2,000,000) over the last eleven months. (Transcr. of W. Kemble, P. 145, Lns. 15-25; and at P. 146, Lns. 1-5) The collateralization of Osage Nation funds is required by Osage Accounting Policies and Procedures.[17] The funds can be collateralized by the Federal Deposit Insurance Corporation ("FDIC"), or they can be collateralized by the financial institution holding the deposit by purchasing financial securities. First National Bank of Pawhuska has set its maximum collateralization limit for the Osage Nation at two million dollars ($2,000,000). (Transcr. of W. Kemble, P. 115, Lns. 14-17; and at P. 143, Lns. 7-24) The Principal Chief, Assistant Principal Chief and the Treasurer met with FNBP executives to request additional collateralization up to three million dollars ($3,000,000), but FNBP refused to provide additional collateral. (Transcr. of W. Kemble at P. 100, Lns. 2-14; and at P. 116, Lns. 2-12) The effect of this is that each time the sum total of all Osage Nation accounts held at FNBP exceeds two million dollars ($2,000,000), the amount of money in excess of two million dollars ($2,000,000) is at risk of loss.

The First National Bank of Pawhuska has asked the Treasurer to move money out of accounts temporarily to make the total deposit of all Osage Nation accounts held at that institution less than the two million dollar ($2,000,000) collateral threshold. (Transcr. of W. Kemble at P. 143, Lns. 7-25; P.144, Lns. 1-3; and at P. 145, Lns. 4-14) The Congress, during hearing testimony of Mr. Kemble, suggested that the persistent problem of exceeding collaterization limits at FNBP could be solved by opening accounts at other banking institutions that can provide adequate collateral for large deposits. (Transcr. of W. Kemble at P. 137, Lns. 1-24) Mr. William Kemble agreed that is a possible solution. (Transcr. of W. Kemble at P. 137, Lns. 1-24) The current method of solving the problem utilized by the Treasurer is to move money into accounts at other institutions until the account balances at First National Bank of Pawhuska have decreased to a point that the money can be returned to FNBP and still have the total balance be under the two million

[16] See Letter of July 7, 2011 from William Kemble, Treasurer, to Principal Chief Red Eagle.
[17] Procedure No. 31-05, Osage Accounting Policies and Procedures.

dollar ($2,000,000) collateral limit. There are two problems present here. First, the collateralization limit is, at times, exceeded prior to or after funds have been transferred to other accounts leaving Osage public funds at risk. The second problem is the large number of transfers required to keep the funds collateralized significantly increases the risk for accounting errors or mistakes to occur either within the Treasury or at FNBP.

The great effort spent monitoring and transferring these funds into and out of accounts at FNBP is executed for what appears to be the sole purpose of meeting collateralization limits at FNBP. There is not any mandate that the Nation must utilize FNBP, and it would certainly be a better use of personnel resources to open an account at another institution capable of meeting our deposit demands. More importantly, by utilizing another institution, the Treasurer can ensure that all accounts are properly collateralized and in compliance with the Osage Accounting Policies and Procedures.

In response to a question from Congressman Supernaw about a statement the Treasurer made about moving money to protect it from tornadoes,[18] Mr. Kemble stated in his testimony:

> That's kind of the whole purpose – that's kind of the whole purpose of getting it collateralized, being insured. I mean just something happens to the bank. It gets robbed, tornado hit, yeah. I always kid around with the Treasury department and say something like that. (Transcr. of W. Kemble at P. 196, Lns. 8-13)

The tone of Mr. Kemble in making this statement is not conveyed in this quote, but it was one of jest. The Committee does not share this sentiment. The risks to banking institutions are more than robberies or acts of God. The FDIC reports that one hundred thirty-eight (138) community and regional banks have failed between January 1st and August 15th of 2011.[19] In October of 2010, the amount of uncollateralized Osage funds at risk of loss because they were over the collateralization limit was $1,714,837.81.[20] Again in January of 2011, there were $2,079,497.54[21] uncollateralized funds at risk of loss. The possibility of losing these large sums of money to a bank failure is precisely why the approved Osage Accounting Policies and Procedures require all funds to be collateralized. The increased number of bank transfers could be a potential lapping scheme to cover misappropriated funds in another bank account or accounts.

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[18] See Transcr. of W. Kemble at P. 100, Lns. 2-14.

[19] See FDIC Failed Bank List.

[20] See Attachment "A" to Letter of July 13, 2011 from William Kemble to Elizabeth Hembree of First National Bank of Pawhuska.

[21] Id.

The Committee recommends the Treasurer open new account(s) at a new banking institution capable of meeting the collateralization needs of the Osage Nation. In so doing, there will be no need to transfer money from account to account just to meet collateralization requirements. The risk of losing money to bank failure will be cured and the risk of accounting errors occurring will be significantly diminished. The Committee further recommends that the transfers made in fiscal year 2011 be investigated by the Attorney General to determine if funds have been misappropriated by matching up the transfers to the bank statements and accounting records.

The Treasurer has moved Minerals Council funds without the knowledge or authorization of the members of the Minerals Council leaving C-395 funds temporarily outside the control of the Minerals Council.

The Treasurer moved money out of two accounts of the Minerals Council held at FNBP to reduce the total Osage Nation deposits at FNBP in order to keep the deposit total under the collateralization limit of two million dollars ($2,000,000). (Transcr. of W. Kemble at P. 101, Lns. 20-25; at P. 102, Lns. 1-18; and at P. 116, Lns. 15-19) Those funds were then deposited in another bank in Pawhuska that held mainly federal funds of the Osage Nation. The C-395 account is a fund for the administrative use of the Minerals Council and the Oil and Gas Summit account is simply to fund the costs associated with the annual Oil and Gas Summit organized by the Osage Minerals Council. The Treasurer is a signatory on the C-395 account along with Mineral Councilwoman Cynthia Boone and Mineral Councilmen Myron Red Eagle and Melvin Core.[22] The business account agreement states that withdrawal from this account requires two (2) signatures. However, the Treasurer was allowed to transfer funds out of the C-395 account without a second authorization from a representative of the Minerals Council.

The Oil and Gas Summit account has signatories John D. Red Eagle, Principal Chief, Scott N. Bighorse, Assistant Chief, and William Kemble, Treasurer. No members of the Minerals Council are listed as signatories.[23] This account requires two (2) signatures to withdrawal funds.

It is not clear from the documentation or the testimony as to how FNBP allowed these funds to be withdrawn when the withdrawal requirements were not met. On both the C-395 fund and Oil and Gas Summit fund, the Treasurer was allowed to transfer funds without a second signature, as the

[22] See First National Bank of Pawhuska business account agreement for account titled OTC-Osage Tribal Budget C395.

[23] See First National Bank of Pawhuska business account agreement for account titled ON Oil Summit.

account agreements require. This Committee recommends that further investigation take place regarding the policies of First National Bank of Pawhuska on signature authority.

The issue of transferring money out of Minerals Council accounts also has significant political ramifications. The Osage Minerals Council and its constituents have consistently questioned the motives of this Osage Nation Government toward the Mineral Estate since the government was formed in 2006. There is a persistent fear that the Osage Nation Government will somehow seize control of the Mineral Estate or the funds that the Minerals Council controls. The fact that the Treasurer unilaterally transferred funds out of accounts of the Minerals Council only feeds these fears. The Treasurer stated that his only intent was to avoid risk by moving these funds into a collateralized account, and that these funds were the obvious choice because they were large amounts of money without any foreseeable transactions. (Transcr. of W. Kemble at Pgs. 116-117) If the Treasurer had not used these larger accounts, he would have had to look to many of the smaller accounts to achieve the same amount of money in order to meet the collateralization limit. The Treasurer did not consult with the Minerals Council before he transferred the funds, and he only consulted with the Principal Chief about the transfer after it had occurred. (Transcr. of W. Kemble at P 118, Lns. 3-16) Moreover, while the C-395 funds were out of the account at FNBP, they were completely out of the control of the Minerals Council. This is a fact that this Committee finds unacceptable.

The Committee finds that the Treasurer should be directed, by Executive Order, not to transfer or withdrawal funds out of Minerals Council accounts without the consent of the Minerals Council. If the Principal Chief does not act, the Committee recommends that legislation be introduced to address Minerals Council account transfers. Again, the Treasurer can avoid the need to appease FNBP and its collateralization limit by opening a new account at another banking institution. That course of action will also avoid commingling Minerals Council administration funds with the federal funds received by the Osage Nation.

The Treasurer has failed to perform his duty to submit quarterly reports of the financial status of the Nation to the Osage Nation Congress; and he has failed to perform his duty to publish quarterly executive summaries of monthly financial statements in the Osage News within forty-five (45) days of the end of each fiscal quarter.

The Treasurer has the duty to provide quarterly reports to the Osage Nation Congress on the financial status of the Nation. [24] To date, the Osage Nation Congress has not received any quarterly reports for fiscal year 2011. Mr. Kemble stated in testimony that the reason he has not provided the reports is that the books have not been closed, and therefore he is not sure of the accuracy of the reports. Mr. Kemble is required to report on the financial status of the Nation, and those reports should include any explanation that he deems necessary to explain discrepancies in the accounting method used to determine that status. He is not exempted from complying with the law simply because he believes the accounting to be inaccurate. The Treasurer should report the inaccuracy, explain the reason for the inaccuracy and the steps he intends to take to address the inaccuracy. The Treasurer also has a duty to publish quarterly executive summaries of the monthly financial statements of the Nation in the Osage News within forty-five (45) days after the end of each fiscal quarter. Mr. Kemble has failed to put any quarterly report in the Osage News since he took office in 2010. (Transcr. of W. Kemble at P. 202, Lns. 6-15) This is a direct violation of the Treasurer's duties under the Treasury Law, ONCA 06-02 as amended.

The Committee recommends that the Treasurer immediately begin complying with his duty to report to the Osage Nation Congress and the Osage News. The Treasurer should further be required to submit the quarterly reports for the quarters that he has missed in fiscal year 2011.

CONCLUSION

The Treasurer, William Kemble, must make a significant effort to become current on Osage law, specifically those laws that directly affect the Treasury such as appropriation restrictions and correct processes for implementing new procedures. Mr. Kemble must stay abreast of United States laws that change banking laws and regulations such as the Dodd-Frank Wall Street Reform and Consumer Protection Act. Mr. Kemble cannot wait for bank personnel to call him with financial law updates, as he stated in testimony, because it could put Osage Nation funds at risk for extended periods of time. (Transcr. of W. Kemble at P. 134, Lns. 5-14; and at P. 138, Lns. 8-21) The Treasurer must monitor Tribal, State and Federal laws affecting the Osage Treasury and the banking institutions utilized by the Treasury. The Treasurer

[24] ONCA 06-02 as amended, Section 3-108(A).

has shown little regard for the laws that govern his office. Mr. Kemble must realize that he is required to abide by the laws of the Osage Nation or be held accountable for willful neglect of duty and malfeasance in office.

Additionally, the Treasurer must ensure the funds of the Osage Nation are protected by utilizing banking institutions capable of meeting the collateralization demands of the Osage Nation. Protection of assets is a fundamental duty of the Treasurer of the Osage Nation, and one that should be pursued with diligence. The Treasurer's action of internally declaring an emergency without notifying any other elected officials, implementing two new procedures without proper approval under the guise of another name, and implementing those procedures under a self determined emergency that only he knows about are not diligent efforts to cure the risk of loss to the Osage Nation.

Mr. Kemble must communicate with the independent auditing firm, Archambo & Mueggenborg, to close the books for fiscal years 2009 and 2010. The problem with the posting of the entries for 2009 is that the auditor (Archambo & Mueggenborg) changed the account number structure and the Treasurer has not been able to figure out how to post the entries. This could be cured by a simple telephone call to the auditing firm to ask how the entries should be posted. However, the Treasurer appears to be unwilling to communicate with the independent auditor. Mr. Kemble's inability to figure out how to post the entries and his unwillingness to ask the auditor how to post the entries is causing detriment to the Osage Nation.

This Committee finds that Mr. Kemble must improve his communication with elected officials, and he must comply with the reporting requirements to the Osage Nation Congress and the Osage News. The Osage Nation Treasurer, as a position in general, should be knowledgeable, respectful and compliant of Osage law, forthcoming with information when requested by elected officials, capable of complying with the duties of the office and avoiding delay in the performance of duties. This Committee finds that Mr. Kemble is not currently meeting those standards.

The Principal Chief, John D. Red Eagle, and the Human Resources Director, Bill Foster, signed off on a new employee hire information form for a pay rate that violated Osage law. The Committee recommends that the Office of the Principal Chief and the Human Resources Departments review their processes for ensuring that they are complying with appropriation restrictions set out in Osage law.

EXHIBIT B

ARCHAMBO & MUEGGENBORG, PC
CERTIFIED PUBLIC ACCOUNTANTS

June 27, 2011

Principal Chief and Honorable Members of the
Osage Nation Congress
Pawhuska, Oklahoma

In planning and performing our audit of the financial statements of the *Osage Nation* (the Nation) for the year ended September 30, 2010, we considered its internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. Although our audit was not designed to provide assurance on the internal control structure, we noted certain matters involving the internal control structure and its operation that are not reflected in any of the aforementioned reports, which we feel worthy of consideration by management. These matters are presented in the following pages.

We wish to express our appreciation to you and all your staff, especially Will Kemble, Clint Hill, Jonna Hopper and the many accountants and directors, for all the courtesy and assistance we received during this year's audit. We hope this year's comments and recommendations will assist you in your efforts to enhance the *Osage Nation*'s financial management function and achieve your goals of providing stewardship over the *Osage Nation*'s resources and assets.

Respectfully submitted,

Archambo • Mueggenborg, PC

Archambo & Mueggenborg, PC
Certified Public Accountants

Mark W. Archambo, CPA, CFP™ • Deborah E. Mueggenborg, CPA • Joan Lewis, CPA
302 SE Osage, Bartlesville, OK 74003 • p: 918-336-0008 • f: 918-336-7608

PRIOR YEAR COMMENTS

08-1 EQUIPMENT AND PROPERTY

(1) It was noted that some items of property were disposed of without proper notification to, and approval of, the Property Manager. This internal control deficiency increases the risk that employees may misappropriate program property by declaring it no longer needed, then taking the property. It was noted that property reconciliations in each program were not performed. Without reconciliation, if items are deleted without proper approval, the deletions would not be discovered.

(2) It was noted that the master property list does not agree to the general ledger fixed assets total.

(3) It was also noted that Backtrack software used to record property allows items to be deleted without management approval.

Recommendation

(1) We recommend that program directors should, at least quarterly, document the property belonging to their program, date and sign this listing and forward to the Property Manager. The Property Manager should then compare the listings by program with the master property list and follow up on any discrepancies. Any undocumented missing property should be reported to higher management. Program property should not be moved or disposed of without the prior knowledge and approval of the Property Manager.

(2) We recommend that management reconcile the property records' fixed assets amounts and accumulated depreciation amounts to the general ledger.

(3) We recommend improved controls over the property software.

Follow up 2010

(1) We were able to locate all assets that were selected for testing. **THIS COMMENT IS CLEARED.**

(2) It was noted that the general ledger still does not agree with the master property list. We continue to recommend the Nation reconcile the master list to the general ledger. We also continue to recommend the Nation keep a log of general ledger fixed asset activity for GASB presentation at year-end.

(3) Software controls were not updated.

(4) It was noted during testing that employees are not required to sign out items they are issued, especially items used outside the office, including cell phones. We continue to recommend the Nation require employees to sign out any equipment issued to them.

(5) It was noted that building improvements were not recorded on the master property list. The Nation's blanket policy stipulates all fixed asset purchases >$10,000 shall be capitalized, but does not address building improvements. We recommend the Nation capitalize building improvements.

PRIOR YEAR COMMENTS
(continued)

Management Response

(Item 2) The Nation's Treasury shall create and implement a policy and procedure that includes tracking the addition, disposal, and transfer of both capitalized fixed assets and non-capitalized (of a certain $ threshold) fixed assets. The Nation's Treasury will periodically reconcile the capitalized asset listing(s) to the general ledger throughout a fiscal year and randomly perform an inventory observation of the Nation's non-capitalized assets at least once each fiscal year. Throughout the fiscal year, a roll-forward schedule of the Nation's capitalized asset activity shall be maintained.

(Item 3) The Nation's Treasury is going to migrate into one accounting software system as opposed to a multiple-software accounting system of which the single software system includes asset tracking capability. This software system will implement the necessary access-rights per Software User to reflect proper segregation of duties.

(Item 4) The Nation will create and implement a policy and procedure in which a system of tracking items including but not limited to keys, equipment, cell phones for each employee. This information will be maintained within at least one of the Nation's general administration departments.

(Item 5) The Nation's Treasury will create and implement a policy and procedure that stipulates a fixed-asset capitalization threshold of $5,000 which includes capitalizing improvement-expenditures as opposed to expenditures that return a fixed-asset to a status quo condition.

08-2 COMPUTER CONTROLS

Peachtree accounts do not have sufficient security access restrictions, allowing for data manipulation after a month has closed. Security logs are also not reviewed within the MIP system. The potential result is that the financial reports and bank reconciliations prepared no longer agree to the general ledger. There is also a possibility for unauthorized data manipulation after reports have been prepared and signed off on, increasing the chance of errors or fraud not being caught.

Recommendation

We recommend a thorough review of all *Osage Nation* computer controls, increasing controls where needed and producing and reviewing data logs and exception reports.

Follow up 2010

Peachtree accounts still do not have sufficient security access restrictions.

PRIOR YEAR COMMENTS
(continued)

Management Response
The Nation's Treasury is going to migrate into one accounting software system as opposed to a multiple-software accounting system of which the single software system will implement the necessary access-rights per Software User to reflect proper segregation of duties and prevent retro-effecting changes to prior period ledgers and account reconciliations. Further, the Nation's Treasury will create and implement a policy and procedure that directs the general-ledger closing of each reporting period and reviews of each reporting period's financials for accuracy.

08-3 INTER-FUND ACCOUNTS RECEIVABLE AND PAYABLE
The Peachtree system does not differentiate between accounts receivable ("A/R") and accounts payable ("A/P") with outside parties and within the Nation itself. During fiscal year 2008, most inter-fund A/R and A/P were entered separately from other A/R and A/P.

Recommendation
We commend management for their improvements but continue to recommend that inter-fund A/R and A/P be entered separately from other A/R and A/P, and that inter-fund A/R and A/P be reconciled to net to zero.

Follow up 2010
During the current year the inter-fund Accounts Receivable and Payable still were not reconciled. The Treasury fund utilizes a cash basis method of accounting and the other programs use the accrual basis of accounting. These methods are inconsistent with each other. Changes in accounting methods should be implemented so that the Treasury fund and other programs all use the same method of accounting. We continue to recommend that reconciliation be performed at least annually.

Management Response
The Nation's Treasury will create and implement a policy and procedure that will, on a consistent basis of accounting, distinguish between external and internal (i.e. Inter-fund) party transactions into separate general ledger accounts and direct that those accounts be reconciled at the general-ledger closing of each reporting period thus properly eliminating (i.e. netting-out) and properly reporting these transactions.

PRIOR YEAR COMMENTS
(continued)

08-4 INTER-FUND TRANSFERS

Some federal programs have inter-fund transfers accounted for as "program income." These funds are not program income, which is a specific income defined by federal grants and contacts with specific regulations, but rather supplemental funding from the *Osage Nation*. During fiscal year 2008, most inter-fund transfers were entered as such. It was noted in the Treasury Fund that transfers in from federal and tribal funds were entered as "misc income." It was also noted that the inter-fund transfers were not reconciled to net to zero. With the separation of inter-fund transfers, we were able to reconcile transfers in and out of various funds. During our testing, several timing differences were noted where transfers in/out of one fund were recorded in a different fiscal year than the opposite fund which recorded the transfer out/in, thus requiring several prior period adjustments for revenue and expense matching.

Recommendation

We commend management for their improvements in reclassifying income to better describe its source, but we continue to recommend that all inter-fund transfers be entered as such, and reconciled to net to zero.

Follow up 2010

During the current year we noted that inter-fund transfers were not reconciled. We continue to recommend that inter-fund transfers be reconciled on a periodic basis.

Management Response

The Nation's Treasury will create and implement a policy and procedure that will, on a consistent basis of accounting, distinguish between external and internal (i.e. Inter-fund) party transactions into separate general ledger accounts and direct that those accounts be reconciled at the general-ledger closing of each reporting period thus properly eliminating (i.e. netting-out) and properly reporting these transactions.

08-5 EMPLOYEE FILES - I-9 FORMS

During 2007, out of a sample of 24 employee files, 6 were found to be missing both Social Security cards and I-9 Forms. The U.S. Citizenship and Immigration Services require all U.S. employers to be responsible for the completion and retention of Form I-9 for each individual they hire in the United States. During 2008, out of a sample of 50 employee files, 42 were found to be missing I-9 forms with an additional 4 only signed by one party and not both employee and employer. Out of the same sample of 50 employee files, 9 were found to be missing proper documentation to back-up the I-9 form (i.e. Social Security card, Driver's License, CDIB, etc.).

PRIOR YEAR COMMENTS
(continued)

Recommendation
We continue to recommend that employees whose files lack I-9 forms be required to complete this form with proof of necessary documentation and that the completed form be retained.

Follow up 2010
During the current year we noted one I-9 was missing out of a sample of 11 and that two files contained a partially completed I-9 form. In light of the increased audits of the I-9 forms, we recommend that I-9's be maintained in a separate file in order to eliminate the need to produce the entire employee file in case of an audit.

Management Response
The missing and incomplete information has since been obtained. The Nation has developed and implemented a Personnel-File Checklist of required documentation to facilitate compliance with the INS requirements. We will continue to complete this Checklist at the employment of an individual with the Nation.

08-6 ACCOUNTS RECEIVABLE POLICY
No written procedures for billing or accounts receivable were found.

Recommendation
We recommend that a procedure be written.

Follow up 2010
During the current year, no procedure was written for billing or accounts receivable.

Management Response
The Nation's Treasury will create and implement a policy and procedure which will direct the invoice-billing, cash receipts, and invoice-aging maintenance functions of Accounts Receivable.

08-7 WAL-MART GIFT CARDS
It was noted that several federal and tribal programs provide Wal-Mart gift cards to program recipients for various purposes. Most instances noted had sufficient supporting documentation. One instance was missing the amount of each gift card given to the recipients although the recipients had signed for the cards. These types of cards pose a higher susceptibility to misuse than specific items purchased by program administrators.

PRIOR YEAR COMMENTS
(continued)

Recommendation
Although the gift cards were allowable and signed for, we recommend drafting a policy detailing the appropriate supporting documentation required and procedure for disbursement of the gift cards.

Follow up 2010
No policy was written during current year.

Management Response
The Nation's Treasury will create and implement a policy and procedure that will direct the provision of gift cards and require a minimum-level of supporting documentation.

08-8 EMPLOYEE BACKGROUND CHECKS
The verbal understanding in Human Resources stated the internal control policy was to perform background checks every two years for employees working with children, the elderly or social programs. No written policies were noted. During our testing, we found that one out of eight employee files tested did not have a current background check. The most recent check was performed in 1999, roughly ten years ago, thus the background check on file is not current.

Recommendation
We recommend instituting a written policy regarding background checks. We also recommend a checklist, showing when employee background checks were performed, be created and updated continuously.

Follow up 2010
During testing we noted two out of four employee files tested did not have the required background checks.

Management Response
The Nation has included a "background check date" item on the Personnel-file Checklist. The Human Resources dept shall continuously review the Personnel File information to ensure "background checks" are updated.

08-9 VEHICLE TITLES
Out of twenty-two vehicle titles tested, 100% were recorded on the master property list with an incorrect purchase date. It was also found on two out of twenty-two vehicle titles that the VIN numbers did not match the master property list. After discovery, the VIN number variances were investigated and corrected in the master property list.

PRIOR YEAR COMMENTS
(continued)

Recommendation
We recommend the property manager review the vehicle titles received from the Osage Tax Commission for any variances and address them immediately.

Follow up 2010
THIS COMMENT HAS BEEN CLEARED.

09-1 FOOD DISTRIBUTION DOCUMENT RETENTION
It was noted during testing that documents were retained for only a rolling one-year period.

Recommendation
We recommend the program retain documents according to the Nation's retention policy or a minimum of five years in accordance with federal program standards, whichever is longer.

Follow up 2010
During current year testing, we noted that documents are being retained for the required timeframe. As time progresses, the client will have retained the proper amount of documents. **THIS COMMENT HAS BEEN CLEARED.**

09-2 FOOD DISTRIBUTION PLAN OF OPERATION
It was noted that the program's Plan of Operation has not been formally updated per the FNS finding in July 2008.

Recommendation
We recommend the Plan be formally updated.

Follow up 2010
THIS COMMENT HAS BEEN CLEARED.

09-3 NAHASDA CASH CODING
The 2007 grant had cash on hand at 09/30/09, which is against federal requirements. Cash was stated to be tribal and not federal dollars. It cannot easily be determined if cash on hand is federal or tribal since no separate coding exists.

Recommendation
We recommend the *Osage Nation* separate tribal and federal dollars into different funds for more effective tracking.

PRIOR YEAR COMMENTS
(continued)

Follow up 2010
We continue to recommend separating tribal and federal dollars into different funds for more effective tracking.

Management Response
The Nation plans to use a combination of general-ledger accounts that are specific to each funding source (i.e. Federal, State, Tribal, etc) and Funds that are specific to each Award (i.e. type and year) to better distinguish and accounting for the receipt and expenditure of specific funding sources and awards.

09-4 ALCOHOL & SUBSTANCE ABUSE (ASAP) ELIGIBILITY
During testing it was found that in Alcohol and Substance Abuse In-House Treatment, one out of seven clients did not have evidence of UA testing. In Alcohol and Substance Abuse, two out of fifteen clients did not have a signed payment policy on file but one was cleared and two out of fifteen clients did not have CDIB cards on file but two were cleared.

Recommendation
We recommend more consistent record retention.

Follow up 2010
THIS COMMENT HAS BEEN CLEARED.

09-5 COMMUNITY HEALTH REPRESENTATIVE (CHR) ELIGIBILITY
During testing it was noted that twelve out of sixteen files did not contain a Drivers License or utility bill to prove residency. Upon inquiry it was noted that many patients do not have the required information so residency confirmation was instead noted by an employee during the initial visit.

Recommendation
We recommend the program modify the client checklist to indicate when an item has been verified by an employee if no documentation is available from the patient.

Follow up 2010
THIS COMMENT HAS BEEN CLEARED.

PRIOR YEAR COMMENTS
(continued)

09-6 COMMUNITY HEALTH NURSE/HEALTH EDUCATION DOCUMENTATION

CPR documentation was found to be kept inconsistently. However, providing this documentation is not material to the program. The program pays for nurses to facilitate this training, which is proven by the above documentation.

Recommendation

We recommend more consistent record retention.

Follow up 2010

THIS COMMENT HAS BEEN CLEARED.

09-7 LAW ENFORCEMENT POLICIES

(1) It was noted that the Law Enforcement program does not have an evidence disposal policy.

(2) It was noted that the Law Enforcement program does not have current policies and procedures regarding program structure.

Recommendation

(1) We recommend the *Osage Nation Police Department* research and create a policy regarding evidence disposal.

(2) We recommend the *Osage Nation Police Department* update and implement these policies.

Follow up 2010

(1) We continue to recommend the *Osage Nation Police Department* develop a policy on evidence disposal.

(2) **THIS COMMENT HAS BEEN CLEARED.**

Management Response

(Item 1) The Nation's Law Enforcement Program will create and implement a policy and procedure that directs the safekeeping, periodic inventorying and retention parameter(s) of evidence materials.

09-8 EDUCATION EXPENSE CODING

It was noted during testing that federal and tribal dollars are co-mingled in the same fund and within the same general ledger codes. This causes report generation for federal dollars spent to be difficult.

PRIOR YEAR COMMENTS
(continued)

Recommendation
We recommend either separating the accounts or the funds to streamline and enhance the reporting process.

Follow up 2010
We continue to recommend either separating the accounts or the funds to streamline and enhance the reporting process.

Management Response
The Nation plans to use a combination of general-ledger accounts that are specific to each funding source (i.e. Federal, State, Tribal, etc.) and Funds that are specific to each Award (i.e. type and year) to better distinguish and accounting for the receipt and expenditure of specific funding sources and awards.

09-9 EDUCATION ELIGIBILITY
It was noted during Internship/Externship testing that one of eight students was not eligible based on requirements. The student was paid with tribal dollars. It was noted during Workforce Development testing that three of sixteen files did not have a signed social security card; one of sixteen did not have verification of residing in Osage reservation; I-9's were completed on work experience, however they were not verified by two ID's on the form; one of sixteen did not have proof of completion of program. Of the 14 files tested for the Summer Youth Program, five I-9's were not completed properly or not signed by the employer, three of the 14 tested has social security cards in the file but they were not signed, and four of the 14 did not have a Drivers license or State ID in the file.

Recommendation
We recommend obtaining and maintaining proper documentation of files for eligible students.

Follow up 2010
THIS COMMENT HAS BEEN CLEARED.

PRIOR YEAR COMMENTS
(continued)

09-10 HR EMPLOYEE FILES

It was found during testing that employee files were not maintained on members of Congress. It was also noted that an employee's original file was transferred to Million Dollar Elm rather than transferring.

Recommendation

We recommend that Human Resources maintain original files on all employees, including members of Congress, for the required retention period.

Follow up 2010

During our testing we noted that members of Congress did have employee files, however, the files were missing a signed copy of the Drug Free workplace document

Management Response

The document has since been obtained from members of Congress. The Nation will continue to obtain a signed copy the Drug Free workplace document from all members of Congress to include in their files within the Human Resources department.

09-11 PAYROLL AUTHORIZATION

It was noted during testing that if a director was absent, the HR director would sign time cards in his (her) place. There is no written policy regarding levels of authorization.

Recommendation

We recommend the Nation create a policy indicating the chain of signatory authority when a director is absent.

Follow up 2010

Upon discussion with management, it was noted that the directors notify accounting and human resources by email of their absence and who will be signing the time cards. **THIS COMMENT HAS BEEN CLEARED.**

09-12 ELECTED OFFICIALS PAYROLL

Payroll and stipends are handled inconsistently for elected officials. Some officials' stipends are paid as W-2 wages while others are paid as 1099 contract labor.

Recommendation

We recommend a written policy be created and implemented regarding how to handle the elected officials' wages and stipends. We recommend this policy agree with IRS guidelines.

PRIOR YEAR COMMENTS
(continued)

Follow up 2010
We continue to recommend consistency for reporting payroll and stipends.

Management Response
The Nation's Treasury will create and implement a policy and procedure that directs the payroll functions and W-2 reporting that are consistent with IRS regulations.

09-13 JOURNAL ENTRIES / FUND BALANCES
Audit adjustments for the prior year audit were not entered onto the Nation's books, resulting in current year fund balances not tying to prior year audit ending balances.

Recommendation
We recommend that the accounting department record the audit journal entries so the *Osage Nation*'s books will tie to the audit report.

Follow up 2010
During our current year testing we noted that the prior year's audit adjustments were not posted. We continue to recommend that adjustments be made to tie to the audit report and that the financial information be reviewed by the Treasurer for accuracy. We continue to recommend the closing of the books on a timely basis with all reconciliations completed and documented. We noted that no year-end closing activities were performed

Management Response
The Nation's Treasury will record the external auditor's audit adjustments that are in compliance with generally accepted accounting principles.

09-14 PAYROLL ACCRUALS
For payroll accrual at year end, Tribal and Federal programs are treated differently. Tribal programs accrue salaries and taxes but not insurance, while federal programs accrue salaries, taxes and insurance. Payroll accrual at year-end is not consistently reported across programs due to the difference in the way fringe benefits are booked.

Recommendation
We recommend consistently reporting fringe benefits as part of payroll accruals.

Follow up 2010
We continue to recommend consistently reporting fringe benefits as part of payroll accruals.

PRIOR YEAR COMMENTS
(continued)

Management Response
The Nation's Treasury will create and implement a policy and procedure that directs the payroll function and W-2 reporting which includes recording the related expenses on a consistent basis of accounting.

09-15 RECORD OF COMMODITIES
It was noted that commodities were not booked on the financial statements as in-kind revenue and expense for the Food Distribution, Headstart or Child Care programs. The commodities were also not listed on the SEFA as grant expenditures.

Recommendation
We recommend all commodities be booked as in-kind revenue and expense and be reported on the annual SEFA.

Follow up 2010
We continue to recommend all commodities be booked as in-kind revenue and we further recommend that the expense be reported on the annual SEFA.

Management Response
The Nation's Treasury will create and implement a policy and procedure that directs the receipt, recording, periodic inventorying, disposal, and reporting of both purchased and donated goods of certain types that include Commodities. Further, the Treasury will create and maintain a roll-forward of these types of goods, perform periodic inventory observations, and reconcile the inventory listing and roll-forward to the general ledger at the general ledger closing of each reporting period.

CURRENT YEAR COMMENTS

10-1 OUTSTANDING CHECKS

During our testing we noted that in the General Fund and the Payroll account there were several old outstanding checks that had not cleared the bank and were allowed to linger on the bank reconciliation.

Recommendation

We recommend that old outstanding and stale checks be investigated and voided on the bank reconciliations. Care should be taken to void checks in the current year in order to not change the balances for the prior year.

Management Response

The Nation's Treasury will create and implement a policies and procedures that direct the payment, reconciling, and aging-maintenance of both payroll and account payable disbursed checks in a timely manner but within the parameter of the end of a fiscal year.

10-2 ADJUSTMENTS MADE AFTER AUDITOR RECEIVED TRIAL BALANCE

During our field work we noted that adjustments had been made to the trial balance after we received it on March 24, 2011.

Recommendation

We recommend that any proposed adjustments to be made to the trial balance after it is sent to the auditors be documented and discussed with the auditors prior to entry in order to maintain correct balances by both the Nation and the auditors.

Management Response

The Nation's Treasury is going to migrate into one accounting software system as opposed to a multiple-software accounting system of which the single software system will implement the necessary access-rights per Software User to reflect proper segregation of duties and prevent retro-effecting changes to prior period ledgers and account reconciliations. Further, the Nation's Treasury will create and implement a policy and procedure that directs the general-ledger closing of each reporting period. The Nation's Treasury will further discuss necessary prior reporting changes to the general ledger with Nation's management and inform external auditors in a timely manner of any necessary prior period adjustments during year-end audit engagement.

CURRENT YEAR COMMENTS
(continued)

10-3 LAW ENFORCEMENT

During our follow-up testing we were not able to locate the first four items on the evidence log in the evidence room. The client did locate this inventory later, and we were able to verify its location.

Recommendation

We recommend that a regularly scheduled inventory of all items in the evidence room be performed and documented, in order to account for all items.

Management Response

In consistency with MLC 09-7's response, the Nation's Law Enforcement Program will create and implement a policy and procedure that directs the safekeeping, periodic inventorying and retention parameter(s) of evidence materials.

10-4 Payroll Processing

During our testing we noted that the payroll processing employee has the ability to change rates of pay as well as number of hours worked without management's approval.

Recommendation

We recommend that the rates of pay and number of hours worked be entered by an employee independent of the actual processing of payroll.

Management Response

The Nation's Treasury is going to migrate into one accounting software system as opposed to a multiple-software accounting system of which the single software system will implement the necessary access-rights per Software User to reflect proper segregation of duties and prevent retro-effecting changes to prior period ledgers and account reconciliations. Further, the Nation's Treasury will create and implement a policy and procedure that directs the general-ledger closing of each reporting period and reviews of each reporting period's financials for accuracy. The Nation's Treasury will remove the data-entry ability from Payroll processors and restrict the data-entry ability to Human Resources personnel. However, the Nation's Treasury feels that there are currently other controls in place to monitor changes regarding the timekeeping data-entry function such as internal proofing of payroll-reports prior to payment and monthly reviews of generated financials that are sent to the various departments; thus the timekeeping data-entry ability may be retained by Payroll-processors.

CURRENT YEAR COMMENTS
(continued)

10-5 Transactions
During our testing of transactions, six of 229 invoices tested were not marked as approved by the Controller.

Recommendation
We recommend that all transactions be approved according to the Nation's policy in place at the time of the transaction.

Management Response
The Nation's Treasury will update the policy and procedure which directs, among other things, the payment of vendor invoices which approved Purchase Order documents will be used to approve payment of invoices.

10-6 Journal entries
During our testing we requested supporting documentation for an in-kind journal entry made to the food distribution program. We noted that the journal entry made by the accountant did not have supporting documentation with the written journal entry and we further noted that the supporting documentation received from the director did not reconcile to the journal entry that was entered.

Recommendation
We recommend that all journal entries contain supporting documentation before the entry is made by the accountant and that the documentation agree to the entry.

Management Response
The Nation's Treasury will create/update and implement policies and procedures that direct that each journal entry whether manual or system-generated is based on relevant supporting documentation.

10-7 Policies and Procedures
During our Single Audit testing we noted that four out of ten major programs tested had policies and procedures that required updating. The program directors expressed awareness of this need and are in the process of updating their policies and procedures.

Recommendation
We continue to recommend that policies and procedures be updated to reflect current program needs.

CURRENT YEAR COMMENTS
(continued)

Management Response
The relevant program directors are in the process of updating their policies and procedures in the necessary areas. To assist with this effort, the Nation's Treasury will create and implement a policy and procedure that directs the general-ledger closing of each reporting period and reviewing of each reporting period's financials for accuracy.

10-8 Unexpended Tribal Funds
During our current year testing we noted that unexpended Tribal Funds were not returned to the Treasury as per appropriation bills. Standard wording of appropriation bills contains the following statement: "The appropriations made by this act shall be subject to budgetary limitations and fiscal year limitations and may be encumbered through September 30, 2010. All funds appropriated that are unexpended at the end of the term shall lapse and be unencumbered for future appropriations."

Recommendation
All unexpended Tribal funds should be returned to the Treasury as part of the year end closing process.

Management Response
Management does not believe this comment to have any relevance to compliance with generally accepted accounting principles or auditing standards thus is outside the scope of the audit. Furthermore, if these funds (i.e. monies) were maintained in an all-inclusive general fund bank account which is allowable as long as our accounting system report funds distinctively, the substance of this comment and statement would be unnecessary and this method of funds management still provides for compliance with our budget limitations which is not a concern of GAAP or auditing standards