



COUNTY OF EL PASO
OFFICE OF THE COUNTY AUDITOR

BARBARA PARKER, CPA, CIA
COUNTY AUDITOR

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10-20

Downtown County Annex
320 S. Campbell, Suite 140
El Paso, Texas 79901
(915) 273-3262
(915) 273-3266 FAX

October 24, 2023

The Honorable Bill D. Hicks
District Attorney
Ste. 203, County Courthouse Building
500 East San Antonio
El Paso, Texas 79901

Dear Mr. Hicks:

A copy of a memorandum from Ms. Daisy Caballero, internal auditor certified, dated October 24, 2023, is attached. This memorandum is a report on a review of your seizure and forfeiture funds for the reporting period September 1, 2022, through August 31, 2023.

If we can be of any assistance in this regard, please let us know.

Sincerely,

A handwritten signature in blue ink that reads "Barbara Parker".

Barbara A. Parker
County Auditor

BP:DC:ya

Attachment

cc: Ms. Betsy Keller, Chief Administrator
Mr. Rene Diaz, Chief of Staff, District Attorney's Office



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MEMORANDUM

TO: BARBARA A. PARKER, COUNTY AUDITOR

THRU: MICHAEL LAMAS, COUNTY AUDITOR FIRST ASSISTANT *Michael Lamas*

THRU: JAMES O'NEAL, COUNTY AUDITOR, MANAGER SENIOR *James O'Neal*

FROM: DAISY CABALLERO, INTERNAL AUDITOR CERTIFIED *Daisy Caballero*

DATE: OCTOBER 24, 2023

SUBJECT: REVIEW OF THE DISTRICT ATTORNEY'S SEIZURE AND FORFEITURE FUNDS FOR THE REPORTING PERIOD OF SEPTEMBER 1, 2022 THROUGH AUGUST 31, 2023

Overview

A review of the District Attorney's seizure and forfeiture funds has been performed for the reporting period of September 1, 2022, through August 31, 2023. The objective of this review was to verify compliance with the requirements of *Code of Criminal Procedure, Article 59.06*.

Scope and Purpose

The proceeds and expenditures of the seizure and forfeiture funds were reviewed to ensure they were accounted for properly. The Chapter 59 Asset Forfeiture Report, copy attached, was reviewed for accuracy and completeness.

General

- Observation: While reviewing expenditures to ensure compliance with *Code of Criminal Procedure, Article 59.06* we noted the following unallowable expenditures totaling \$379.54 were bought for employee appreciation purposes:

<u>Transaction Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
9/30/2022	SAM'S CLUB	Outback \$50 GC	48.96
9/30/2022	SAM'S CLUB	Olive Garden \$50 GC (2)	95.76
9/30/2022	SAM'S CLUB	Texas Roadhouse	47.96
9/30/2022	SAM'S CLUB	Red Lobster D \$50	47.96
9/2/2022	SAM'S CLUB	Whataburger \$45 MP	42.98
10/31/2022	SAM'S CLUB	Starbucks MP \$30 (2)	57.96
10/31/2022	SAM'S CLUB	Krispy Kreme MP \$20 (2)	37.96
Total			\$ 379.54

There is no documented Commissioners Court approval for the purchase and issuance of gift cards to employees. Gift cards are considered taxable wages regardless of the cost, as per *IRS Publication 5137*. Additionally, forfeiture funds should not be used to increase a salary, expense, or allowance for an employee unless approved by Commissioners Court, as per *Code of Criminal Procedure, Article 59.06 (d-1)(7)*. Lastly, the distribution of gift cards was not documented or reported to the payroll division for tax reporting purposes. **This finding occurred during the prior District Attorney administration which was effective from January 2021 to December 2022.**

Recommendation: Every expenditure made with State forfeiture funds should be in compliance with *Code of Criminal Procedure, Article 59.06* and should have complete supporting documentation. An increase in salaries, expenses or allowances for an employee must be approved by Commissioners Court, as per *Code of Criminal Procedure, Article 59.06 (d-1)(7)*.

2. Observation: There is no documented Commissioners Court approval for the salary supplement given to a principal attorney. The salary supplement has been effective since April 30th, 2023, and it totals \$2,743.04 for the fiscal year. Salary supplements paid with forfeiture funds require Commissioners Court approval, as per *Code of Criminal Procedure, Article 59.06 (d-1)(7)*.

Recommendation: Every expenditure made with State forfeiture funds should be in compliance with *Code of Criminal Procedure, Article 59.06* and should have complete supporting documentation. Salary supplements must be approved by Commissioners Court, as per *Code of Criminal Procedure, Article 59.06 (d-1)(7)*.

Code of Criminal Procedure, Article 59.06 (c)(1) indicates that State forfeiture funds should be used by the attorney solely for the official purpose of his office. The Asset Forfeiture report is subject to random State audits. Failure to comply with Chapter 59 guidelines could result in an investigation by the State comptroller and a civil penalty of up to \$100,000. The District Attorney would also be liable for the costs of the comptroller in performing the investigation.

Summary

This financial review was designed to provide reasonable assurance that the internal control structure is adequate to safeguard the County's assets from loss, theft, or misuse. The County's internal control structure is designed to provide reasonable, but not absolute, assurance that these objectives are met. The concept of reasonable assurance recognizes that: (1) the cost of implementing the controls should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires the use of estimates and judgment by management. Because of the inherent limitations in any system of internal controls, errors or irregularities may occur and not be detected. The internal control structure of the District Attorney's Office, as it pertains to seizure and forfeiture funds, appears to be adequate.