

Drug Fund Records and Reports

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

Table of Contents

Drug Fund Records and Reports	3
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Reference Number: MTAS-354

Quarterly Report to City Recorder

Although the police chief has control of the confidential funds checking account, the comptroller requires the police chief to be accountable for drug funds transferred into it. Quarterly reports concerning account activity are to be completed by the police chief or designee and submitted routinely to the city recorder. Report R-2 is provided by the comptroller for this purpose. It requires the beginning balance of confidential funds maintained by the police department, the amount of funds received, the amount of funds disbursed, and the ending balance. The city recorder and the police chief shall keep copies of the reports on file. As of 2019, the comptroller's office is not requiring agencies to submit the quarterly report to the city recorder.

Annual Report of Drug Related Investigations and Cases Developed from Use of Local Drug Funds

A former statutory requirement that the law enforcement agency prepare an annual report to the district attorney general has been repealed. However, the police chief is accountable to the local legislative body for the proper disposition of the proceeds of goods seized and forfeited under the provisions of T.C.A. § 53-11-451 and for the fines imposed under T.C.A. § 39-17-428. An annual *audited* report of such funds shall be submitted by the chief of the municipal law enforcement department to the local legislative body. In years when the Office of the Comptroller of the Treasury conducts an audit, if any, the audit satisfies this requirement. If no audit is conducted by the Office of the Comptroller of the Treasury, *then an audit shall be performed by a certified public accountant to satisfy this requirement.*

The annual city audit satisfies this requirement.

The governing body of the law enforcement agency responsible for the investigation and arrest that resulted in the drug conviction shall submit to the comptroller, by August 1 of each year, a report of funds collected and paid to the General Fund of the governing body pursuant to this section. This report shall show the amount of money spent on drug education and drug treatment.

Availability of Records and Reports for Audit

Activity of the confidential portion of the Drug Fund enjoys a certain amount of protection from the Open Records Law. However, this doesn't mean that the records are completely exempt from outside scrutiny during the annual audit. By law, all of the books and records involving confidential funds shall be subject to inspection and audit by the Comptroller of the Treasury or his authorized representative *except* for informant files, tapes involving undercover operations and evidence. Of course, this right to inspection and audit extends to the independent public accountant performing an audit under a contract approved by the comptroller.

Unaccounted for Confidential Funds

Cash handling procedures for confidential funds are designed to account for all Drug Fund resources used by agents during drug investigations. Unfortunately, situations arise in which confidential funds are left unaccounted. In this event, the police chief must immediately inform the district attorney general of the missing funds. This notification must be in writing, and a copy should be filed with the Division of Local Government Audit with the Comptroller of the Treasury. Furthermore, it is the responsibility of the police chief to initiate action to collect any funds that are unaccounted for.

Maintaining Informant Files

Procedure requires the law enforcement agency to establish and maintain a separate file for each informant. The Summary Informant Payment Log, Form A-6, shall be kept in the file and made available for audit. Other information regarding the informant file normally is confidential.

Use of Funds by a Secondary Agency

From time to time, one law enforcement agency may seek the assistance of another agency while performing drug investigations. This may involve the need to transfer Drug Fund resources from one agency to another. This practice is acceptable when the agency providing confidential funds receives a contract or other written document from the receiving agency acknowledging receipt of the funds and accepting responsibility for the proceeds. This written acknowledgment shall be signed by the police

chief or designee of both the agency receiving the funds and the agency providing the funds. Copies of all such agreements shall be retained for audit by both agencies.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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