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MICHAEL POST, CPA, CIA
HARRIS COUNTY AUDITOR

May 5, 2025

Dear Christian Menefee, County Attorney:

The Harris County Auditor's Office Audit Division has completed an audit of the Harris County Attorney's Office Federal Seized and Forfeited Assets for Fiscal Year 2024. The results of our audit are included in the attached report.

We appreciate the time and attention provided by your team. Please expect an email request to complete our Post Engagement Survey. We look forward to your feedback. If you have any questions, please contact me or Glenn Holloway, Chief Assistant County Auditor, 713-274-5673.

Sincerely,

Michael Post
County Auditor

Attachment

Report Copies:
- District Judges
- County Judge Lina Hidalgo
- Commissioners:
  - Lesley Briones
  - Rodney Ellis
  - Adrian Garcia
  - Tom Ramsey

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	Internal Audit Report **FEDERAL SEIZED AND FORFEITED ASSETS** MAY 5, 2025

Executive Summary

OVERALL CONCLUSION

Overall, controls related to the Harris County Attorney's Office (County Attorney) Federal Seized and Forfeited Assets were generally effective. However, a compliance issue was identified regarding the use of funds. Specifically, shared funds were transferred to an investment account, which is not permissible by program guidelines. The observation was discussed with the County Attorney's management, and a management action plan has been developed that will address the observation identified.

SCOPE AND OBJECTIVE

The Harris County Auditor's Office Audit Division performed an audit to examine the County Attorney's Federal Seized and Forfeited Assets for the 12 months ending September 30, 2024. Bank accounts for federal seized and forfeited assets (shared funds), and related revenues and disbursements for the period were examined. The audit was performed in accordance with Texas Local Government Code §115.0035 and the *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies* (the Guide) revised in March 2024 by the U.S. Department of Justice (DOJ) and the U.S. Department of the Treasury (Treasury).

The objectives of this audit were to selectively test whether:

- Forfeited assets bank account statements reconciled to their respective balances recorded in the County's Financial Records.
- All forfeited assets provided by the DOJ and Treasury were accurately and timely recorded in the County's Financial Records.
- A sample of disbursements and asset disposals from forfeited funds were properly authorized, appropriately supported, and accurately recorded in the County's Financial Records.
- A sample of disbursements from forfeited bank accounts complied with the permissible use requirements of Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies and OMB Uniform Administrative Requirements, Costs, Principles, and Audit Requirements.
- Equitable Sharing Agreement and Certification (ESAC) was submitted no later than 60 days after fiscal year end.

SUMMARY OF AUDIT OBSERVATION

- Shared funds totaling $358,700 were transferred to an investment account, which is not permissible by program guidelines.

This report includes the audit observation, management's action plan to address the observation, and some background information. The audit observation is ranked based on the likelihood and impact of the risk to Harris County.

AUDIT OBSERVATION

OBSERVATION #1: Impermissible Use of Federal Seized and Forfeited Funds [HIGH]

What is the Observation: In June 2024, shared funds totaling $358,700 were transferred from the County Attorney's U.S. Department of Justice (DOJ) shared funds bank account to a TXCLASS investment fund account, which is not permissible by program guidelines. The impermissible use of funds was identified during the audit, and in October 2024, the funds were transferred back to the shared funds bank account.

Why it Happened: In March 2024, *the Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies* (Guide) was updated to reflect changes in compliance requirements. County Attorney's Office operated under the 2018 version of the Guide and was unaware of the update.

Why it Matters: Non-compliance with program guidelines could jeopardize future participation in the Equitable Sharing Program.

What is Expected: Per Section V.B.2. (g) of the *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencie*s, law enforcement agencies "may not maintain shared funds in multiple accounts, including separate investment or petty cash accounts..."

What Actions are Suggested: Perform a periodic review of the Department of Justice and Department of Treasury websites to be informed of updates to the Guide.

MANAGEMENT'S ACTION PLAN

Responsible Party: Christian Menefee, County Attorney

The investment sweep account setup when the bank account was originated has been closed and the funds transferred to the stand-alone bank account. Our Federal and State Annual Reporting Job Aid has been revised to require that the Departments of Justice and Treasury websites be periodically monitored during the fiscal year, instead of annually, to identify mid-year revisions to the Guidelines. Necessary revision will be communicated to the executive management, Chief Investigator, and Purchasing/ Accounts Payable personnel to ensure compliance with the revised Guidelines.

Targeted Completion Date: 04/28/2025

BACKGROUND

Asset Forfeiture Programs

Asset forfeiture is the seizure of property by federal law enforcement agencies without compensation because of the property's connection to criminal activity. The Department of Justice (DOJ) and the Department of the Treasury (Treasury) are federal law enforcement agencies with established asset forfeiture programs. These programs allow the agencies to recover property that is suspected to be involved in or gained from illegal activities.

The primary purpose is to disrupt criminal enterprises by depriving criminals of their illicit gains. The Money Laundering and Asset Recovery Section (MLARS) of the DOJ establishes asset forfeiture legal policies and procedures for the DOJ's asset forfeiture program. The Treasury Executive Office for Asset Forfeiture (TEOAF) sets policy for the Treasury's asset forfeiture program.

Equitable Sharing Program

One of the ancillary benefits of the asset forfeiture program is the potential to share federal forfeiture proceeds with cooperating state and local law enforcement agencies through equitable sharing. The DOJ and the Treasury have established Equitable Sharing Programs (the Program) for the participating law enforcement agencies. The DOJ and Treasury jointly manage the equitable sharing program. The two agencies published a joint guide to the equitable sharing program called the *Guide to Equitable Sharing for State, Local and Tribal Law Enforcement Agencies* (the Guide). The Guide provides guidance on participation eligibility, instructions on how to request and receive equitable sharing, permissible and impermissible uses of the equitably shared funds, and the accounting and reporting requirements associated with shared proceeds.

Most of the law enforcement agencies (LEAs) at Harris County participate in the Program. The Sheriff's Office, District Attorney's Office, County Attorney's Office, and all Constables except for Precinct 7 participate in the Equitable Sharing Program. Total expenditures across all participating departments for the 12-month period ending September 30, 2024, was approximately $1.7 million.

The Program is designed to enhance cooperation amongst federal, state, local, and tribal law enforcement by providing valuable additional resources from the forfeitures to state and local law enforcement agencies assisting with investigations into violations of federal laws. The Program is designed to supplement and enhance – not supplant – appropriated agency resources.

Guidelines and Restrictions

The County LEAs abide by the provisions of the *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies* (the Guide).

The Guide notes that DOJ and Treasury equitable sharing funds must be segregated in separate bank accounts and not commingled with other operating funds to provide a clear and distinct audit trail. The Guide emphasizes the importance of maintaining proper accounting records to ensure transparency and compliance with applicable laws and regulations.

Finally, *the Guide* provides clear rules and strict restrictions regarding what types of expenses can be covered by the forfeited funds, as well as limits on how the proceeds can be spent. *The Guide* outlines that funds received through equitable sharing must be used for specific law enforcement purposes; these are called permissible uses. Likewise, *the Guide* outlines expenses that cannot be paid with funds obtained through the equitable sharing program; these are called impermissible uses.

ACCOUNTABILITY

We conducted our audit in accordance with the International Standards for the Professional Practice of Internal Auditing (Standards). The Standards require that we comply with the Code of Ethics and obtain reasonable assurance that significant risks to the activity are minimized to an acceptable level.

As the engagement's scope did not include a detailed examination of all transactions, there is a risk that fraud, errors, or omissions were not detected during this engagement. The official, therefore, retains the responsibility for the accuracy and completeness of their financial records and for ensuring sufficient controls are in place to detect and prevent fraud, errors, or omissions.