



DALLAS COUNTY
COUNTY AUDITOR

To: Honorable Faith Johnson, District Attorney
Commissioners Court

From: Darryl D. Thomas, County Auditor *Darryl D. Thomas*

Date: March 9, 2017

Re: District Attorney – State Forfeiture FY2016

Scope

We performed a review of financial records relevant to the District Attorney's (DA) use of State forfeiture funds. Code of Criminal Procedure Article 59.06 controls and limits expenditures. The forfeiture activity includes \$75,040 seized (excludes other agencies), \$500,375 forfeited (excludes other agencies), and \$316,450 expended during the state fiscal year ending August 31, 2016 during the term of the Honorable Susan Hawk. Forfeited funds are held in a special account in the treasury, to be used by the attorney solely for the purposes of her office.

Background

District Attorney manages cases in court for other departments and other cities within Texas. In order to obtain money and property that were seized due to illegal activity, the District Attorney Civil section must go to court in order for the city and department to take ownership of seized items. Cities and county agencies maintain their seized funds while case are pending. The District Attorney maintains funds seized by DPS. Seized funds cannot be spent until an order is signed by a judge ordering the forfeiture of property and/or cash. District Attorney receives a fee of 20% to 30% (depending on agreements between the District Attorney and the law enforcement agencies) of forfeited funds (related to illegal activity only) and designated amount for property. If the District Attorney is involved in cases where their own officers have seized the funds, the District Attorney retains 100% of forfeited property and/or cash. The District Attorney office maintains records related to revenue and expenditure of the funds.

Procedures

Auditor tests of approved budget and availability of cash. Internal controls for financial management by the District Attorney including purchasing, accounting, compliance, inventory, and reporting are tested at year-end. A random sampling of the total budget activity was selected for certain procedures, while some categories were reviewed in entirety. Review steps included, but were not limited to:

- A. Purchasing
 - Bids: for compliance with statutory provisions
 - Approvals: documented prior to allocations or purchase/obligation
 - Policies/Travel (hotel – meals – transportation)
- B. Accounting
 - Approvals/Support: documented on receipt of service/goods
 - Check Request/Signature: electronic processing
 - Allocation/Justification: category coding
 - Transfers/Loans: activity between other District Attorney or County funds
 - Bank Reconciliation: District Attorney's records vs. General Ledger vs. bank and outstanding entries

- C. Compliance – used by attorney solely for official purposes of office
 - Define “official purposes” and “purposes of his office.” (see Attorney General’s opinions)
 - Budget/Categories: filed with Commissioners Court at sufficient level both for investigation and non-investigation disclosure
- D. Reporting
 - Budget and Categories: consistent with Attorney General’s format
 - Audit: timely signed and remitted
 - 1099: timely remitted
- E. Inventory
 - Existence of awarded vehicles
 - Sample review of trackable items purchases over the past two years

Consideration of Internal Control

Tests were performed for limited purpose of compiling financial transactions in format required by the Attorney General. A deficiency in internal control exists when the design or operation of control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A material weakness is a deficiency, or combination of control deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected on a timely basis.

Findings

1. Thirty-three expenditures tested for compliance with Code of Criminal Procedure, Chapter 59, Dallas County Code, Local Government Code, Chapter 262, and proper accounting and internal control procedures revealed:
 - One (3%) expenditure for registration fees not briefed in advance of conference as required by Dallas County Code. Code of Criminal Procedure, § 59.06 (d-4) (4) does not require Commissioners Court approval for conference attendance.
 - One (3%) payment for invoice from October 2014 incurred during a prior administration not paid until May 2016.

***Management Response:** The Dallas County District Attorney’s Office (“DCDAO”) agrees with the recommendations. All financial activity should adhere to Code of Criminal Procedure, Chapter 59, Local Government Code, Chapter 262 – Purchasing and Contracting Authority of Counties, Dallas County Code Article V. – travel policy and Sec. 94 - Purchasing and Contract management policy. Due to the commissioner’s court meeting schedule change, estimated travel cost on pre-approval forms shall be received three weeks in advance to allow for the briefing with Commissioner’s Court. We will continue to educate our employees and will implement the procedure and policies more effectively. Further, the outstanding invoice created by a prior administration in 2014 has already been paid in 2016.*

2. Six vendors designated as incorporated or limited liability corporations were issued Internal Revenue Service (IRS) form 1099-MISC for calendar year 2015 although IRS regulations do not require issuance to corporations for the type of service performed.

***Management Response:** The District Attorney’s Office will ensure that Form 1099-MISC will be issued in accordance with Internal Revenue Service guidelines.*

3. Instances of court costs not disbursed in accordance with Code of Criminal Procedure, Chapter 59.05(f).

Management Response: The DCDAO will ensure disbursement of courts cost based on Code of Criminal Procedure, Chapter 59.05(f) instead of judgments received. We understand that when a forfeiture to the state occurs in an amount greater than \$2,500, the clerk of the court in which the forfeiture proceeding was held is entitled to court costs in that proceeding as in other civil proceedings unless the forfeiture violates federal requirements for multi-jurisdictional task force cases authorized under Chapter 362, Local Government Code. The procedure for collecting the costs is the procedure established under Subsections (a) and (c), Article 59.06.

4. A review of seized and awarded vehicles revealed three seizure dates (during the prior administration) not listed on District Attorney's spreadsheet.
5. A sample review of 18 items purchased over the past two years revealed the following:
 - Yearly inventory not performed.
 - Trackable items are inconsistently tagged as received.

Management Response: Regarding paragraphs 4 and 5, the DCDAO has implemented improved inventory control by creating an inventory policy and procedures manual and completing the annual inventory audit December 2016. We have updated the original inventory list of all inventory purchased with the forfeiture fund and will tag and track items as received in accordance with Dallas County Code Chapter 90 Article III Property Management and UGMS 2 CFR Section 215.34(f).

6. No written documentation exists to support Automotive Service Center (ASC) personnel approval of direct external service for DA forfeited vehicles when service cannot be performed by ASC.

Management Response: The DCDAO is working on a memorandum of understanding between ASC and our office to ensure DA personnel receive request written authorization from ASC if ASC personnel are unable to complete required vehicle service.

Recommendations

1. All financial activity related to seized or forfeited/awarded money or property should adhere to statutes (Code of Criminal Procedure, Chapter 59, and Local Government Code, Chapter 262) and Dallas County Code (including travel and purchasing policies and procedures with elected official certification and exception briefing required for hotel rates at annual conferences exceeding maximum daily lodging rates).
2. Form 1099-MISC should be issued in accordance with Internal Revenue Service guidelines.
3. Court costs should be disbursed to the District Clerk in accordance with Code of Criminal Procedure, Chapter 59.05(f).
4. Inventories should be performed annually.
5. Property should be maintained according to Dallas County Code Chapter 90 Article III.
6. Capital and non-capital property tracked according to UGMS 2 CFR section 215.34(f). Items should be tagged as received.
7. DA personnel should request written authorization from ASC for external vehicle maintenance when ASC personnel are unable to complete required vehicle service.

Compliance with Laws and Regulations

Tests and inquiry produced reasonable support or explanation for expenditures. A sample of inventory items purchased with state forfeiture funds within the last two (2) years revealed instances of non-compliance with asset tracking required by UGMS 2 CFR Section 215.34.

Funds used supplemented versus supplanted the County budget.

Summary

We obtained a reasonable assurance about whether support exists for financial transactions. We reviewed and affirmed workflow and approval processes exist. We compiled records for audit report and approved a list of agreed adjustments.

This report is intended for the use of County Officers. Our review was conducted on a test basis and was not designed to identify all deficiencies in internal control. We did not test compliance with all laws and regulations applicable to the Dallas County District Attorney. Testing was limited to controls and regulations that have a direct and material effect on financial reporting of state forfeiture funds.

District Attorney's administration is responsible for the establishment and maintenance of effective internal control and compliance with applicable laws, regulations, and contracts including the tracking of assets in accordance with UGMS 2 CFR Section 215.34.