




JAMES L. McINTIRE  
State Treasurer

State of Washington  
Office of the Treasurer

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June 17, 2013

**TO:** David Schumacher, Director  
Office of Financial Management

**FROM:** James L. McIntire, State Treasurer 

**SUBJECT:** Response to your contingency planning request

The Office of the State Treasurer must remain in full operation for the state to pay its bills and meet its fiduciary and constitutional responsibilities – even in the unlikely event that a 2013-15 operating budget is not enacted by July 1, 2013.

Therefore, I have asked the Attorney General for an opinion concerning the ability to operate my office in the absence of an appropriation (see attached). In case you find it useful, please also find attached a chart of week-by-week payments made by my office from July 2012.

Please do not hesitate to contact my office if you have additional questions or concerns.

Thank you.





JAMES L. McINTIRE  
State Treasurer

State of Washington  
Office of the Treasurer

June 13, 2013

The Honorable Bob Ferguson  
Washington State Attorney General  
PO Box 40100  
Olympia, WA 98504-0100

RE: Request for Formal Opinion

Dear Attorney General Ferguson:

As you know, the Legislature had not yet adopted an operating budget before it adjourned its first special session on June 11, 2013. The Legislature reconvened June 12<sup>th</sup> with the goal of adopting the operating and capital budgets. Whether or not an operating budget is enacted by July 1, 2013, the state will still be expected to pay its bills, and must meet its fiduciary and constitutional responsibilities – which can only happen if the Office of the State Treasurer (OST) remains in operation.

Recipients of funds from mandatory federal programs will require payments; continuing operations at the Department of Corrections will require the associated costs to be paid; the Department of Transportation and the State Patrol will need access to funds that have already been appropriated; local governments will expect the tax receipts we collect on their behalf; and treasury and treasurer's trust funds will still need to be properly safeguarded, invested and managed. Therefore, as July 1, 2013 draws closer, I need your assistance in providing a definitive answer to the following questions:

The Office of the State Treasurer (OST), by law, has the responsibility to receive, keep, and disburse public funds. No payments, regardless of whether they are constitutionally mandated, required by federal law, or required as the result of a fiduciary obligation, can be made out of the state treasury or treasury trust accounts if OST cannot operate. In addition, OST cannot meet its obligation to keep public funds safe and secure through proper investment and cash management if it cannot operate. In view of these critical responsibilities, may OST continue to operate notwithstanding Article VIII, §4, and RCW 43.88.130 if a 2013-15 operating budget is not enacted by July 1, 2013? If so, may the obligations incurred by operating OST after June 30, 2013, be paid out of a subsequent appropriation?



The Honorable Bob Ferguson

June 13, 2013

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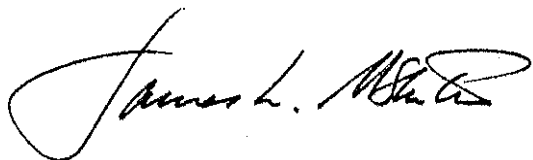
The Washington State Constitution establishes the State Treasurer as an independently elected member of the executive department with a four-year term of office. OST manages – among other things – all state tax receipts and state transportation funds, and maintains ongoing compliance with federal tax and securities laws. Moreover, state law requires OST to provide daily oversight of Washington’s finances. For example, RCW 43.08.135 provides that OST “shall maintain at all times” sufficient liquidity to meet the operational needs of state government, and RCW 43.01.050 - .060 require OST to oversee the daily remittance of taxes and fees.

State funds cannot be disbursed out of the treasury for any purpose without OST action. OST manages several hundred funds and accounts, some in the state treasury and some in the custody of the treasurer (known as “treasurer’s trust funds” under Chapter 43.79A RCW). As provided in RCW 43.79A.040, treasurer’s trust funds—which are not appropriated—are commingled and invested for cash management purposes with treasury funds. The practical effect is that all state dollars are managed and invested as one single unit.

OST also invests local government funds through the local government investment pool established pursuant to Chapter 43.250 RCW but this program will continue to function notwithstanding whether a budget is enacted because it is funded from fees charged to participants.

We respectfully ask that you provide your response to this inquiry as soon as possible so that we will have sufficient time to take whatever actions are needed that may result from your guidance. Thank you for your prompt consideration of my request.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. McIntire". The signature is fluid and cursive, with a large initial "J" and "M".

James L. McIntire  
State Treasurer

CC: Jeff Even  
Trish Nightingale

**Week by Week Payments - July 2012**

**DRAFT**

ACH, Wires and Warrants - approx. one million transactions per month (in millions)

		Month	Week 1	Week 2	Week 3	Week 4	Jul 30-31st	Lead Time	Notes
<b>Payments to health care providers, contractors, and vendors, etc</b>									
AFRS	Main payment system	\$ 1,130.0	\$ 206.0	\$ 226.7	\$ 208.6	\$ 381.4	\$ 107.3	2 days	Of 82,487 total payments, approx 60,000 are to health care providers.
IRS1	Provider1 - health care	\$ 5.0	\$ 2.5	\$ 2.5				2 days	
<b>Payroll and federal taxes</b>									
DES/HRMS	Payroll	\$ 174.0		\$ 87.0		\$ 87.0		5 days	Payroll for 57,127 state employees.
AFRS3	IRS withholding- payroll	\$ 63.4		\$ 31.8		\$ 31.6		5 days	Income tax withholding paid to IRS.
GEN1	Reimb to Colleges	\$ 114.4	\$ 2.7	\$ 33.3	\$ 10.0	\$ 65.1	\$ 3.3	2 days	CTC payroll, other higher ed
<b>Pensions and Retiree Health Benefits</b>									
DRS	Payment to retirees	\$ 109.7					\$ 109.7	5 days	Avg monthly pension of \$1,532 to
DRS	Payment to retirees	\$ 110.0					\$ 110.0	5 days	143,417 state, local and K-12 retirees.
DRS	IRS - retiree tax withheld	\$ 22.0	\$ 22.0					2 days	Income tax withholding paid to IRS.
L&I	L&I Pensions	\$ 44.0		\$ 44.0				5 days	Avg monthly pension of \$2,125 to 20,705 injured workers
DRS	Deferred Comp payts	\$ 26.1	\$ 17.5	\$ 2.2	\$ 2.7	\$ 2.3	\$ 1.4	Same Day	
GEN1	Retirement contributions	\$ 42.0	\$ 14.4	\$ 11.8	\$ 6.0	\$ 8.6	\$ 1.2	2 days	
<b>Public Assistance</b>									
GEN1	ESD - Job Corps	\$ 5.8	\$ 1.3	\$ 1.3	\$ 0.6	\$ 1.3	\$ 1.3	2 days	
DSHS	EBT card payments	\$ 23.4	\$ 17.1	\$ 3.6	\$ 1.5	\$ 0.9	\$ 0.3	Same Day	Load over 600,000 EBT cards with monthly food and cash assistance
DOH	WIC payments	\$ 10.2	\$ 2.0	\$ 2.3	\$ 2.4	\$ 2.6	\$ 0.9	Same Day	
ACES	DSHS Public Asst.	\$ 1.2	\$ 1.2					2 days	
HCA	Part D premiums	\$ 15.3		\$ 15.3				Same Day	Medicare Rx coverage for low income elderly
HCA	Part A & B premiums	\$ 26.1		\$ 26.1				Same Day	Medicare Hospital & Physician coverage for low income elderly
<b>Investment Management</b>									
OST	Investment wires	\$ 1,371.0	\$ 74.9	\$ 137.9	\$ 140.3	\$ 1,009.6	\$ 8.3	Same Day	Reinvestments of maturing treasury investments
SIB	Investment wires	\$ 223.6	\$ 43.6	\$ 27.8	\$ 62.5	\$ 72.9	\$ 16.8	Same Day	SERS, PERS, TRS, LEOFF & Deferred Comp. contributions, & L&I accts, Public Safety acct and GET contributions
<b>Distributions to Local Governments</b>									
DOR/OST	Revenue Distribution	\$ 1,075.5	\$ 11.3	\$ 2.1	\$ 1.6		\$ 1,050.5	2 days	Local share of taxes collected on their behalf, K-12 apportionment
<b>Debt Service</b>									
OST	Debt Service	\$ 544.0	\$ 544.0					2 days	
<b>Warrants</b>									
AFRS	Various	\$ 465.0	\$ 120.0	\$ 99.0	\$ 73.0	\$ 139.0	\$ 34.0		Numerous small vendors, L&I claimants, reimbursements & unbank ed
<b>Total</b>		<b>\$ 5,601.7</b>	<b>\$ 960.5</b>	<b>\$ 653.2</b>	<b>\$ 438.7</b>	<b>\$ 1,663.3</b>	<b>\$ 1,421.0</b>		