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County Treasurer's Responsibility for Trust Accounts

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County Agency Bank Accounts

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County Treasurer's Responsibility for Trust Accounts

MCL 48.40

*It **shall** be the duty of the county treasurer to **receive all moneys** belonging to the county, from whatever source they may be derived; and all moneys received by him for the use of the county, shall be paid by him only on the order of the board of supervisors, signed by their clerk, and countersigned by their chairman, except when special provisions for the payment thereof is or shall be otherwise made by law.*

District Court

Michigan Department of Treasury Uniform Chart of Accounts

Fund 760 District Court Fund--May be established by resolution of the legislative body of the local unit with the approval of the court.

Michigan Department of Treasury District Court Administration Manual

Authorizes two bank accounts for each District Court--Bond (or trust) Account and a District Control Unit Depository Account

Michigan State Court Administrative Office Michigan Court Administration Reference Guide

Section 6-05-03

A bank account in the name of the court should only be established when the account is necessary for the proper receipt and disbursement of certain revenues and funds that can not be deposited and more efficiently administered directly through the funding unit.

Authorizes three bank account types for courts--Bond and Trust Account, Court Ordered Account(s) and Depository Account.

County Treasurer's Responsibility for Trust Accounts

CIRCUIT COURT

Michigan Department of Treasury Uniform Chart of Accounts

Several balance sheet liability accounts including accounts 265 through 269.

Michigan State Court Administrative Office Michigan Court Administration Reference Guide

Section 6-05-03

A bank account in the name of the court should only be established when the account is necessary for the proper receipt and disbursement of certain revenues and funds that can not be deposited and more efficiently administered directly through the funding unit.

Authorizes three bank account types for courts--Bond and Trust Account, Court Ordered Account(s) and Depository Account.

FRIEND OF THE COURT

Michigan Department of Treasury Uniform Chart of Accounts

There is no specific fund number for a Friend of the Court Trust Fund, however, any open trust and agency fund number may be used.

Michigan State Court Administrative Office Michigan Court Administration Reference Guide

Section 6-05-03

A bank account in the name of the court should only be established when the account is necessary for the proper receipt and disbursement of certain revenues and funds that can not be deposited and more efficiently administered directly through the funding unit.

Authorizes one bank account for friend of the court offices--Friend of the Court Trust Account.

County Treasurer's Responsibility for Trust Accounts

Pursuant to the previous discussion, following is a list of bank accounts which are currently being used by the courts which should be in the county treasurer's name and be reconciled by the county treasurer or by court personnel and a copy provided to the county treasurer.

Circuit Court

Court Ordered Account(s)

District Court

Depository Account

Bond Account

Court Ordered Account(s)

Friend of the Court

Support Payment and Trust Account

Court Ordered Account(s)

Probate Court

Court Ordered Account(s)

FINANCIAL REPORTING OF ALL COURT TRUST FUNDS

Michigan Committee on Governmental Accounting and Auditing--Statement 4 Definition of the County Financial Reporting Entity

Circuit court bond and restitution transactions are currently reflected in the trust and agency fund of the county. Current accounting procedures, in most cases, do not include the deposit of support payments and other friend of the court trust money or district court bond and other court trust money with the county treasurer. These accounts are usually maintained by county court personnel in their official capacity as county court employees and the accounts should be reflected in the county financial statements as an agency fund of the county.

COUNTY SHERIFF DEPARTMENT

Michigan Department of Treasury Uniform Chart of Accounts

Several funds are established for various purposes of the sheriff department.

Funds

- 264 911 Fund*
- 265 Drug Law Enforcement Fund*
- 266 Law Enforcement Fund*
- 267 Special Investigative Fund*
- 274-*
- 287 Federal or State Grant Funds*
- 595 Concession (Commissary) Fund*
- Open Inmate Trust Fund*

Liability Accounts

- 270 Patients and Inmates Trust money*

The above funds and account are required as they apply to the specific operations. While checking accounts and cash funds may be necessary for adequate operations of the activities, those accounts and funds must be handled on an imprest basis with reimbursement based on proper documentation.

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1999-5 Drug Forfeiture Funds

August 6, 1999

TO: County Clerks, County Treasurers, County Prosecutors, County Sheriffs, County Controllers and Administrators, and City Councils, Village Councils and Township Boards and Local Law Enforcement Agencies

FROM: Richard L. Baldermann, Administrator
Local Audit and Finance Division

SUBJECT: Drug Forfeiture Funds and Cooperative Drug Agencies

The handling of funds related to the forfeiture of money and property seized and forfeited under the provisions of MCL 333.7521 through 333.7524a and the statutory references for those requirements are as follows:

1) All money, negotiable instruments, securities or any other thing of value must be deposited with the treasurer of the local unit (county, city, village or township) or other formally established legal or administrative entity into special revenue fund number 265--Drug Law Enforcement Fund (See Treasury Numbered Letter 1-87 dated January 29, 1987). The accounting and budgeting are as required by [Public Act 71 of 1919](#), as amended (MCL 21.41 to 21.53), and/or [Public Act 2 of 1968](#), as amended (MCL 141.421 to 141.440a).

MCL 333.7524(1)--When property is forfeited under this article . . . , **the local unit of government that seized the property** may do any of the following . . . :

(a) Retain it for official use.

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds and any money, negotiable instruments, securities or any other thing of value . . . that are forfeited pursuant to this article shall be deposited with **the treasurer of the entity having budgetary authority over the seizing agency**.

MCL 333.7524a(1)(e)--The total proceeds of all property forfeited under this article . . . that the local unit is required to account for and report to the state treasurer pursuant to either of the following, as applicable:

(i) Public Act 71 of 1919 . . . (MCL 21.41 to 21.53)

(ii) The uniform budgeting and accounting act, Act 2 of the Public Acts of 1968 . . . (MCL 141.421 to 440a)

2) The forfeiture must be to the **entity having budgetary authority** over the seizing agency. An entity would be a county board of commissioners, city council, village council, township board or a joint drug enforcement agency board organized pursuant to the Urban Cooperation Act of 1967 (MCL 124.501 et seq.). Police intergovernmental cooperation is authorized by a number of statutes (MCL 41.181 et seq. and MCL 123.811). Normally, those agreements are for the cooperation in law enforcement activities with the respective communities handling their own expenditures.

Attorney General Opinion No. 6561 dated January 23, 1989--" . . . in each of the foregoing statutes" (Urban Cooperation Act of 1967 [MCL 124.501 et seq.], the Intergovernmental Contracts Between Municipal Corporations Act [MCL 124.1 et seq.]) ", the contract authorized is a contract between governmental entities with participation by their governing body." ([Example Contract](#))

AGO No. 6561--"It is my opinion, . . . that a law enforcement task force may be created by legislative

bodies of governmental units and, alternatively, law enforcement agencies may function as a joint enterprise."

AGO No. 6561--"While municipalities may exercise some powers extra-territorially and while state statutes permit and, thus, municipal governments, through their governing bodies, police commissions or police commissioners may authorize cooperative activity to achieve public goals, in most cases, one would expect that there be an intergovernmental agreement or contract dealing with the establishment of costs and cost contributions, personnel and sources of personnel acquisition, and expenditures and contributions to finance expenditures. The handling and disposition of seized property would also be an appropriate subject of agreement."

3) Forfeiture may be as provided in MCL 333.7523 (referred to as an administrative forfeiture) if the property was seized without process and the total value does not exceed \$50,000. Property seized pursuant to MCL 333.7523(1)(d) shall be disposed of pursuant to MCL 333.7524.

4) Drug Law Enforcement Fund money must be used to: (1) pay the proper expenses of the proceedings for forfeiture and sale; and (2) to enhance law enforcement efforts pertaining to drug law enforcement.

MCL 333.7524(1)(b)--" . . . The proceeds and any money, negotiable instruments, securities or any other thing of value . . . that are forfeited pursuant to this article shall be deposited with the treasurer of the entity having budgetary authority over the seizing agency and applied as follows:

- (i) For the payment of proper expenses of the proceedings for forfeiture and sale . . .
- (ii) . . . The money received . . . and all interest and other earnings on money received . . . shall be used to enhance law enforcement efforts pertaining to this article . . . , as appropriated by the entity having budgetary authority over the seizing agency."

5) A budget for the Drug Law Enforcement Fund must be prepared and approved by the governing body of the local unit having budgetary control of the seizing agency or joint legal or administrative entity. An interlocal agreement, such as the attached Tri-County agreement, may specify that one participating municipality is to be, by agreement, the "local unit having budgetary control" and that the budgets and appropriations of the money in the Drug Law Enforcement Fund shall be adopted by the governing body of that municipality on behalf of all the participating municipalities.

6) Audits of the forfeiture activities and the forfeiture funds is required by MCL 333.7524a(1)(e) and (3) by reference to Public Act 2 of 1968, as amended, and Public Act 71 of 1919, as amended.

FREQUENTLY ASKED QUESTIONS-Cooperative Agencies or Activities

1. *Can the seized property be forfeited to a cooperative drug enforcement agency?*

Only if the cooperative drug enforcement agency is established as a legal or administrative entity pursuant to the Urban Cooperation Act of 1967 [MCL 124.501 et seq.] and the agreement authorizes such a distribution of the forfeitures. Alternatively, as in the Tri-County agreement, funds may be forfeited to one of the participating local units which is designated, by agreement, as the "entity having budgetary authority over the seizing agency."

2. *What must be included in an agreement established pursuant to the Urban Cooperation Act of 1967 (MCL 124.501 et seq.)?*

Pursuant to Section 5 of the Urban Cooperation Act (MCL 124.505), the agreement may include:

- a) The purpose of the agreement or the power to be exercised;
- b) The duration of the agreement and the method of withdrawing from the agreement prior to the term of the agreement;
- c) The precise organization, composition and nature of any separate legal or administrative entity

- created by the agreement (the makeup of the board representing the various local units);
- d) The manner in which the organization will be provided financial support and personnel, equipment and property;
 - e) The manner in which funds may be paid to and disbursed by the joint organization;
 - f) Additional information concerning revenue and expenditures;
 - g) The manner of employing, engaging, compensating, transferring or discharging necessary personnel (and including restrictions);
 - h) through p) finance related provisions.
 - q) Accounting and audit requirements (Public Act 2 of 1968, as amended);
 - r) Investment authorization ([Public Act 20 of 1943](#), as amended); and
 - s) Any other necessary and proper matter.

Further, Section 7 (MCL 124.507) discusses commission, board or council makeup, method of appointment and removal and other financing issues to establish a separate legal or administrative entity to implement the agreement.

3. By using the Urban Cooperation Act, is a separate legal or administrative entity established?

Not necessarily. The last section of this letter is an example of an agreement that meets the requirements of the Urban Cooperation Act. The agreement does not establish a separate legal or administrative agency but rather designates one municipality to hold and appropriate money in the Drug Law Enforcement Fund on behalf of all of the participating public agencies.

4. What officials must sign the agreement?

The agreement must be approved by a county (for township) board or city (or village) council and signed by the chairperson or other designated officer of the board or council. Representatives of the local unit's police agency and the prosecuting attorneys of participating counties may also sign the agreement.

5. What if a county (or township) board or city (or village) council will not approve an agreement?

If the board or council does not approve and sign the agreement, that unit is not a part of the cooperative drug enforcement agency or cooperative activities governed by the agreement.

6. May the joint drug enforcement agency (not a legal or administrative entity) write checks to pay its own bills?

Yes, is the treasurer and board or council of the unit holding the funds pursuant to the interlocal agreement authorize such a procedure. A separate "vendor" imprest checking accounting should be established with a minimum balance to keep the account open, perhaps \$50. The operation of the account is as follows:

Imprest "vendor" checking account--The joint drug enforcement agency board must review and approve bills for payment, prepare a voucher to the treasurer which itemizes the bills. The itemization must include date, vendor name and amount of the check. The local unit treasurer would issue a "blanket" check in the exact amount of the bills to be paid. That check would be deposited into an imprest vendor checking account (which would be in the name of the local unit treasurer and a designated police employee) and the imprest vendor checks would be issued. Prenumbered checks for the imprest vendor account are essential. The amount in this fund should at all times reconcile to the established minimum balance (perhaps \$50). The police department must provide a listing of checks and amounts issued each month for reconciliation purposes.

7. If we do not form a legal or administrative entity through the use of the Urban Cooperation Act, how do we obtain funds to pay for our operation?

Attorney General's Opinion No. 6561 dated January 23, 1989--" . . . expenditures of the controlled

substances forfeiture proceeds distributed by a court to a controlled substances law enforcement task force must be made pursuant to appropriation by the local units of government having representatives on the task force."

The controlled substances forfeiture proceeds should be distributed by a court to a city, village, township or county, not to a controlled substances law enforcement task force. The local unit governing body may then appropriate funds for the operation of the controlled substances law enforcement task force. Each participating local unit will be paying the bills applicable to them.

The intergovernmental agreement could include a provision stating that one of the local governments will handle all forfeiture funds for all participating units in the specified treasury. The expenditures of the task force would be made by the treasurer of the specified unit.

8. If we do form a legal or administrative entity through the use of the Urban Cooperation Act, what organization would perform the treasury, accounting, and bill payment functions?

That is a matter to be addressed in the agreement. There are two options.

- a) The controlled substances law enforcement task force may perform the treasury, accounting, and bill payment functions; or
- b) One of the participating units (usually the largest) may be designated in the agreement as the organization which will perform the treasury, accounting, and bill payment functions.

9. How would grant funds to the cooperative drug agency be accounted for and reported?

Grants and other revenue for drug enforcement purposes should be received by the treasurer of the local unit holding the funds of the cooperative drug agency into the Drug Enforcement Fund (when forfeitures are the required "matching funds") or into a separate special revenue grant fund which would be controlled by the cooperative drug agency (as a separate legal or administrative entity) with the same procedures used for the Drug Forfeiture Fund.

10. Liability is a major concern of the participating agencies. How should that issue be addressed?

The individual officers may be covered under their local unit's police department liability policy, however, the attorney who is assisting in the development of the agreement should be asked to review the issue and include any appropriate provisions in the agreement.

11. I am a member of a county (or township) board or a city (or village) council and the board (or council) has not entered into an agreement with other police agencies for drug enforcement purposes. May a police chief or sheriff enter such an agreement without the board's (or council's) approval?

No. The Urban Cooperation Act requires the agreement to be approved by the governing bodies of the participating units.

12. Are there any filing requirements relating to the cooperative agreement which must be complied with?

If the State Police are a participating agency, the agreement must be filed with the governor for approval. The Attorney General's Office will review the document and either return it to the agency which submitted the agreement or notify the Governor that the agreement is satisfactory as submitted.

The approved agreement must be filed with the county clerk of each county where a participant to the agreement is located and with the Secretary of State's Office. Further, the clerk of each of the participating units should receive a copy of the agreement for the participating unit's official files.

13. If our urban cooperation agreement is amended, must we again file with the above agencies?

Yes.

FREQUENTLY ASKED QUESTIONS--All Drug Law Enforcement Forfeited Property

1. Is it appropriate for prosecutors and sheriffs to agree (with each other) on how the forfeiture proceeds are to be divided between the prosecutor and the sheriff?

Not independent of the controlling budget process of the county. The forfeiture is required to be forfeited to the entity having budgetary authority over the seizing agency which would be the county (or township) board or the city (or village) council or a separate legal or administrative entity and must be placed into fund number 265--Drug Law Enforcement Fund ([See Treasury Numbered Letter 1-87 dated January 29, 1987](#)). During the county's budget process relating to the Drug Law Enforcement Fund, the sheriff and the prosecutor would be the obvious offices to prepare the budget request for consideration by the board of commissioners. If such a division is approved in the budget, two activities should be established in the Drug Law Enforcement Fund.

2. May the sheriff or police department retain a portion of the money forfeited to establish a "buy or informant" fund?

No. The full amount of the forfeiture must be deposited with the treasurer and used only as authorized by MCL 333.7524(1).

3. How may we establish a "buy or informant" fund?

Imprest "buy or informant" checking account or cash account--A request to establish a "buy or informant" account must be prepared and submitted to the local entity's (city, village, township, county or separate administrative or legal entity having budgetary control) board or council which may approve such an imprest amount as well as the amount of the imprest fund. Upon approval by the appropriate board, the local entity would issue a check from the Drug Forfeiture Fund (or General Fund); **and**

Imprest "buy or informant" checking account--The local entity's check would be deposited into an imprest checking account (which would be in the name of the local entity treasurer and a designated police employee). Prenumbered checks are essential. All payments are then made by check or the check cashed to obtain cash for the "buy or informant." It is necessary that each payment from this imprest cash fund be supported by a signed voucher. The voucher must identify the officer who receives the cash, the amount received, the case or incident number, and the seller or informant. The seller or informant should be identified by a number assigned by the department rather than by name. On the basis of such vouchers, the imprest (petty) checking account is replenished from time to time. The amount in this fund should at all times equal the balance in the bank account plus cash and paid vouchers on hand. The bank account must be reconciled monthly and should be done by the local entity treasurer's office. The police department must provide a listing of checks and amounts issued each month for reconciliation purposes; **or**

Imprest "buy or informant" cash amount--The local entity's check would be cashed by a senior officer in the department to account for the funds. All cash on hand must be held in a secure manner in a safe or locked cabinet. It is necessary that each payment from this imprest cash fund be supported by a signed voucher. The voucher must identify and be signed by the officer who receives the cash, the amount received, the case or incident number, and the seller or informant. The seller or informant should be identified by a number assigned by the department rather than by name. On the basis of such vouchers, the imprest (petty) cash amount is replenished from time to time. The amount in this fund should at all times equal the balance of cash on hand plus paid vouchers on hand. The cash amount must be reconciled at least monthly.

4. May the "buy or informant" imprest cash be used to make small operating purchases?

No. If there is a need for an imprest account for small purchases, a separate imprest cash account should be established. A request to establish a "buy or informant" account must be prepared and submitted to the local entity's board or council which may approve such an imprest account as well as the amount of the imprest fund. Upon approval by the appropriate board, the local entity would issue a check from the Drug Forfeiture Fund (or General Fund).

Imprest cash amount--The local entity's check would be cashed by a senior officer in the department to account for the funds. It is necessary that each payment from this imprest cash account be supported by a signed voucher. The voucher must identify and be signed by the officer who receives the cash, the amount received, and a vendor receipt for the supplies or materials purchased. On the basis of such vouchers, the imprest cash account is replenished from time to time. The amount in this account should at all times equal the balance of cash on hand plus paid vouchers on hand. The cash amount must be reconciled at least monthly.

5. What happens to the interest earnings on the drug forfeiture funds?

MCL 333.7524(1)(b)(ii) states that, "the money received . . . and all interest and other earnings on money received . . . shall be used to enhance law enforcement efforts pertaining to this article . . . "

The interest or other earnings on the drug forfeiture money must remain in the Drug Forfeiture Fund and be used to enhance drug law enforcement.

6. How frequently must we obtain an audit?

In accordance with Public Act 2 of 1968 (MCL 141.425), annually unless the population of the local government is below 4,000 population. Biennial audits are required for units with less than 4,000 population. The populations of the participating local units would be added together to determine the population for this purpose.

7. What should the audit cover?

The audit must be performed in accordance with Generally Accepted Auditing Standards and must include all funds of the agency as required by the Department of Treasury publication Bulletin for Audit of Local Units of Government.

8. Must an examination of the property room be included in the scope of the audit?

Yes. A review of the State Police report on the inspection of the property room would be the first step. The scope of the audit must include certain audit procedures related to the procedures used in the operation of the property room, primarily logging, locating and safeguarding the evidence. The auditor would not have to count any money being held as evidence or to be forfeited. The auditor would only want to review the process and verify that there is actually evidence in a specific location in the property room.

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