March 13, 2019

Controller’s Office Statement Re: Drug Task Force Expenditures and Procedures

The Drug Task Force (DTF) and the expenses related to the DTF have been handled at the discretion of the Lancaster County District Attorney (DA) and DTF since the inception of the DTF. At the end of the DTF’s fiscal year (June 30th) the Controller’s office is responsible to audit the DTF and report the information to the State Attorney General’s office which has been done every year. During our audit we have access to any information needed from the DTF to complete our audit. Any questions that we have are then asked to the DTF and they are always cooperative with answering our questions and providing any additional explanation or information that is needed.

In January 2016, I was asked to complete a “Certified Resolution and Incumbency Certificate to Lease of Finance” from Toyota and confirm that there was money in the account. My belief was that this document states that Craig Stedman was the District Attorney for Lancaster County and that he has the ability to act in the authority of that position. This document is not a lease agreement. My office does not have a copy of the lease agreement for the 2016 Toyota Highlander. We are unaware who signed the actual agreement or who would be liable in the event of default. The Controller does not have the authority to sign off on leases for the county or DTF. When I signed this document, it was with the understanding that there was a vehicle being leased for the DTF fleet of vehicles and not for any specific individual. The reason for leasing the vehicle, opposed to purchasing as had been done previously, was because it was deemed to be favorable compared to purchasing a vehicle and it would allow the DTF to keep the fleet more updated. In January 2016, the county did not have a full-time county solicitor, I reviewed this document with the Controller’s office solicitor and based on follow-up questions we learned that the vehicle to be leased was a 2016 Toyota Highlander. Based on information that I received, I was under the impression that there were other individuals that were aware of this lease. The Commissioner’s office is aware of this and can address as they deem appropriate. The DTF vehicle fleet is insured under the county’s insurance policy. A listing of all vehicles covered under the county’s policy is maintained by the Commissioner’s office. This list includes the 2016 Toyota Highlander under DTF and notes that there is a three-year lease on the vehicle.
As noted in the first paragraph, the expenditures of DTF funds have always been made at the discretion of the DA. Forfeiture of Assets Act states under Section 5808(g) that “Cash or proceeds of property, subject to forfeiture under section 5802 and transferred to the custody of the District Attorney under subsection (f) shall be placed in the operating fund of the county in which the District Attorney is elected. The appropriate county authority shall immediately release from the operating fund, without restriction, a like amount for the use of the District Attorney for the enforcement of or prevention of a violation of the provisions of the Controlled Substance, Drug, Device and Cosmetic Act. The funds shall be maintained in an account or accounts separate from other revenues of the office. The entity having budgetary control shall not anticipate future forfeitures or proceeds from future forfeitures in adoption and approval of the budget for the District Attorney.” As noted, the DTF funds should not be anticipated “in adoption and approval of the budget for the District Attorney.”

During our audit we verify that funds are spent in accordance with the Forfeiture of Assets Act. Section 5807 states “Property, money or other things of value received by State law enforcement authority under any of the following laws may not be used for contributions to political campaigns, expenses related to judicial trainings or the purchase of alcoholic beverages.” There are no further restrictions on the use of funds. As noted above in Section 5808(g) states the funds should be used “for the enforcement of or prevention of a violation of the provisions of the Controlled Substance, Drug, Device and Cosmetic Act.” During our audit we verify that the expenditures are spent in accordance with the guidelines and that they are used for the enforcement and prevention of drugs.

As noted several times, the expenditure of DTF funds in Lancaster County were handled at the discretion of the DA and this has been the case since the inception of the DTF. This is the first time since I took office in November 2013 where this practice has been questioned. Based on discussion with my team I am not aware of this practice ever being questioned. The normal procurement process for the county would typically run through purchasing; however, with the DTF funds being handled at the discretion of the DA, the normal county procurement process has never been followed for the DTF. The Toyota Highlander is the only new lease that I am aware of since I took office. There are two building leases through the DTF which have been in place since 2002 and 2004. The monthly rent expenses related to these leases have never been questioned and like the Highlander lease the Controller's office does not maintain these leases. Since 2000 (as far back as we can pull the records), there have been 19 vehicles purchased using DTF funds and none of these vehicles have been handled through the county’s procurement process. There are also expenditures on an annual basis that are over the bid threshold which are handled and have always been handled at the discretion of the DA. To my knowledge none of these expenditures have ever been questioned. When this question came up two weeks ago, I reached out to the Controller’s Association to see how other counties handle the procurement process for DTF funds and the response was mixed. There are some counties where the expenditure of DTF funds are under the discretion of the DA, as Lancaster County has handled them, and other counties where the funds are handled through the county procurement process.
As noted previously, the Forfeiture of Assets Act states “Cash or proceeds of property, subject to forfeiture under section 5802 and transferred to the custody of the District Attorney under subsection (f) shall be placed in the operating fund of the county in which the District Attorney is elected.” Any proceeds that are received by the DA are placed into the Lancaster County General Fund bank account (the operating bank account of the county). Any payments that are made from the General Fund bank account, which would include DTF disbursements, are approved by the Commissioners, Controller, and Treasurer as part of the weekly accounts payable process. The weekly check register that is provided includes information about the payments that are being made that week.

When DA Stedman brought the mileage reimbursement error to my attention, I reviewed it with my team so that we could decide how to proceed and handle the process in the same way as any previous similar situations. He offered an explanation and followed up that explanation with a memo which we felt was a reasonable explanation. The error that DA Stedman noted was that he used both county and personal vehicles and he handled the mileage for both of them the same. The county’s expense form is set up in a way where the employees drop in the mileage and the amount is automatically calculated. When he brought this to our attention we went back and reviewed his expense reports for the period of time he thought was an issue. Given that the issue was over a three-year period we worked with DA Stedman to determine which expenditures were related to his personal vehicles and which ones were related to the county vehicle. We then used the mileage reimbursement rate, the vehicle’s miles per gallon, and an average gas price to do the calculation. Because of the period of time we were looking at we felt this was a reasonable solution to the issue. At the end of the review we met with DA Stedman and he wrote a check to the county for the determined amount. We held the check until I had a chance to review the proposed resolution with the county solicitor. Once we reviewed it and no issues were noted we deposited the check. The Controller’s office handled this situation just like we would in any other situation of this nature. We review the available information to determine what we feel is the best way to handle the process and come to a resolution. Once we determine we have the information we need to come up with a resolution, we present it to the necessary parties. This was a very unique situation because there are not many, if any, county employees that would be using both personal and county vehicles in the way which DA Stedman uses them. During 2016 the Controller’s office completed a travel expense audit and DA Stedman was one of the employees selected during that audit. During that audit there were no mileage calculation concerns noted for DA Stedman.