

**Preliminary Report**  
**Spokane City Police Department**  
**Seizure and Forfeiture Account**  
**Division of Finance – Internal Audit**  
**May 30, 2008**

**BACKGROUND:**

Through a discussion with the City Police Department, the City's Director of Accounting became aware of the existence of a Special Investigations Unit (SIU) bank account that is used for property seizures and forfeitures. Upon further investigation it was discovered that this bank account carries the City's name and tax ID, but is managed outside of the City Treasurer's custodianship for deposits, investments, and bank reconciliation. The account was originally established in the late 1980's with Old National Bank, was transferred to U.S. Bank in 1991, and was transferred to Bank of America in 1998 where it currently resides.

The authority and purpose for this account is established by state statute RCW 69.50.505, Seizure and Forfeiture, Controlled Substances. The statute authorizes any law enforcement officer of the state to seize real or personal property, including all moneys, negotiable instruments, securities, or other tangible or intangible property, which were acquired in whole or in part with proceeds traceable to a sale or exchange of a controlled substance. The statute is specific in the applicable process for seizure, forfeiture and retention of net proceeds, to be retained and used by the seizing law enforcement agency, exclusively for expansion and improvement of controlled substance related law enforcement activity.

The current balance in the checking portion of this account as of April 30, 2008 was \$40,589.10. The balance in the savings portion of this account as of April 30, 2008 was \$425,510.10. The amount of forfeitures deposited to the account and reported to the State Treasurer in calendar year 2007 totaled \$254,396. Purchases from this account totaled \$322,405 for calendar year 2007.

The account appears to be meeting the unique needs of the City Police SIU by providing a flexible and immediate means to fund and acquire undercover vehicles, surveillance equipment and other confidential investigative purchases. Procedures have been established within the Police Department and SIU to provide for accountability and management of the funds. However, this account raises a number of questions with respect to City-wide compliance and accountability that necessitate further review.

**SCOPE OF REVIEW:**

It has been determined that a preliminary review should be conducted by Internal Audit to determine where compliance and accountability issues may exist. It is important to emphasize that this is a review and not an audit. In defining the scope of this review, the greatest emphasis has been placed on reviewing compliance with state and city statutes, regulations, and requirements. While some work has been undertaken to review and assess internal controls at both the City and department level, a more detailed analysis will be needed.

## REVIEW PROCEDURE:

In order to achieve the scope and objectives of this review, a number of steps have been taken. These included interviews and discussion with the relevant representatives of Finance/Treasurer/Accounting, Police/SIU, Fleet Services and the City Clerk. Documentation was reviewed and analyzed as provided by representatives of the above departments, as well as a review of the State Auditors state-wide audit database. The past two years of bank statements, check registers, and purchasing authorizations were reviewed to determine the size, nature, and activity level of the account and to assess the level of internal controls in place for the account. A follow-up interview was conducted to assess cash handling procedures, bank reconciliation procedures, vehicle licensing and insurance, debit card usage, authorization procedures, and separation of duties.

The following state statutes were reviewed and interpreted, and were deemed to be relevant to this report and recommendations: RCW 69.50.505, Seizure and Forfeiture; RCW 10.105, Property Involved in a Felony; RCW 43.09.200, 230, 240, Local Government Accounting; and RCW 35.33, Budgets in First Class Cities Under 300,000.

The following City ordinances/municipal code were reviewed and interpreted, and were deemed to be relevant to this report and recommendations: SMC 07.03, Imprest Funds; SMC 07.06, Procurement of Goods, Services and Works; SMC 07.08, Funds; and Ordinance C-31245, Forfeitures and Contributions Fund.

## ANALYSIS AND CONCLUSIONS:

1. A special revenue fund (FMS fund 1560, Forfeitures and Contributions Fund) was created in 1994 by City Ordinance C-31245 for the purpose of accounting for monies obtained through drug seizures and forfeitures as prescribed by state statute RCW 69.50.505. Ordinance C-31245 also carries the following language: **“These monies have been handled by the Police Department in the past. This ordinance creates a new fund and will be administered, as all other monies are, by the Treasurer’s Department for greater control and for investment purposes”**.

Representatives of the Police Department indicated that this special revenue fund (FMS fund 1560) is used to deposit and account for seizures and forfeitures acquired through federal or joint policing activities, but not for those funds seized and forfeited by the city Police Department under RCW 69.50.505.

It is not known whether FMS fund 1560 has been used for its prescribed purpose at any time since 1994, but since 1998 the funds generated through seizure and forfeiture under RCW 69.50.505 have been deposited and expended through a separate City of Spokane Police Department account with Bank of America and not through the City’s central bank account(s) and accounting system. This bank account carries the City of Spokane’s tax ID, but its custody, address, and signature authority have been maintained through the Police Department. This is not in compliance with the purpose or intent as established by City Ordinance C-31245.

2. State statutes RCW 43.09.200, 43.09.230, and 43.09240 establish the requirements for a uniform system of accounting and reporting for local governments. The statutes establish the requirement that a uniform system of accounting and reporting shall include all funds collected, received, and expended for account of the public for any purpose whatsoever, and by all public officers or employees. RCW 43.09.240 further

states that every public officer and employee, whose duty it is to collect or receive payments due or for the use of the public shall deposit such monies collected or received, with the treasurer of the local government. The current structure for administering, accounting, and reporting for these funds does not comply with these State statutes.

3. State statute 35.33 establishes the regulations for the appropriation and budget control of municipal funds. Spokane Municipal Code Chapter 07.06, establishes the regulations for procurement of goods and services with City funds. Collectively these Chapters and Titles define the appropriate levels of authority and control required for authorizing and expending City funds. The current structure for administering seized and forfeited funds is not in compliance with these statutes.

4. Spokane Municipal Code chapter 07.03 authorizes imprest funds of the City of Spokane. Imprest funds may take the form of petty cash or checking. Per 07.03.010, employees designated in accordance with rules and regulations established by the Mayor, may have access to imprest funds, only to the extent that such fund is authorized by ordinance. Once established by ordinance, the Mayor has the authority to establish in writing the rules and regulations regarding disbursement, replenishment, accounting and use of imprest funds (SMC 07.03.040). The current checking account is not in compliance with SMC 07.03.

## **RECOMMENDATIONS:**

### **Compliance and Internal Control:**

In order to address the compliance issues noted above, it is recommended that appropriate steps be taken to deposit and disburse all funds from seizures and forfeitures (including funds acquired under RCW 69.50.505) in appropriate City bank accounts under the custody and investment of the City Treasurer. It is also recommended that appropriate steps be taken to record and account for these funds in the approved special revenue fund (FMS fund 1560, Forfeitures and Contributions Fund), and in accordance with State and City regulations for appropriation, financial reporting, procurement and asset management.

Some preliminary work was done to review internal control procedures, but the primary focus of this review and report has been to assess compliance issues with the SIU Seizures and Forfeitures bank account. Additional work will be needed to assess and strengthen internal controls with respect to this account at the Department level. The internal control procedures for authorizations, cash handling and separation of duties will need to be addressed further. City-wide control procedures were not in place or were bypassed in the establishment and continuance of this account. Procedures need to be developed to identify accounts that are outside of the City's custody for accounting, investing, and reporting.

Statute 69.50.505 establishes guidelines for the forfeiture of seized funds. It is clearly the intent of the law to grant discretion and authority to seizing law enforcement agencies to administer the funds to improve and expand drug-related law enforcement

activities. The investigative and undercover nature of the work of the SIU, does create unique needs that may require special procedures within the City's regulations, to assure the effectiveness and safety of the SIU. Options need to be explored that will assure regulatory compliance and appropriate internal control while recognizing the unique needs of the SIU. The current city Municipal Code does provide a level of flexibility in the use of imprest funds, and in the procurement of goods and services that should allow for the achievement of these objectives. It is recommended that representatives of the Police Department and Finance work together to establish the appropriate procedures. It may also be helpful to review the policies and procedures adopted by other municipalities to see if workable solutions are in place.

**Communication:**

Since the discussion between the Police Department and the Director of Accounting on April 17, a number of steps have been taken to evaluate the nature and use of this account and communicate to appropriate officials. The Chief Financial Officer was briefed on April 18, and apprised the State Auditor's Office, the City Administrator, and the Chief of Police on that day.

The Internal Auditor was asked to conduct a review, and together with the Director of Accounting, met with representatives of the Police Department on May 1. Follow-up discussion and evaluation was conducted by the Internal Auditor with appropriate representatives of the Police Department. A draft copy of this report was issued for review by the SIU department on May 14, and the report was issued to the Chief and her staff on May 19.

A meeting was held with the Chief of Police, the Assistant Chief, and the appropriate Majors and Lieutenant from the SIU on May 29 to answer any questions about this report and to begin the transition. It was agreed that the account is not in compliance with State and City regulations and that the account will be brought into compliance as quickly as possible. A checklist of steps to accomplish the transition was discussed. A purchasing procedure is currently being prepared for discussion and an ordinance for a checking imprest fund will need to be established and approved. The Mayor will be updated on June 2, and a meeting is scheduled with representatives from the State Auditors Office on June 4.

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