



INTERNAL AUDIT REPORT

LIMITED OPERATIONAL AUDIT POLICE FORFEITURE FUNDS

JANUARY 1 2010 – DECEMBER 31, 2013

**ISSUE DATE: MAY 20, 2014
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TRANSMITTAL LETTER

Audit Committee
Port of Seattle
Seattle, Washington

We have completed an audit of the Police Department's Forfeiture Funds.

We reviewed information relating to Police Forfeiture Funds from January 1, 2010 - December 31, 2013.

We conducted the audit in accordance with Generally Accepted Government Auditing Standards and the International Standards for the Professional Practice of Internal Auditing. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We extend our appreciation to management and staff of the Police Department, Accounting and Financial Reporting, and Finance & Budget for their assistance and cooperation during the audit.



Joyce Kirangi, CPA, CGMA
Internal Audit, Director

AUDIT TEAM

Ruth Riddle, Senior Auditor

Jack Hutchinson, Audit Manager

RESPONSIBLE MANAGEMENT TEAM

Colleen Wilson, Chief of Police

Dan Thomas, Chief Financial and Administrative Officer

EXECUTIVE SUMMARY

AUDIT SCOPE AND OBJECTIVES

The purpose of the audit was to determine whether management controls over Police Forfeiture Funds are adequate to ensure:

1. Seized property is properly processed in accordance with state law from point of seizure to point of forfeiture.
2. Forfeited property is properly accounted for.
3. Expenditures of forfeited property are in compliance with federal, state, and local laws regarding:
 - a. Allowability of expenditures of forfeiture funds.
 - b. Timely and accurate reporting of activity of forfeited funds.
 - c. Time period within which forfeited funds are to be expended.

We reviewed information for the period January 1, 2010 - December 31, 2013.

BACKGROUND

In December 1971, the Port of Seattle officially established the Sea-Tac Airport Police Department with full police authority. However, the Department's origins date back to the development of the Seattle-Tacoma Airport in 1949. In 1975, the Department was renamed the Port of Seattle Police Department. In 2011, the Department received its first certification from the Commission on Accreditation of Law Enforcement (CALEA).

Among the Department's many functions and responsibilities is participation in seizure and forfeiture programs relating to the control of illegal narcotics. The Department has participated in the federal and Valley Narcotics Enforcement Team (VNET) programs as far back as 2005. The state program began in late 2009. The Port received almost \$1 million in cash forfeitures for the period 2010 - 2013 as noted in the table below:

| PORT OF SEATTLE POLICE DEPARTMENT FORFEITURE REVENUES BY YEAR | | | | | |
|--|------------------|------------------|-----------------|-----------------|------------------|
| Source of Forfeiture Revenues | 2010 | 2011 | 2012 | 2013 | TOTAL |
| Federal | \$177,893 | \$25,603 | \$0 | \$29,323 | \$232,819 |
| Valley Narcotics Enforcement Team | 81,000 | 50,000 | 0 | 0 | 131,000 |
| State | 271,449 | 189,339 | 98,790 | 56,438 | 616,016 |
| TOTAL | \$530,342 | \$264,942 | \$98,790 | \$85,761 | \$979,835 |

Data Source: PeopleSoft Financials

AUDIT RESULT SUMMARY

Management controls over Police Forfeiture Funds are adequate to ensure seized property is properly processed, forfeited property is properly accounted for, reports are timely and accurate, and funds are expended within mandated time period. However, controls are not adequate to ensure expenditures of forfeited funds are allowable, as discussed in Finding 1.

BACKGROUND

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Among the Department's many functions and responsibilities is participation in seizure and forfeiture programs to control illegal narcotics. The Department has participated in the federal and Valley Narcotics Enforcement Team (VNET) programs as far back as 2005. The state program began in late 2009. When seizures occur, the seizures are held in trust until there is a legal order to return the seized item or money to the party from which it was seized or to release the item or money to the seizing agency.

FINANCIAL HIGHLIGHTS

The Port of Seattle received cash forfeitures of almost \$1 million from the following three sources:

| PORT OF SEATTLE POLICE DEPARTMENT FORFEITURE REVENUES | | | | | |
|--|------------------|------------------|-----------------|-----------------|------------------|
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| TOTAL | \$530,342 | \$264,942 | \$98,790 | \$85,761 | \$979,835 |

Data Source: PeopleSoft Financials

Total expenditures from the forfeiture funds were \$854,085, which include salaries, wages, and benefits of \$261,920 and vendor payments of \$592,165.

| PORT OF SEATTLE POLICE DEPARTMENT EXPENDITURE OF FORFEITURE REVENUES ON SALARIES, WAGES, AND BENEFITS | | | | | |
|--|------------------|------------------|-----------------|-----------------|------------------|
| Source of Forfeiture Revenues | 2010 | 2011 | 2012 | 2013 | TOTAL |
| Federal | \$64,635 | \$112,346 | \$9,953 | \$0 | \$186,934 |
| Valley Narcotics Enforcement Team | 39,153 | 0 | 0 | 0 | 39,153 |
| State | 0 | 0 | 262 | 35,571 | 35,833 |
| TOTAL | \$103,788 | \$112,346 | \$10,215 | \$35,571 | \$261,920 |

Data Source: PeopleSoft Financials

PORT OF SEATTLE POLICE DEPARTMENT VENDOR PAYMENTS FROM FORFEITURE REVENUES

| Source of Forfeiture Revenues | 2010 | 2011 | 2012 | 2013 | TOTAL |
|-----------------------------------|------------------|-----------------|------------------|------------------|------------------|
| Federal | \$ 80,562 | 8,309 | 11,280 | 12,492 | 112,643 |
| Valley Narcotics Enforcement Team | 13,423 | | 25,443 | 4,744 | 43,610 |
| State | 20,475 | 57,684 | 171,238 | 186,514 | 435,912 |
| TOTAL | \$114,460 | \$65,993 | \$207,961 | \$203,751 | \$592,165 |

Data Source: PeopleSoft Financials

HIGHLIGHTS AND ACCOMPLISHMENTS

- In November 2011, the Commission on Accreditation of Law Enforcement Agencies (CALEA) recognized the Port of Seattle Police Department as an internationally accredited police agency. At that time, this represented only 2 percent of law enforcement agencies worldwide and 11 of 269 agencies in Washington. Further, the Port of Seattle Police Department is one of only two airport/seaport law enforcement agencies in the world to complete the accreditation process.
- As part of the accreditation process, the Department compiled a comprehensive Police Department Policy Manual.
- The Department has developed a new authorization form for expenditures from forfeiture funds. This new form requires expenditures from the federal forfeiture fund to be supported by a specific citation from the federal guidelines. It requires expenditures from the state forfeiture fund or state VNET to be supported by an explanation of the “nexus” (i.e., close connection) to drug-related activity.

AUDIT SCOPE AND METHODOLOGY

We reviewed information for the period January 1, 2010 - December 31, 2013. We utilized a risk-based audit approach from planning to testing. We gathered information through research, interviews, observations, and analytical reviews, in order to obtain a complete understanding of the Police Department’s Forfeiture Funds.

We applied additional detailed audit procedures to areas with the highest likelihood of significant negative impact as follows:

1. Seized property is properly processed in accordance with state law from point of seizure to point of forfeiture.

For the period 2010 - 2013, we identified the universe of state seizures and selected the largest seizure amounts for detailed testing. Out of a total population of 62 state seizures, we tested 25. Of the total seized dollars of \$882,154, we tested \$635,452 (72%). Of this amount, \$133,720 was returned to the claimant (the person from whom the money was seized). We determined whether:

- a. Seizures were processed in compliance with mandated timelines.
 - b. Orders of Forfeiture or Agreed Settlements from the Hearing Examiner were properly processed.
 - c. Controls over seized property were adequate.
2. Forfeited property is properly accounted for.

Federal and VNET

We verified the federal and VNET forfeitures in the amount of \$232,820 and \$131,000, respectively, by obtaining external confirmations from the federal agencies and the VNET administrators.

State

For the period under audit, the cash forfeited to the Port was \$616,017. The settlements to the claimants totaled, \$133,720. We traced all activity either into the Port’s accounting records or to evidence that the disbursements to claimants had been properly processed.

3. Expenditures of forfeited property are in compliance with federal, state, and local laws regarding:
- a. Allowability of expenditures of forfeiture funds.

Since the US Department of Justice had tested the salaries and wages, we focused our testing on vendor payments. To ensure adequate coverage of vendor payments, we tested all vendor payments above \$5,000, for the period January 1, 2010 - October 31, 2013.

| SAMPLE TESTING OF VENDOR PAYMENTS FROM FORFEITURE REVENUES | | | | | |
|---|-------------|-------------|-------------|-------------|--------------|
| Source of Forfeiture Revenues | 2010 | 2011 | 2012 | 2013 | TOTAL |
| Total Vendor Payments | \$114,460 | \$65,993 | \$207,961 | \$203,751 | \$592,165 |
| Strata - \$100K - \$5K – Total \$ Tested | 98,268 | 52,516 | 194,308 | 197,438 | 542,531 |
| Strata - \$100K - \$5K – Total \$ Tested | 86% | 80% | 93% | 97% | 92% |

Data Source: PeopleSoft Financials

- b. Timely and accurate reporting of activity of forfeited funds in compliance with federal and state laws.

Federal

For federal reporting, we selected 2013, since the 2010, 2011, and 2012 federal reports had been examined during the desk review conducted by the US Department of Justice. We determined whether the 2013 report had been submitted by the due date of February 28, 2014, and whether the reported amounts were accurate and supported in the accounting records.

State

For state reporting, we selected 2013, as responsibility for the state reports transitioned during this period. We determined whether the quarterly reports had been submitted timely after the end of each quarter and whether reported amounts were accurate. We further determined whether the 10% of the total annual forfeited amounts had been submitted to the State Treasurer by January 31, 2014, and whether the amount of the remittance was accurately calculated.

- c. Compliance with federal law regarding the time-period within which funds are to be expended.

We compiled a schedule of federal year-end balances as of December 31, 2010 and 2011, and determined whether the balances had been expended within the recommended three-year time-period.

CONCLUSION

Management controls over Police Forfeiture Funds are adequate to ensure seized property is properly processed, forfeited property is properly accounted for, reports are timely and accurate, and funds are expended within mandated time period. However, controls are not adequate to ensure expenditures of forfeited funds are allowable, as discussed in Finding 1.

SCHEDULE OF FINDINGS AND RECOMMENDATIONS

1. THE POLICE DEPARTMENT DID NOT COMPLY WITH THE APPLICABLE LEGAL REQUIREMENTS FOR THE USE OF FORFEITURE FUNDS.

From 2010 - 2013, the Port of Seattle Police Department received almost \$1 million in forfeitures from the US Department of Justice (federal), US Treasury (federal), Valley Narcotics Enforcement Team (VNET), and from seizures under state law. During this same period, it expended \$854,085.

Forfeiture revenue must be used in accordance with the applicable legal guidance:

- Federal - *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, April 2009

The guidance provides an extensive list of permissible and impermissible uses, within the context of law enforcement activity. The primary restrictions relate to salaries and replacing (i.e., supplanting) preexisting funding sources.

- State - RCW 69.50.505

(10) Forfeited property and net proceeds not required to be paid to the state treasurer shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

AGO 2010 No. 1 - January 6, 2010

...we concluded that the language now found in RCW 69.50.505(10) authorizes use of drug forfeiture proceeds for law enforcement activities having a "close connection" to enforcing controlled substances laws.

AGO 1995 No. 11 - August 30, 1995

...may be used to fund services and programs that do not relate exclusively to controlled substances laws. RCW 69.50.505(h)(1), 69.50.520.

- VNET - Guided by the above federal and state requirements, depending on the source of the VNET forfeiture.

The Port of Seattle Police Department expended the following amounts from federal, VNET and state forfeitures in vendor payments from January 1, 2010 - October 31, 2013.

VENDOR PAYMENTS FROM FORFEITURE REVENUES

| Source of Forfeiture Revenues | 2010 | 2011 | 2012 | 2013 | TOTAL |
|-----------------------------------|------------------|-----------------|------------------|------------------|------------------|
| Federal | \$ 80,562 | 8,309 | 11,280 | 12,492 | 112,643 |
| Valley Narcotics Enforcement Team | 13,423 | | 25,443 | 4,744 | 43,610 |
| State | 20,475 | 57,684 | 171,238 | 186,514 | 435,912 |
| TOTAL | \$114,460 | \$65,993 | \$207,961 | \$203,751 | \$592,165 |

Data Source: PeopleSoft Financials

Of the total vendor payments, we determined the following were noncompliant with the applicable legal requirements:

RESULTS OF TESTING OF VENDOR PAYMENTS

| Non-Compliant Expenditures | 2010 | 2011 | 2012 | 2013 | TOTAL |
|-----------------------------------|-----------------|-----------------|------------------|------------------|------------------|
| Federal | \$0 | \$0 | \$0 | \$0 | \$0 |
| Valley Narcotics Enforcement Team | 0 | 0 | 0 | 0 | 0 |
| State | 20,000 | 14,356 | 116,052 | 176,450 | 326,858 |
| TOTAL | \$20,000 | \$14,356 | \$116,052 | \$176,450 | \$326,858 |
| % of Non-Compliant Expenditures | 17% | 22% | 56% | 87% | 55% |

Data Source: PeopleSoft Financials

The noncompliant expenditures violated state forfeiture laws (RCW 69.50.505). The following summarizes the exceptions by category, none of which has a “close connection” to drug-related activity:

NON-COMPLIANT VENDOR PAYMENTS BY CATEGORY

| DESCRIPTION | AMOUNT |
|------------------------------|------------------|
| 911 Call Center ¹ | \$176,450 |
| Capital Assets | 74,196 |
| Travel and training | 21,203 |
| Software | 20,653 |
| Consultants | 20,000 |
| Equipment | 14,356 |
| TOTAL | \$326,858 |

Data Source: PeopleSoft Financials

Data Note: ¹ In addition to the vendor payments of \$176,450, we determined there were in-house labor costs of \$35,571 charged to the 911 Call Centers, which also do not comply with the legal requirements.

Despite email communications among Police Department management and staff questioning whether the expenditures complied with the legal requirements, Police Department management failed to adequately address the issue and incurred expenditures that were not allowable in accordance with applicable guidance.

The Police Department’s management controls over expenditures from the forfeiture funds are deficient. When a government agency administers any program, the public expects accountability and legal compliance. When these expectations are not met, the government agency risks losing public confidence.

Beyond the testing we performed during the audit, the US Department of Justice conducted a desk review of expenditures from the federal forfeiture fund and determined the following salary and benefit costs charged to the federal forfeiture fund were impermissible:

| RESULTS OF US DOJ AUDIT | | |
|--------------------------------|--------------------|---------------------|
| POSITION | FISCAL YEAR | AMOUNT |
| Accreditation (Non-Sworn) | 2012 | \$13,059.91 |
| Accreditation (Non-Sworn) | 2011 | 121,529.60 |
| Accreditation (Non-Sworn) | 2010 | 64,634.84 |
| TOTAL | | \$199,224.35 |

Data Source: USDOJ Equitable Sharing Agreement Letter, dated 8-5-13

The Police Department reimbursed the federal forfeiture fund from other appropriate Department resources for these impermissible costs. The US Department of Justice considers this matter resolved.

Recommendations

1. Reimburse the state forfeiture fund from other appropriate resources for the unallowable expenditures.
2. Develop precise and clear guidance and authorization forms to ensure that forfeiture expenditures meet the legal requirements of federal and state law.
3. Implement processes to review expenditures from the federal, state and VNET funds, to ensure that any improper charges are detected timely.

Management Response

We agree with the finding.

We initiated improvement efforts prior to the audit, as soon as questions were raised. It is important to note that all expenditures were made for legitimate business reasons and could have been made using Port funds within the Police Department’s existing budget.

Significant staff turnover impacted both decision-making and accounting for the expenditure of forfeiture funds, particularly in the new state forfeiture area. These personnel changes contributed to the lack of clarity, as we implemented this new process, and may account for some of the posting errors we found. Creating better role clarity across our divisions will be an important focus to ensure we do not have continuing errors.

We wish to thank the Internal Audit Department for its assistance in identifying the errors and helping us correct deficiencies.