

Drug Fund Guidelines

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,

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Drug Fund Guidelines

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DRUG FUND “CHEAT SHEET”

by Rex Barton, Police Management Consultant

[The Drug Fund is a] special revenue account authorized by T.C.A. § 39-17-420: “All fines and forfeitures of appearance bonds ... and the proceeds of goods seized and forfeited ... and disposed of according to law, shall be accounted for in a special revenue fund of the jurisdiction that initiated the arrest. All financial activities related to funds received under this part shall be accounted for in this fund.” Fines are further controlled by T.C.A. § 39-17-428 as specified below. Listed below are some guidelines that cities should use (and are required to by law) in accounting for these funds.

The account is under the control of the city recorder. The police chief and the mayor or chief executive officer will recommend a budget for the special revenue fund to be approved by the governing body. It is best to budget for all the money in the account. You do not have to spend the money, but you cannot spend money that has not been appropriated. Any money left over at the end of the year will carry over to the next year’s fund balance. You need to ensure that you keep an amount in the account equal to at least 20 percent of the revenues coming in. You can spend only as much money as you have budgeted, and you can spend only as much money as is in the account. In other words, you can’t spend money that you anticipate receiving until you have actually received it.

REVENUES – Allowable deposits of funds into the Drug Fund Account.

A. **Fines for drug offenses.** The Sessions or Criminal Court returns fines for all drug offenses to the city. The city deposits 50 percent of fine revenue into the drug fund and 50 percent into the city’s general fund. Note: the 50/50 split applies ONLY to drug offense fine revenue. T.C.A. § 39-17-428 specifies certain minimum fines for different classifications of most drug charges.

B. **Forfeited cash.** Any cash seized pursuant to the drug control laws that is ultimately awarded to the city goes into the drug fund pursuant to T.C.A. § 53-11-451.

C. **Proceeds from the sale of items seized pursuant to the drug laws that are ultimately forfeited to the city.** All proceeds from the sale of these items go into the drug fund pursuant to T.C.A. 53-11-451. The items themselves, usually vehicles, may be used for drug enforcement activities. They cannot be used for other city activities, such as using a forfeited pick-up truck at the wastewater treatment plant.

D. **Contributions.** As part of a plea bargain, there may be some amount of money contributed to the city’s drug fund. Civic organizations also may contribute funds.

E. **Budget allocations.** The governing body may allocate general fund money to the drug fund.

EXPENDITURES – Allowable uses for funds in the Drug Fund Account.

A. **Local drug treatment programs.** Drug fund money can be used to fund local drug treatment programs. Expenditures must be made in accordance with local purchasing guidelines.

B. **Drug education.** The drug fund can be used to fund drug education programs. Typical examples are the D.A.R.E. program, anti-drug magazines or literature, and anti-drug billboards.

C. **Drug enforcement.** The drug fund can be used for any legitimate drug enforcement activity, operational or capital. Although we strongly recommend against it, drug enforcement salaries may be paid from the drug fund.

There are two types of drug enforcement expenditures: regular and confidential. Regular drug enforcement expenditures include the purchase of surveillance equipment and drug identification kits, maintenance on a narcotics officer’s vehicle, and drug enforcement officers’ monthly cell phone bills, etc. Confidential expenditures include money paid to informants; gasoline for informants’ vehicles; and money spent purchasing drugs, etc.

D. **Non-recurring general law enforcement expenditures.** Generally, but not always, these are fixed asset purchases. These expenditures do not have to be related to drug enforcement, but they cannot be operational expenditures. Legitimate examples include vehicles, standard equipment for the vehicles, body armor, weapons, and computers.

Examples of items that cannot be purchased as non-recurring general law enforcement purposes are uniforms, ammunition, general law enforcement officer's cell phone bill or salary, and jackets for the police department.

ACCOUNTING FOR DRUG FUND MONEY – Required accounting practices for the Drug Fund Account

A. **Special Revenue Account.** ALL revenues destined for the drug fund MUST go into a special revenue account under the control of the city recorder.

The special revenue account should be handled in the same way as other special revenue accounts such as those for state street aid.

With the exception of confidential expenditures, all expenditures MUST follow the city's purchasing guidelines.

B. **Confidential expenditures.** Confidential money must be accounted for according to Procedures for Handling Cash Transactions Related to Undercover Investigative Operation of County and Municipal Drug Enforcement Programs prepared by the comptroller's office.

Generally, for confidential expenditures the police chief requests that the city recorder write him/her a check from the Drug Fund Account. The chief then deposits the check into a separate bank account over which the chief has control. Next, the chief writes a check to an undercover agent/officer who cashes the check. The police department should limit the funds kept in the checking account to no more than an estimated 45-day supply. Unused funds should be returned to the recorder. The police department will generally keep SOME funds in the account or may keep cash for immediate needs.

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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