

Memorandum



CITY OF DALLAS
(Report No. A10-017)

DATE: August 13, 2010

TO: Honorable Mayor and Members of the City Council

SUBJECT: Final Report – Follow-Up of Audit Recommendations for Dallas Police Department, Confiscated Funds Program, Fiscal Year 2003

The Dallas Police Department (DPD) provided a status update on the thirteen recommendations resulting from the **Audit of the Dallas Police Department's Confiscated Funds Program** (Report Number 374, November 15, 2002). The DPD implemented four recommendations, partially implemented four recommendations, and did not implement three recommendations. In Fiscal Year (FY) 2003, DPD disagreed with two recommendations and assumed the risks of not taking corrective actions. *Attachment A* provides detailed information regarding the implementation status of the thirteen recommendations included in this audit ¹ report. *Attachment B* includes the State and Federal Confiscated Funds background information.

Of the recommendations not implemented, there are two that continue to have the potential for cost savings. The DPD has indicated their intention to pursue these two recommendations:

1. Determine whether there is a more economic, effective, and efficient means to obtain forensic services by:
 - Determining the feasibility of conducting in-house, all or part of the forensic services (i.e. drug tests) currently performed by Southwest Institute of Forensic Science

¹ This audit was conducted under the authority of the City Charter, Chapter IX, Section 3 and in accordance with the Fiscal Year 2010 Audit Plan approved by the City Council. The audit objective was to verify that management has taken corrective action(s), the corrective action(s) are achieving the desired results, or management has assumed the risk of not taking corrective action(s). This performance audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. We interviewed Financial and Contract Management Division (FACM) and Narcotics Division personnel, reviewed Narcotics Division's Section 203.3 of the Standard Operation Procedures, Local Agreements with Collin, Dallas, Denton, Harris and Tarrant Counties, Department of Justice's "Guide to Equitable Sharing for State and Local Law Enforcement Agencies", Chapter 56 of Texas State Code of Criminal Procedures, and analyzed certain transactions.

- Reviewing the costs for forensic services provided by other laboratories or instituting an in-house laboratory
2. Consult with the City Attorney to determine the feasibility of the City Attorney assuming the District Attorneys' Offices' forfeiture duties or take additional actions warranted, if any, from the results of a review. In FY 2009, DPD paid \$242,131 to various District Attorneys' Offices for forfeiture duties.

This report was provided to and discussed with DPD's management, but a written response was not requested.

If you have any questions or need additional information, please contact me at 214-670-3222 or Carol Smith, Assistant City Auditor, at 214-670-4517.

Sincerely,



Craig D. Kinton
City Auditor

Attachments

- C: Mary K. Suhm, City Manager
Ryan S. Evans, First Assistant City Manager
Thomas P. Perkins, City Attorney
David O. Brown, Chief of Police – Dallas Police Department

ATTACHMENT A

Audit Report	Audit Issues	Audit Recommendations	Audit Follow-Up Results
<p>Audit of the Dallas Police Department's Confiscated Funds Program (November 15, 2002)</p>	<p>Payment delays and incorrect application of agreement terms create additional costs.</p>	<p>I. Ensure remitting payments to the District Attorney's Office in a timely manner to prevent increased expenditures.</p> <p>II. Ensure disbursement amounts are limited to requirements in the written agreements.</p> <p>III. Recalculate the interest amount using actual daily interest rates and compare the result to the amount calculated in disbursement.</p> <p>IV. Determine whether it is feasible to use daily interest rates instead of the constant rate present at deposit.</p>	<p>Partially Implemented.</p> <p>I. The DPD remitted the correct percentage of the awarded confiscated monies to the District Attorney's Office in a timely manner.</p> <p>II. We cannot evaluate whether interest payments to the Dallas District Attorney's Office were made in compliance with the requirements in the written agreements because DPD has not made any interest payments to the District Attorney's Office since September 2008. According to DPD personnel, interest payments were not necessary because of current market conditions (e.g., negative interest rate) applied to DPD's Confiscated Funds.²</p> <p>III. The DPD uses a single pre-determined interest rate for an entire month. This rate is provided by the Office of Financial Services (OFS) on a monthly basis.</p> <p>IV. The interest rate calculation associated with payments to the District Attorney's Office was not changed. According to DPD personnel, changing the interest calculation to a daily basis may result in DPD administrative costs that exceed the additional interest earned. The City Auditor's Office agrees that these calculations should not be made unless there is a cost benefit.</p>

² The interest rate applied to Confiscated Funds is calculated by the Office of Financial Services (OFS). The OFS uses an average effective federal funds rate to calculate the rate applied to the Confiscated Funds. The lower the federal funds rate is, the lower the rate applied to Confiscated Funds. The federal funds rate has been significantly reduced since November 2008. For example, the federal funds rate was reduced from 0.97% in October 2008 to 0.39% in November 2008. As a result, the November 2008 rate applied to Confiscated Funds was -0.10%.

Audit Report	Audit Issues	Audit Recommendations	Audit Follow-Up Results
	<p>Payments from confiscated funds should be formalized.</p>	<p>Restrict the use of Fund 413 to non-seizure related eligible law enforcement expenditures.</p>	<p>Not Evaluated. In Fiscal Year (FY) 2003, management disagreed with this recommendation and accepted the associated risks. As a result, the City Auditor's Office did not follow-up on this recommendation.</p>
	<p>The DPD does not prepare separate budgets for confiscated funds under State rules or for funds obtained from Federal confiscations.</p>	<p>Prepare and present a separate budget to the City Council that details the planned uses of awarded confiscated (State) and Shared (Federal) funds.</p>	<p>Not Evaluated. In FY 2003, management disagreed with this recommendation and accepted the associated risks. As a result, the City Auditor's Office did not follow-up on this recommendation.</p>
	<p>There are no procedures in place to ensure that confiscated funds received are processed through the Asset Forfeiture Unit (AFU).</p>	<p>Establish procedures to ensure that all drug related seizures are given to and processed through the AFU immediately upon receipt.</p>	<p>Partially Implemented. In November 2009, the Finance and Contract Management Division (FACM) implemented a monitoring control to periodically reconcile FACM information to the Narcotics Division's information and to the State and Federal Confiscated Funds reports. Although FACM formally documented this reconciliation procedure in the Coordinator III's job descriptions, FACM did not document the periodic reconciliations. As a result, the auditors were unable to verify the effectiveness of the monitoring control or the accuracy of the reconciliations.</p>
	<p>The City is paying monies to Dallas County for activities that could be performed by the City.</p>	<p>Consult with the City Attorney to determine the feasibility of the City Attorney assuming the duties for forfeiture proceedings and take additional actions warranted, if any, from the results of that review.</p>	<p>Not Implemented. As of June 2010, DPD had not discussed this recommendation with the City Attorney's Office; however, DPD stated that they plan to consult with the City Attorney's Office to determine the feasibility of the City Attorney assuming forfeiture proceedings duties.</p>

Audit Report	Audit Issues	Audit Recommendations	Audit Follow-Up Results
	<p>The seized property procedural manual contains outdated material.</p>	<p>Update the Seized Property Manual to reflect current operations and establish periodic reviews and updates to prevent obsolescence.</p>	<p>Implemented.</p> <p>According to Narcotics Division personnel, the Seized Property Manual (Manual) is no longer used. Instead, the Manual was replaced with Section 203.03 of the Narcotics Division's Standard Operating Procedures (SOP). The most recent update to Section 203.03 was made in October 2009.</p>
	<p>Responsibilities are not clearly defined.</p>	<p>Establish written procedures detailing the lines of responsibility of confiscated funds from seizure through distribution and ensure that assigned responsibilities are consistent with given authority.</p>	<p>Implemented.</p> <p>Section 203.03 of the Narcotics Division's SOP includes job responsibilities for personnel involved in processing State and Federal Confiscated Funds.</p>
	<p>Communication links and correspondence need improvement.</p>	<p>Employ the Police Technology Technical Service Unit to link the databases and related departmental units.</p> <p>Require all related disbursement and transfer instructions to be submitted on one document.</p>	<p>Partially Implemented.</p> <p>The DPD Police Technology Technical Service Unit was dissolved. The Department of Communication and Information Services (CIS) assumed operational responsibilities for DPD information technology. According to Narcotics Division personnel, this recommendation was not implemented because it was not considered cost beneficial. The City Auditor's Office will not follow-up on this item in the future.</p> <p>Funds transfer and disbursement instructions are now submitted on a single document to process fund transfers and payments to the District Attorney's Office.</p>

Audit Report	Audit Issues	Audit Recommendations	Audit Follow-Up Results
	<p>The required State and Federal report compilations need improvement.</p>	<p>Establish all necessary written procedures to ensure uniform and standardized methods are used to obtain and compile Federal and State confiscated funds annual report data.</p>	<p>Partially Implemented.</p> <p>According to the FACM personnel, detailed notes are retained to show how each number on the Federal and State reports is calculated. These notes effectively serve as instructions for the following years' reports. The City Auditor's Office verified the notes for the State Annual Certification Report; however, the City Auditor's Office could not verify the notes for the Federal Confiscated Fund Annual Certification Report due to the lack of documentation maintained at FACM.</p>
	<p>Independent review and audit of annual reports are not assured.</p>	<p>Consider soliciting separate audits of the reports submitted to the State and Federal authorities for seized and forfeited assets.</p>	<p>Implemented.</p> <p>While separate audits are not conducted, according to DPD personnel and the independent auditors, State and Federal Confiscated Funds have been included in the 2008 and 2009 Single Audits, respectively.</p>
	<p>The external audit report is not reflective of the DPD reported amount.</p>	<p>In consultation with the City's external auditors, ensure that confiscated funds are included and tested as a component of the Single Audit Act.</p>	<p>Not Implemented.</p> <p>Although Confiscated Funds were included and tested as a component of the FY 2008 and 2009 Single Audits, the FACM personnel noted discrepancies between Confiscated Funds reports and the City's FY 2009 trial balances. According to FACM, the research and correction process necessary to reconcile these discrepancies is scheduled for completion in November 2010.</p>

Audit Report	Audit Issues	Audit Recommendations	Audit Follow-Up Results
	Inactive grants should be closed.	Coordinate with Budget and Management Services to close the inactive grant funds (G92 and S12) and move any cash balances into Fund 411.	<p>Implemented.</p> <p>The grant funds G92 and S12 have been closed; however, current FACM personnel could not verify whether the ending balance of \$709 was transferred to Fund 411. The FACM did not consider it cost beneficial to conduct the additional research necessary to demonstrate that the \$709 was deposited into Fund 411.</p>
	There may be alternatives to the current crime laboratory use.	<p>Determine whether there is a more economic, effective, and efficient means to obtain forensic services by:</p> <ul style="list-style-type: none"> • Determining the feasibility of conducting in-house, all or part of the forensic services (i.e., drug tests) currently performed by Southwest Institute of Forensic Science • Reviewing the costs for forensic services provided by other laboratories or instituting an in-house laboratory 	<p>Not Implemented</p> <p>According to DPD, FACM personnel are currently evaluating whether the recommendation is feasible and cost effective.</p>

Attachment B

Background

Confiscated Funds

Confiscated Funds are derived from assets (money and property) seized during joint (Federal, State, Municipal and County, etc.) crime investigations. At the conclusion of legal proceedings related to these crimes, the assets may be returned to the owner, the crime victims, and/or shared with the various jurisdictions (Federal, State, Municipal and County, etc.) that participated in the crime investigation. In Fiscal Year (FY) 2009, Dallas Police Department (DPD) received approximately \$1.4 million in Federal and approximately \$740 thousand in State Confiscated Funds.

The City deposits State Confiscated Funds into an Escrow Account (0413), pending the outcome of the court rulings related to the crime investigations. When the State Confiscated Funds are awarded, the City transfers the Confiscated Funds from the Escrow Account (0413) to the State Confiscated Funds Account (0411).

The City receives Federal Confiscated Funds via wire transfers into the City's cash clearing account (Cash Account). The Federal Confiscated Funds are moved from the Cash Account to the Federal Confiscated Funds Account (0412) when the City Controller's Office receives instructions from the DPD Finance and Contract Management Division (FACM).

Local Confiscated Funds Agreements

The DPD has entered into Confiscated Funds Agreements (Agreements) with Collin, Dallas, Denton, Harris, and Tarrant Counties. These Agreements require DPD to pay a certain percentage of the awarded funds to the respective District Attorney's Offices. For example, the DPD and the Dallas County District Attorney's Office split the awarded Confiscated Funds 75/25 ratio, respectively. The DPD is required to pay the District Attorney's Office's portion within 60 days of the award date. If this payment is late, additional penalties may apply. For example, the Dallas County District Attorney's Office receives an additional five percent. The DPD is also required to pay the interest on seized Confiscated Funds temporarily held in Fund 0413. The interest on these Confiscated Funds is calculated from the date of forfeiture to the date the District Attorney's Office's payment is made, on a pro-rata basis.

Confiscated Funds Requirements

In order for DPD to receive Federal and State Confiscated Funds awards, DPD must follow:

- The Department of Justice “Guide to Equitable Sharing for State and Local Law Enforcement Agencies” (Federal Guidelines)
- Article 59 of the Texas Code of Criminal Procedures (State Guidelines)