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MICHAEL POST, C.P.A., M.B.A.
HARRIS COUNTY AUDITOR

December 16, 2022

Sheriff Ed Gonzalez

The Harris County Auditor's Office Audit Division has completed an audit of the Sheriff's Office Federal Seized and Forfeited funds. 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 Errika Perkins, Chief Assistant County Auditor, 713-274-5673.

Sincerely,

A handwritten signature in blue ink that reads "Michael Post". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael Post
County Auditor

Report Copies:
District Judges
County Judge Lina Hidalgo
Commissioners:
R. Jack Cagle
Rodney Ellis
Adrian Garcia
Tom Ramsey
Christian Menefee



INTERNAL AUDIT REPORT
SHERIFF'S OFFICE
FEDERAL SEIZED & FORFEITED FUNDS
DECEMBER 16, 2022

Executive Summary

OVERALL CONCLUSION

An evaluation of transactions recorded to the Sheriff's Office's Federal Seized and Forfeited funds indicated overall compliance with Texas Local Government Code (LGC) §115.0035 and the Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies issued by the U.S. Department of Justice and the U.S. Department of the Treasury (Guidance). However, donations made to support community-based organizations were processed incorrectly. The issue was discussed with the Sheriff's Office and a management action plan has been developed and implemented.

SCOPE AND OBJECTIVE

The Audit Division evaluated transactions recorded to the Sheriff's Office Federal Seized and Forfeited funds during the period of March 1, 2021, through September 30, 2022, to determine compliance with LGC §115.0035 and the Guidance.

SUMMARY OF AUDIT ISSUE

Fourteen donations totaling \$705,000 were incorrectly processed using the Sheriff's Office Federal Seized and Forfeited funds.

The audit issue, management's action plan to address the issue, and background information regarding this audit are discussed in more detail on the following pages.

AUDIT ISSUE

ISSUE: Donation Processing Errors [HIGH]

What is the Issue: Fourteen donations totaling \$705,000 were incorrectly coded. The Sheriff's Office intended to use State seized funds, but incorrectly coded the donations to Federal Seized and Forfeited funds.

Why it Happened: Management's review of the payment request for donations did not detect the fund coding errors.

Why it Matters: Donations in excess of \$25,000 using Federal Seized and Forfeited funds is non-compliant with the Equitable Sharing Program. Failure to comply could lead to loss of funds or temporary or permanent exclusion from the Equitable Sharing Program.

What is Expected: The *Guide to Equitable Sharing* states that a permissible use of funds can be transfers for support of community-based organizations. Support includes transfers of shared funds from a state or local law enforcement agency to community based non-profit organizations (501 (c)(3) or (4)) whose stated missions are supportive of and consistent with a law enforcement effort, policy, and/or initiative. An agency may expend up to a total of \$25,000 annually to such organizations. The following requirements apply to Law Enforcement Agencies (LEA):

- LEA head must approve the transfer and must ensure the recipient is a qualified entity;
- LEA must ensure that all transferred funds are spent permissibly in accordance with this Guide; and
- LEA's jurisdiction must perform applicable sub-recipient monitoring requirements pursuant to the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

What Action(s) are Suggested: The Sheriff's Office should implement procedures over the recording of donations to ensure federal seized and forfeited funds are not utilized going forward.

MANAGEMENT'S ACTION PLAN

Responsible Party: Laura Wilson

Corrective Actions: We agree that DOT seized assets should not be used when making donations. These donations should have been issued out of state seized funds but we incorrectly used the wrong account.

We have since corrected the issue by depositing funds back into our federal account and have educated our processors on which fund to use for approved donations.

Due Date: Implemented



BACKGROUND

Asset Forfeiture Programs

The Department of Justice and the Department of the Treasury Asset Forfeiture Programs are law enforcement programs. They remove the tools of crime from criminal organizations, deprive wrongdoers of the proceeds of their crimes, recover property that may be used to compensate victims, and deter crime. The Department of Justice and the Department of the Treasury emphasize these law enforcement purposes to their own law enforcement agencies and all federal, state, local, and tribal partner agencies.

Equitable Sharing Program

One of the ancillary benefits of asset forfeiture is the potential to share federal forfeiture proceeds with cooperating state and local law enforcement agencies through equitable sharing. The Department of Justice and the Department of the Treasury Equitable Sharing Programs enhance cooperation amongst federal, state, local, and tribal law enforcement by providing valuable additional resources to state and local law enforcement agencies. The Program is designed to supplement and enhance, not supplant, appropriated agency resources.

The Department of Justice and the Department of the Treasury are two separate federal agencies with two separate forfeiture funds. However, the Guidance applies to both programs. The Guidance states that funds for federal forfeitures can only be spent on law enforcement related items.

The Sheriff's Office, District Attorney's Office, County Attorney's Office, and all Constables except for Pct. 6 participate in the Equitable Sharing Program. Total expenditures across all participating departments for the 19-month period ending September 30, 2022, was approximately \$1.8 million.

Knowledge Sharing

Permissible Uses of Federal Seized and Forfeited Assets per the Guidance

- **Law enforcement operations and investigations** - Support of investigations and operations that further the law enforcement goals or missions.
- **Law enforcement training and education** - Training of investigators, prosecutors, and sworn and non-sworn law enforcement personnel in any area necessary to perform official law enforcement duties such as canine handler, narcotics, defensive tactics, criminal justice, language, constitutional law, accounting/finance, or forensics - provided that the employees' regular duties require knowledge of these topics.
- **Law enforcement, public safety, and detention facilities** - Costs associated with the purchase, lease, construction, expansion, improvement, or operation of law enforcement, public safety, or detention facilities used or managed by the recipient agency.
- **Law enforcement equipment** - Costs associated with the purchase, lease, maintenance (including repairs or service agreements), or operation of law enforcement equipment for use by law enforcement personnel that supports law enforcement activities.
- **Joint law enforcement/public safety operations** - Costs associated with the purchase of multi-use equipment and operations used by both law enforcement and non-law enforcement personnel.



- **Contracts for services** - Costs associated with a contract for a specific service that supports or enhances law enforcement is permitted. Employment-related contracts or contracts involving inherently law enforcement functions are prohibited.
- **Law enforcement travel and per diem** - Costs associated with travel and transportation to perform or in support of law enforcement duties and activities. All related costs must be in accordance with the jurisdiction's per diem policy and must not create the appearance of extravagance or impropriety.
- **Law enforcement awards and memorials** - Costs associated with the purchase of plaques, certificates, and challenge coins for law enforcement personnel in recognition of a law enforcement achievement, activity, or training. Shared funds may not be used to pay awards in the form of cash or cash equivalents or stored value cards. Shared funds may be used to pay the costs for commemorative plaques, displays, or memorials on law enforcement property that serve to recognize or memorialize a law enforcement officer's contributions, such as a memorial plaque or stone in honor of an agency's officers killed in the line of duty. The plaque, display, or memorial must not create the appearance of extravagance.
- **Drug, gang, and other prevention or awareness programs** - Costs associated with conducting law enforcement agency awareness programs.
- **Matching grants** - Costs associated with paying a state or local law enforcement agency's matching contribution or share in a state or federal grant program for items other than salaries, provided that the grant funds are used for a permissible law enforcement purpose in accordance with the Guidance and the grant provision permits matching with federal funds.
- **Support of community-based organizations** - Transfers of shared funds from a state or local law enforcement agency to community based non-profit organizations (501(c)(3) or (4)) whose stated missions are supportive of and consistent with a law enforcement effort, policy, and/or initiative. An agency may expend up to a total of \$25,000 annually to transfer to such organizations. Examples include a drug treatment facility, job skills program, or a youth program with drug and crime prevention education. The following requirements apply:
 1. Law enforcement agency head must approve the transfer and must ensure the recipient is a qualified entity;
 2. Agency must ensure that all transferred funds are spent permissibly in accordance with this Guide; and
 3. Agency's jurisdiction must perform applicable sub-recipient monitoring requirements pursuant to the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

This community-based organization provision does not apply to Department of the Treasury equitable sharing funds; therefore, agencies may not use Department of the Treasury funds to support community-based organizations.

When procuring goods or services from a vendor using equitable sharing funds, state and local law enforcement agencies participating in the Department of Justice and the Department of the Treasury Equitable Sharing Programs must verify that vendors are registered in the System for Award Management and are in good standing. A vendor in good standing means the vendor is not suspended or debarred from receiving federal funds. This requirement applies to all qualifying purchases. A



qualifying purchase is one single payment or multiple payments to a vendor that exceeds \$25,000 annually.

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.

The engagement's scope did not include a detailed inspection of all transactions. There is a risk that fraud or errors were not detected during this engagement. Therefore, the official 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.

