



Office of the City Controller
HOUSTON POLICE DEPARTMENT
Asset Forfeiture Fund
Compliance Audit



Chris Brown
City Controller

Report # 2021-02

Courtney Smith
City Auditor



**OFFICE OF THE CITY CONTROLLER
CITY OF HOUSTON
TEXAS**

CHRIS B. BROWN

August 5, 2020

The Honorable Sylvester Turner, Mayor
City of Houston, Texas

**SUBJECT: 2021-02 HOUSTON POLICE DEPARTMENT (HPD)
ASSET FORFEITURE FUND COMPLIANCE AUDIT**

Mayor Turner:

The Office of the City Controller's Audit Division has completed a compliance audit of the Houston Police Department's Asset Forfeiture Fund 2204. Asset forfeiture is a powerful tool used by law enforcement agencies to deprive criminals and criminal organization the benefit of ill-gotten gains. The Texas Code of Criminal Procedure, Chapter 59, Article 59.06 is the governing legislation concerning "forfeiture of contraband" in the State.

The audit objectives for this engagement were to:

- Evaluate HPD management's compliance with the applicable state statutes and ordinances;
- Evaluate controls over forfeited properties; and
- Evaluate controls over proceeds received through the judicial process.

The engagement scope period covered operations and transactions for fiscal years 2017 through 2019.

During the audit engagement, we noted that the Houston Police Department has developed and implemented practical internal policies and procedures which are outlined in their General Orders. These policies and procedures allow the department to successfully manage personnel activity, while complying with the required state statutes.

Over the course of our audit, we did not note any findings, however the attached report identifies opportunities to strengthen reporting and accounting internal controls over the physical inventory processes.



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TEXAS**

CHRIS B. BROWN

We would like to express our appreciation to the management and staff of HPD for their time and effort, responsiveness, and cooperation during the course of the audit.

Respectfully submitted,

Chris B. Brown
City Controller

xc: Art Acevedo, Police Chief, Houston Police Department
City Council Members
Marvalette Hunter, Chief of Staff, Mayor's Office
Harry Hayes, Chief Operations Officer, Mayor's Office
Rhonda Smith, Deputy Director, Houston Police Department
Sheryal Armstrong, Office of Budget and Finance, Houston Police Department
Shannan Nobles, Chief Deputy City Controller, Office of the City Controller
Courtney Smith, City Auditor, Office of the City Controller

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Introduction

The Office of the City Controller's Audit Division (AD) has completed a compliance audit of the Houston Police Department (HPD) Asset Forfeiture Fund 2204. The purpose of the audit was to evaluate compliance with state statutes and ordinances, as well as controls over forfeited properties and proceeds received through the judicial process. The audit scope covered operations and transactions for fiscal years 2017 through 2019. The audit was included in the Audit Plan for fiscal year 2020.

Background

GENERAL STRUCTURE

HPD has approximately 6,300 law enforcement officers and support staff, with an annual budget of approximately \$899 million.

The mission of HPD is to enhance the quality of life in Houston by working cooperatively with the public to enforce laws, preserve peace, reduce fear and provide a safe environment.

Part of HPD's mission includes the enforcement of asset forfeiture statutes. Asset forfeiture is a powerful tool used by law enforcement agencies, including the FBI, against criminals and criminal organizations to deprive them of their ill-gotten gains through seizure of these assets and final adjudication of the seized assets by a competent court. Historically, governments have used this tool to defend against piracy through the seizure of vessels and contraband. Today it is used to disrupt, dismantle, and deter those who prey on the vulnerable for financial gain, including criminal organizations, drug dealers, terrorists, and white-collar criminals (FBI.gov).

LEGAL FRAMEWORK: CHAPTER 59, ARTICLE 59.06 – TEXAS CODE OF

CRIMINAL PROCEDURE

The Texas Code of Criminal Procedure, Chapter 59, Article 59.06 is the governing legislation concerning "forfeiture of contraband" in the State, including municipalities and law enforcement agencies. Article 59.06 specifically addresses the guidance and procedures to be followed in the disposition of contraband, which includes judgment revenue and disbursement guidelines.

POLICY FRAMEWORK

In order to implement the provisions of Chapter 59, HPD has established a series of internal Circulars and Directives, General Orders and Standard Operating Procedures to guide the operations and administration of forfeited assets. Such policy framework includes:

- (a) *General Order 400-14: Control of Police Department Property;*
- (b) *General Order 700-08: Asset Seizure and Forfeiture;*

- (c) *Standard Operating Procedure #100/05.01: Asset Forfeiture-Federal;*
- (d) *Standard Operating Procedure #100/06.01: Asset Forfeiture-State;*
- (e) *Standard Operating Procedure #200/1.20: Money/Vehicle Seizures;* and
- (f) *Asset Forfeiture State Fund: Internal Control Memorandum.*

In accordance with the provisions of Chapter 59, HPD established the Asset Forfeiture Special Revenue Fund (the Fund) to account for the proceeds from forfeited assets. According to the Internal Control Memorandum for the Asset Forfeiture Fund (the Memorandum), "The Fund is designed to handle the proceeds received from the sale and disposition of the contraband seized in criminal related activity. A criminal court determines the disposition of any criminal contraband and assigns by court decree how those proceeds are to be divided amongst the different agencies eligible per the equitable sharing agreement". Pursuant to the provisions of Chapter 59 regarding an "attorney representing the state"; the City of Houston (City) on behalf of its Police Department, which includes HPD, the Airport Police Division of the Houston Airport System, the Arson Investigation Division of the Fire Department, and the City Marshal's Office; entered into an agreement with the Harris County District Attorney's Office (District Attorney) designating the District Attorney as the "Attorney representing the state" within its jurisdiction. The District Attorney represents the City's law enforcement agencies on matters involving adjudication of forfeited assets before the courts. The agreement was signed and dated, April 5, 1991.

JUDGEMENT REVENUE

Revenues recorded in the Fund are the results of the final adjudication of a competent court on forfeited assets and proceeds from the sale of those assets. Upon successful completion of forfeiture proceedings and final adjudication, seventy percent (70%) of the monetary assets or proceeds of the sale of tangible property items are deposited in the Fund, in accordance with the agreement with the District attorney. The remaining balance, thirty percent (30%) is retained by the District Attorney in accordance with state law.

DISBURSEMENT GUIDELINES

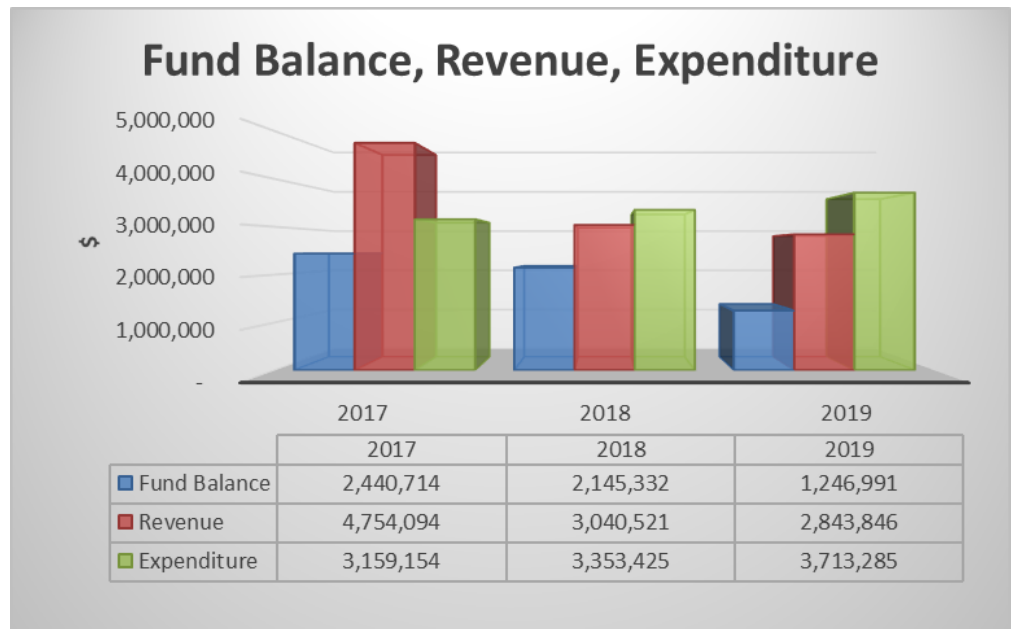
Chapter 59 provides that proceeds from forfeited assets may be used to pay any necessary expenses associated with forfeited operations such as property seizure, detention, management, and disposal. In accordance with the requirements of Chapter 59, the Memorandum also states that the proceeds from the forfeited assets is to be used for law enforcement purpose, such as:

- Salaries and overtime pay for officers,
- Officer training,
- Specialized investigative equipment and supplies, and
- Items used by officers for indirect law enforcement duties.

FUND PERFORMANCE

During fiscal year 2017 total fund balance amounted to \$2.4 million (m). This decreased by 10.4% to \$2.15m in 2018 and 41.8% to \$1.25m in 2019. Similarly, revenue amounted to \$4.75m in 2017, which decreased by 36% to \$3.04m, in 2018 with a further decrease by 6.58% to \$2.84m in 2019. In contrast, expenditures increased by 6% from the balance of \$3.16m in 2017 to \$3.35m in 2018, with an additional increase of 10.7% to \$3.71m in 2019. Table 1 represents the graphical illustration of the fund performance for the three fiscal years:

TABLE 1



Audit Scope and Objectives

The audit objectives for the engagement were to evaluate HPD management’s compliance with applicable state statutes, ordinances as well as controls over property forfeited and proceeds received through the judicial process.

The engagement scope included operations, transactions, revenues and expenditures occurring during fiscal years 2017 through 2019.

Procedures Performed

To obtain sufficient evidence to achieve engagement objectives and support our conclusions, we performed the following:

- Obtained and reviewed the provisions of Chapter 59, Article 59.06 of the Texas Code of Criminal Procedures, City of Houston Ordinances and Administrative Procedures, and HPD General Order's (GO's) to gain an understanding of the regulatory and policy framework underlying the objectives of the audit;
- Performed procedures to determine if statutory and regulatory reports were submitted timely and accurately to the Office of Attorney General;
- Obtained and reviewed the organizational structure of HPD to verify the functions and qualifications of key personnel and management to determine if Chapter 59 provisions and HPD GO's are correctly implemented in employee training, job classifications, skills and experience within the Asset Forfeiture Unit;
- Received a schedule of inventory of forfeited assets and performed a physical inspection to verify assets were not stolen and ascertain their existence;
- Interviewed HPD personnel and management involved in reviewing, approving and recording expenditures and revenue activities to verify if assets were recorded at proper values;
- Obtained and reviewed documentary evidence from management verifying whether recent allegations and/or confirmed instances of conversion of forfeited assets were used for personal use;
- Examined journal entries and traced transactions to the general ledger to ascertain that entries relating to proceeds received from forfeited assets, were properly authorized, approved and recorded; and
- Performed substantive testing on a sample of forfeited assets to ascertain if expenses were incurred for allowable activities and not expended on personal items.

Observation

HPD's General Order (GO) 400-14, Control of Police Department Property dated September 18, 2015, Section 3, requires that; every January, all HPD Divisions, including those that receive proceeds from forfeited assets to conduct a physical inventory of all property valued at \$250 or more (except furniture, which has a threshold of \$2,500). During the audit, we selected 30 samples of reports submitted by the Divisions as evidence of physical inventory conducted by them and performed procedures to determine whether they were in compliance with the provisions of the GO.

We observed that while all the Divisions submitted reports of physical inventory, we found no evidence in the reports to indicate that they were performed in January, as required by the provisions of the GO. As a result of this, and in order to strengthen internal controls around the physical inventory process, we recommend the following:

(a) GO 400-14 should be amended to include a timeline for the submission of physical inventory reports. This will create uniformity in the reporting and accounting process and allow for timeliness in the identification and resolutions of any exceptions noted.

(b) Develop and require the use of standardized forms for the physical inventory process and reporting. The forms should incorporate the date of the physical inventory, name(s) of the officer(s) involved in the inventory count, balance of inventory on the date of the physical count, a statement attesting that the count was conducted and verified, and the signatures of the inventory officer and supervisor.

(c) The form should incorporate elements of reconciliation of the physical inventory with the amount recorded in the financial records. Such reconciliation should indicate opening and closing balances and differences between the physical count and the amount in the books. Where there are no differences arising from the physical count, the reconciliation should indicate no variance(s) noted. This provides evidence that the physical count was conducted and will enable the reviewer and/or the auditor to have support and documentation for the purpose of verification.

Conclusions

We believe that we have obtained sufficient and appropriate evidence to adequately support the conclusions provided below as required by professional auditing standards. Each Conclusion is aligned with the related Audit Objective for consistency and reference.

CONCLUSION 1 - (AUDIT OBJECTIVE 1)

Based on audit procedures performed, we determined HPD management was in compliance with applicable state statutes, ordinances, regarding forfeited assets. The Department has developed practical internal policies and procedures outlined in their GO's to successfully manage personnel activity while complying with the required state statutes.

CONCLUSION 2 - (AUDIT OBJECTIVE 2)

Based on audit procedures performed, we determined that HPD adhered to the internal controls established by management over property forfeited and proceeds received through the judicial process. However, we identified opportunities to strengthen reporting and accounting internal controls over physical inventory processes. (**See Observation**).

Audit Standards

We conducted this compliance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS) issued by the Government Accountability Office (GAO) and The International Standards for the Professional Practice of Internal Auditing, as promulgated by The Institute of Internal Auditors. Those standards require that we plan and perform the audit to obtain sufficient and 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 conclusions based on our audit objectives.

Acknowledgement

The Audit Team would like to thank the management and staff of HPD and the Asset Forfeiture Unit for their cooperation, time and efforts throughout the course of the engagement.

CITY OF HOUSTON

INTER OFFICE CORRESPONDENCE

TO: Chris B. Brown
City Controller

FROM: Art Acevedo
Chief of Police

DATE: July 31, 2020

SUBJECT: **Houston Police Department Asset
Forfeiture Fund Compliance Audit
Report # 2021-02
Acknowledgement of Observation**

By way of this correspondence, I hereby acknowledge that the observations and recommendations contained in the above referenced report have been reviewed by the Houston Police Department, and we are in agreement with them.

I also understand that this document will become a part of the final audit report that will be posted on the Controller's website.



Art Acevedo
Chief of Police

aa:cj:dm:gam

Audit Team

Jessica Varner, MA, Lead Auditor

Olaniyi Oyedele, CPA, Audit Manager

City Auditor

Courtney Smith, CPA, CIA, CFE

Audit reports are available at:

<http://www.houstontx.gov/controller/audit/auditreports.html>