

FINAL

MANAGEMENT AUDIT REPORT

OF THE

ALBUQUERQUE POLICE DEPARTMENT

SPECIAL INVESTIGATION DIVISION

CONFIDENTIAL AND FORFEITURE FUNDS

REPORT NO. 04-102



**CITY OF ALBUQUERQUE
OFFICE OF INTERNAL AUDIT**



City of Albuquerque
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

December 12, 2003

Internal Audit Committee
City of Albuquerque
Albuquerque, New Mexico 87102

Audit: Albuquerque Police Department
Special Investigations Division
04-102
Confidential and Forfeiture Funds

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INTRODUCTION

The Office of Internal Audit conducted an audit of the Albuquerque Police Department (APD) Special Investigations Division (SID) Confidential and Forfeiture Funds. APD receives Federal forfeiture funds from drug-related cases worked jointly with Federal law enforcement agencies. Cash funds are used to pay informants, buy drugs and other property, and pay expenses for certain APD enforcement and investigation activities. The audit is performed annually at the request of APD.

The Controlled Substances Act (30-31-1 to 30-31-41 NMSA 1978) allows a law enforcement agency that seizes forfeited money to take custody of the money for use in the enforcement of the Controlled Substances Act. APD records receipts and expenditures of forfeiture money in a special revenue fund designated solely for use by APD.

The Federal Comprehensive Crime Control Act of 1984 instituted the national asset forfeiture program. This program authorizes the sharing of Federal forfeiture proceeds with cooperating State and local law enforcement agencies. In accordance with Federal policies, proceeds from Federal forfeitures can only be used for law enforcement expenditures. Priority must be given to programs such as law enforcement operations that will result in further seizures and forfeitures. To ensure continued Federal forfeiture revenues, APD uses these proceeds to fund the operations of SID. Effective March, 1994, The U.S. Department of Justice requires that any State or local law enforcement agency receiving more than \$100,000 in forfeiture funds annually, submit an audited Federal Annual Certification Report to the US Department of Justice/ACA Program and

the U.S. Department of the Treasury. This report will be presented to the Federal agencies to fulfill this requirement.

SCOPE

Our audit did not include an examination of all the functions, activities, and transactions of SID. Our audit test work was limited to the following areas:

- Check for compliance with the U.S. Department of Justice booklet A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies dated March 1994.
- Evaluate the internal control procedures used to receive, safeguard, and dispose of cash and other property for confidential funds and forfeited monies.
- Check for compliance with applicable laws, policies and regulations.

This report and its conclusions are based on information taken from a sample of transactions and do not purport to represent an examination of all related transactions and activities. Our fieldwork was completed on September 12, 2003. The audit report is based on our examination of SID's activities through the completion of our fieldwork and does not reflect events or accounting entries after that date. The audit was conducted in accordance with Government Auditing Standards, except Standard 3.33, requiring an external quality control review.

FINDINGS

The purpose of an internal audit is to identify changes in the auditee's activities, which would improve its effectiveness, efficiency, and compliance with administrative policies and applicable rules and regulations. Therefore, the auditee's activities that appear to be functioning well are not usually commented on in audit reports. The following findings concern areas that we believe would be improved by the implementation of the related recommendations.

1. FEDERAL FORFEITURE FUNDS ARE PROPERLY EXPENDED

The City receives funds and other assets from the Federal forfeiture program and is subject to the requirements stipulated in the U.S. Department of Justice booklet, A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies. As part of our examination of the SID, expenditures were reviewed for compliance with Federal forfeiture requirements. Based on our testwork, it appears that all material expenditures in SID were for law enforcement purposes and did not replace or supplant general fund programs or expenditures. The Federal forfeiture funds for the year ended June 30, 2003 (FY03) were not used to replace funds previously

provided from general fund appropriations. The Federal Annual Certification Report was filed on September 30, 2003, as follows:

Table 1-1

FEDERAL ANNUAL CERTIFICATION REPORT

	<u>Justice Funds</u>
Summary of Equitable Sharing Activity:	
Beginning equitable sharing fund balance	\$ 890,969
Federal sharing funds received	324,594
Transfer from other law enf. agencies	-
Other income	389,023
Interest income accrued	<u>15,603</u>
Total equitable sharing funds	1,620,189
Federal equitable sharing funds spent	<u>(742,327)</u>
Equitable sharing fund balance	<u>\$ 877,862</u>
Summary of Shared Monies Spent:	
Salaries	\$ 13,342
Overtime	-
Total spent on informant "buy money"	41,474
Total spent on travel and training	48,913
Total spent on comm. and computers	10,461
Total spent on firearms and weapons	10,758
Total spent on body armor and prot. gear	2,332
Total spent on elect. surv. equipment	10,980
Total spent on buildings and imp.	115,089
Total spent on other law enf. expenses	<u>488,978</u>
Total shared monies spent	<u>\$ 742,327</u>

RECOMMENDATION

None.

2. SID SHOULD ENSURE THAT THE CONTRACT BOOKKEEPER ACCURATELY COMPLETES ALL FINANCIAL REPORTS INCLUDING THE FEDERAL ANNUAL CERTIFICATION REPORT.

SID maintains bank accounts and records separate from those maintained by the City of Albuquerque. As a result, routine operating expenditures and funds for undercover operations are not paid through the City's accounts payable system, but by SID directly. Each year SID receives funds from Federal and State resources to pay for its operations.

SID is required to file a Federal Annual Certification Report (FACR) with the US Departments of Justice and Treasury. This report should be filed 90 days subsequent to the fiscal year end and is subject to an annual audit. SID employs a bookkeeper who is contracted to reconcile SID's bank accounts, process accounts payable invoices, maintain a general ledger and produce financial reports. We examined the financial reports prepared by the contract bookkeeper and noted the following:

- The contract between the bookkeeper and SID states that the bookkeeper is responsible for completing the FACR. However, the bookkeeper does not appear to have the training required to properly complete the FACR. As a result, the Office of Internal Audit has compiled the FACR.
- The bookkeeper provided a financial report that could be summarized into categories required by the FACR. We examined the data and noted numerous errors. In order to correct the errors and ensure an accurate financial statement, the Office of Internal Audit posted 82 adjustments to the bookkeeper's report.

Errors or discrepancies in the report submitted to the Federal agency may cause the agency to question the accuracy and validity of the City's financial data reporting. The errors could lead to restricted funds or additional requirements for the City in order to continue to participate in the Federal Forfeiture program.

In FY02 the Office of Internal Audit recommended that SID ensure that the contract bookkeeper accurately complete all financial reports and that the SID bookkeeper be adequately trained in order to complete the FACR. APD modified the bookkeeper's contract in FY03 to make the bookkeeper responsible for the FACR. However, the FY03 FACR was not compiled by the bookkeeper and not all the data provided by the bookkeeper was accurate.

RECOMMENDATION

APD/SID should ensure that the contract bookkeeper accurately completes all financial reports including the FACR.

EXECUTIVE RESPONSE FROM APD

“APD/SID concurs. Due to the numerous errors made by the accountant and the effort of the Special Investigations Division (SID) to streamline its expenditure tracking, the present accountant’s contract was not renewed. SID, with the assistance of IA, is currently conducting a search for a new bookkeeper/accountant to handle the finances, and hope to have a person in place by December 2003. The individual or firm hired for this function will also be trained and required to complete the FACR.”

3. SID SHOULD ENSURE THAT ALL EXPENDITURES ARE IN COMPLIANCE WITH PERTINENT REGULATIONS AND ARE ADEQUATELY DOCUMENTED

Federal Guidelines require that SID implement standard accounting procedures and internal controls. In order to ensure a basic level of internal controls, the SID bookkeeper is required to maintain supporting documentation for all expenditures. As part of our audit, we examined a sample of 25 expenditures out of 377 made by SID. We noted two expenditures that were not accompanied by vendor invoices. The U. S. Office of Management and Budget (OMB), Circular A-87, states that for a cost to be allowable under Federal awards, it must “be adequately documented.”

In addition, we noted three expenditures totaling \$1,186, which were for recognition plaques given to transferring officers. A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies published by the US Department of Justice states that any use that creates the appearance of shared funds being used for personal purposes is not permitted. SID management reports that they were unaware that these expenditures were unallowable under the Federal Regulations.

Failure to maintain adequate supporting documentation for all expenditures or spending Federal Forfeiture funds on impermissible items could jeopardize SID’s ability to participate in the Federal Forfeiture Funds program in future years.

RECOMMENDATION

APD/SID should ensure that all expenditures are in compliance with pertinent regulations and are adequately documented.

EXECUTIVE RESPONSE FROM APD

“APD/SID concurs and will ensure that all expenditures are accompanied by a receipt or invoice. If an occasion should arise where

this is not possible, an explanation will be noted on the expense report. The Division will ensure that items such as plaques are not purchased with Federal Forfeiture Funds, but will be purchased with City funds in accordance with the City Purchasing Rules and Regulations.”

4. APD SHOULD FOLLOW ALL POLICIES AND PROCEDURES FOR THE DISPOSITION OF CITY PROPERTY

In February 2001 the SID Repeat Offender Project purchased ten urban assault rifles for \$18,300. Funding for these rifles was provided by a Special Appropriations Project grant from the State of New Mexico to purchase vehicles and equipment for the Albuquerque Police Department.

In June of 2002 a Captain at SID received permission from the Chief's Office to purchase one of the assault rifles for personal use upon his retirement. The Captain obtained an independent appraisal and purchased the assault rifle for \$1,500. Administrative Instruction 6-2, Section 3A states, "No City employee shall directly dispose of any City property. City property, other than real property, can only be disposed of by the City Purchasing Officer or his designee." The City Purchasing Officer reports that she was not contacted by APD to dispose of the assault rifles and based on the length of time the assault rifle was in service, would not have given authorization to dispose of the assault rifle. It appears that APD management was unaware of the policies and procedures relating to the disposal of City property.

SID management reports that all of the assault rifles were necessary, and carrying out operations is now more difficult since they are one assault rifle short.

RECOMMENDATION

APD should follow all policies and procedures relating to the disposition of City property.

EXECUTIVE RESPONSE FROM APD

“APD/SID concurs and will adhere to AI 6-2, Section 3A, which states, “No City Employee will dispose of any City property. City property, other than real property, can only be disposed of by the City Purchasing Officer or his Designee.” SID will also adhere to Department Policy, SOPs Section 3-61-1B2 regarding the purchase of badges and weapons upon retirement. SID will defer to the Chief of Police and the City’s Purchasing Officer in such matters. The Division will also comply with

Special Order 94-65, which requires officers to adhere to Brady Bill requirements when purchasing weapons for personal ownership.”

5. THE CAO SHOULD REVIEW THE LIFE CYCLE COST ANALYSIS ORDINANCE AND ADMINISTRATIVE INSTRUCTION NO. 5-10.

SID leases the facilities from which it operates. The original lease was entered into on September 1, 1994 for 10,530 square feet of office space. On September 1, 1992 the City's Chief Administrative Officer implemented Administrative Instruction No. 5-10 which requires all facilities 10,000 square feet or greater to have computer energy modeling utilizing the acceptable software programs described in the City's Energy Systems Standards Manual. In addition, the City's Life Cycle Cost Analysis ordinance, section 5-3-3 ROA states, "...The life-cycle analysis shall be made utilizing a city approved method. Computer energy modeling shall be required for facilities 10,000 square feet or greater. Conservational mechanical and electrical energy systems shall be considered." It appears that SID management was unaware of the Life-Cycle Cost Analysis ordinance and policies. The lease agreement between SID and the lessor does not contain any stipulation to ensure compliance with City ordinances or the Administrative Instruction. This is a repeat finding from audit number 03-115, Special Investigation Division, Confidential & Forfeiture Funds dated January 15, 2003.

The Office of Internal Audit has addressed this issue with SID in previous years. However, it does not appear that any attempt has been made by the administration to have SID or other departments comply with the ordinance or administrative instruction. The City's Building Maintenance Manager reports that although he is aware of the Life Cycle Cost Analysis Ordinance and the Administrative Instruction, there are no resources allocated to enforcing them.

Audit Report No. 94-129, Life Cycle Costing Compliance, dated July 26, 1994, identified that the requirements of the Life Cycle Cost Analysis Ordinance had not been implemented. At that time the Mayor/CAO Department responded that "Consideration will be given to reevaluate the ordinance...." However, the Life Cycle Cost Analysis Ordinance has not been amended since 1991.

RECOMMENDATION

The CAO should either allocate resources to ensure compliance with the Life Cycle Cost Analysis Ordinance and Administrative Instruction No. 5-10 or propose modification or removal to the City Council.

EXECUTIVE RESPONSE FROM THE CAO

“As the City continues to reduce their amount of leased space, it may be the appropriate time to review whether Administrative Instruction No. 5-10 is still appropriate. The CAO will inquire about the cost to allocate resources to ensure compliance and the benefits of such compliance. A decision can then be made with respect to modification or removal of the Administrative Instruction.”

6. SID PERFORMANCE MEASURES SHOULD REFLECT REALISTIC EXPECTATIONS

The City utilizes performance based budgeting where inputs such as appropriations require certain outputs such as arrests that will be made. The intent of performance based budgeting is to have the budget tie to the performance plan, which is approved annually in conjunction with City of Albuquerque operating budget. APD has established performance measures for SID. A comparison of projected versus actual output measures for SID is as follows for FY2003:

<u>Output Measure</u>	<u>Projected</u>	<u>Actual</u>	<u>Variance</u>
# of cases submitted to DA	900	1,116	216
Search warrants	290	307	17
Felony arrests	1,540	1,348	(192)
Misdemeanor Arrests	780	654	(124)
Vehicles seized	136	18	(118)
Firearms seized	380	393	(13)
Cash seized	\$ 2,686,320	\$ 3,074,318	\$ 387,998
Value of property recovered	\$ 777,600	\$ 1,200,000	\$ 422,400
Other agency intelligence assists	3,800	1,226	(2,574)
CIT bulletins	110	36	(74)
Surveillance hours	16,600	12,408	(4,192)
Division assists	2,680	64	(2,616)
Meth labs	120	70	(50)

SID management reports that there have been changes in the management at SID since the performance measures were developed. As a result, the current SID management has not yet developed meaningful performance measures.

RECOMMENDATION

APD/SID should develop meaningful performance measures that accurately reflect desired outcomes.

EXECUTIVE RESPONSE FROM APD

“APD/SID concurs and will work with the APD Planning Division to modify existing performance measures to more accurately reflect desired outcomes in the FY/05 budget cycle.”

CONCLUSION

By implementing the above recommendations, the APD can further improve its administration and control over Forfeiture Funds.

We appreciate the cooperation of the APD staff during the audit.

Budget Auditor

Senior Information Systems Auditor

REVIEWED and APPROVED:

APPROVED FOR PUBLICATION:

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