

March 14, 2000

Committee on Accounts, Enrollment and Revenue Administration
City of Manchester, New Hampshire
Honorable Aldermen: Hirschmann, Thibault, Pinard, Lopez and Levasseur

Dear Honorable Committee Members:

At the February meeting, a request was made of Internal Audit (IA) to review the drug forfeiture account at the Police Department (Police) in order to provide Committee Members with a better understanding of how the funds are received and how they may be disbursed. Through conversations with Police management and testing of individual transactions from the last two years, the following information and results of testing were generated.

The audit procedures began with a review of the U.S. Department of Justice's publication *A Guide to Equitable sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies* (the Guide) published in March of 1994. This guide is the authoritative policy for state and local governments in their receipt and use of forfeited funds.

The Guide is very clear with respect to how funds are obtained and for what purposes they may be spent. To summarize the Guide, funds received through the forfeiture program may be used to supplement a law enforcement agency's spending for drug enforcement efforts or other activities which increase the effectiveness of the agency in the community. Expenses deemed permissible under the Guide include: the support of investigations and operations that may result in further seizures and forfeitures, the training of investigators, prosecutors and law enforcement personnel in any area that is necessary to perform official law enforcement duties, the purchase of equipment used to support law enforcement purposes, costs associated with operating or improving detention facilities, pro-rata funding for multi-agency items or facilities, and asset accounting and tracking associated with shared cash.

While there are specific guidelines for each type of use, it should be noted that in no way are forfeited funds to be used to reduce the amount of funds budgeted for an agency's normal operation. Therefore, funds from forfeitures are not to be budgeted and annually the change in the operating budget is to be reviewed to ensure that such change is not intended to be reliant on forfeited funds as these funds are released at the discretion of the Office for Asset Forfeiture and the Deputy Attorney General's Office.

Additionally, funds received under the program are not to be retained unnecessarily and should not remain unspent for more than two years after receipt.

The sharing program is based on the net proceeds received from forfeitures, after satisfying qualified third party interests such as valid mortgages and investigation expenses including informant fees. Once net proceeds are determined, funds are distributed to participating agencies based on several factors. The predominant factor in determining a department’s equitable share of funds is the number of hours directly incurred by the agency in the investigation. Other factors such as whether a specific agency performed tasks within its jurisdiction that were critical to the case and could not have been performed by other agencies are also considered.

Depending on the type of forfeiture case involved, the final decision maker in determining the sharing ratio is an appointed member of the federal investigative agency involved in the case, the United States Attorney or the Office of the Deputy Attorney General.

The threshold for seized property to be adopted under federal forfeiture rules requires that assets with a value in excess of the following limits be included in the program:

Vehicles	\$5,000
Aircraft/Boats	\$10,000
Real Estate	The greater of \$20,000 or 20% or the appraised value
Other property	\$5,000
All Firearms, monetary instruments, vehicles used to transport illegal drugs and other property such as bank accounts and jewelry.	

For all forfeitures exceeding the above limits, the participating agency must complete an *Application for Transfer of Federally Forfeited Property* (Form DAG-71) for each asset they are requesting a proportionate share of within sixty days of the seizure. Completion of this form is performed by the City’s Strategic Investigative Unit Supervisor.

The Guide does permit forfeited funds to be passed through to other governmental departments or agencies to support drug abuse treatment, drug and crime prevention and education, job skills programs or other community-based programs. These pass-throughs are limited to 15% of shared monies or 25% of shared monies in windfall situations (where proceeds exceed 25% of an agency’s annual budget). Funds passed through to another agency are at the sole discretion of the law enforcement agency.

Testing and Findings

Cash Receipts

IA reviewed supporting documentation for cash receipts representing 87% of the funds received since 1997. Documentation included correspondence from the Department of Justice and copies of the checks from the U.S. Treasury. These amounts were then compared to the receipts recorded in the drug forfeiture account without exception.

Since inception, Police has received approximately \$500,000 under the forfeiture program.

Segregated Cash Accounts

Police management has requested that forfeiture funds be segregated into a separate cash account rather than included in the general fund cash account. The Finance Department has agreed to establish such an account that will ease future record keeping for these funds.

Cash Disbursements

IA reviewed all expenses greater than \$1,000 and judgmentally selected amounts less than \$1,000. In total, support for approximately \$180,000 in expenditures was reviewed. Of the items reviewed, none were identified as being in direct violation of the Guide. One expenditure, for annual dues to a professional association, was questioned as the amount had been paid out of the operating budget the two prior years. The total amount paid was only \$250. After discussion with Police management, it was agreed that such fees would not be paid out of forfeited funds in the future.

A graph representing the uses of funds by the department since 1997 is attached. Total expenditures during this period approximate \$260,000. The graph excludes approximately \$150,000 of cash used as “buy” money and informant fees.

Since inception, approximately \$475,000 of forfeited funds have been spent.

Cash Control Procedures

All outgoing cash is recorded in a cash logbook. All cash is maintained under dual control and disbursement forms require the signature of a witness. Cash is used to purchase drugs and pay confidential informants. Officers using the funds must record how the cash was used and any drug paraphernalia purchased is inventoried. Annually, the Business Services Officer audits all of the cash log forms. In addition, when drugs are purchased and taken into inventory, all amounts are weighed and a value assigned in order to prevent the theft of cash by an officer or informant. Police management indicated the system used by Manchester has been used as a model for other communities.

Conclusion

At the end of February 2000, the balance in the drug forfeiture account was \$32,082. Based on the testing performed and conversations with Police management, IA believes the drug forfeiture account is in compliance with the Guide concerning expenditures of federally forfeited funds.

Respectfully Submitted,

Todd Provencher, CPA
Internal Audit Manager