WEST VIRGINIA CODE: §60A-7-708

§60A-7-708. Bookkeeping procedures and internal controls.

(a) Any law-enforcement agency or office in this state, including, but not limited to, an "appropriate person" as identified in §60A-7-703(b), excluding prosecuting attorneys, who seizes or receives forfeited moneys, securities, negotiable instruments, items subject to forfeiture in accordance with §60A-7-703(a) of this code, or other property under the provisions of this article shall account for the same in the following manner:

(1) Maintain any items of property subject to forfeiture in accordance with §60A-7-704(d) of this code, including, but not limited to, moneys, securities, negotiable instruments, or other items and property identified in the same manner as the agency's appropriated funds. Bank accounts, checkbooks, purchase cards, and other financial instruments or documents must be maintained in the same manner as appropriated funds;

(2) Establish a segregated account or accounting codes to track both revenues and expenditures for each respective program. No other funds may be commingled in these accounts or with these accounting codes;

(3) Process all expenditures and payments in the same manner as appropriated funds, including procurement and payment transactions;

(4) In accordance with the provisions of §60A-7-704(d)(4) of this code, in the case of seized moneys, securities, or other negotiable instruments, place the assets in an interest-bearing depository insured by an agency of the federal government. Deposit all interest earned on equitable sharing funds into the respective account or accounting code. All interest is subject to the same use restrictions as equitable sharing funds. Losses to funds maintained in investment accounts in accordance with the jurisdiction's policies may not be allocated to or deducted from the equitable sharing account;

(5) Develop, maintain, and follow written policies for accounting, bookkeeping, inventory control, and procurement that comply with the applicable jurisdiction policies. Ensure distribution of relevant policies to all appropriate personnel;

(6) Maintain records of all revenue and expenditures posted to the account or accounting code, to include bank/ledger statements, invoices, receipts, required jurisdiction approvals, or any other documents used or created during the procurement and disposition process;

(7) Report all transactions using cash-based accounting methods;

(8) Dispose of items purchased with shared funds in accordance with the agency's disposal policies. To the extent practicable and, if consistent with the agency's procurement and disposal polices, deposit proceeds from the sale of such property into the agency's sharing

WV Legislature

account or accounting code. If an item has minimal or no value, an agency may donate the item to a recipient of its choice if permitted under the agency's disposal policies;

(9) Ensure the agency head, or designee, authorizes all expenditures from the sharing accounts; and

(10) Obtain approval for expenditures from the governing body, such as the county commission, town council, or city manager's office, when required under normal established jurisdiction accounting procedures.

(b) Any law-enforcement agency or office in this state, excluding prosecuting attorneys, receiving forfeited moneys, securities, negotiable instruments, real property, personal property, or other property under the provisions of this article shall report the same to the State Auditor. For each seizure only one report shall be filed by the agency that made the seizure. All agencies receiving forfeited property shall report disposition and expenditures of any proceeds of that property. Reports shall be filed in the following manner:

(1) Name of the law-enforcement agency or office that seized the property, or if seized by a multijurisdictional task force, the name of the lead agency;

(2) The time and date the property was seized;

(3) The type of property seized, whether real or personal;

(4) The actual or estimated value of the property seized;

(5) The property's final disposition, including the amount received if the property was sold, or if the property was put to use on behalf of a law-enforcement agency or office, the identity of the agency or office that took possession and use of the property;

(6) Whether forfeiture was made by settlement agreement;

(7) Whether any procedure for forfeiture was initiated in accordance with the provisions of §60A-7-705 of this code, or other identifying information sufficient to permit acquisition of any available public records related to the forfeiture procedure and disposition of the forfeited property;

(8) The disposition of any action under the provisions of §60A-7-705 of this code;

(9) If an arrest was made;

(10) Whether any charges brought against a defendant in conjunction with a seizure pursuant to this article resulted in deferred action, conviction, plea deal, acquittal, or ongoing criminal case;

(11) When an administrative forfeiture procedure has been initiated pursuant to the

WV Legislature

provisions of §60A-7-705a of this code, provide designated information contained in the administrative forfeiture notice;

(12) The total value of seized and forfeited or property held by the agency at the end of the reporting period; and

(13) A copy of the United States Department of Justice's Equitable Sharing Agreement and Certification - Annual Certification Report shall be provided to the State Auditor no later than October 31 each calendar year.

(c) The State Auditor shall establish and maintain a searchable public website that includes the aggregate information submitted by any law-enforcement agency or office required under subsection (b) of this section: *Provided*, That the State Auditor's website must not provide individual case details on its public website.

(d) The State Auditor, before December 31 of each year, shall submit to the Speaker of the House of Delegates, the President of the Senate, the Attorney General, and the Governor a written report summarizing activity in the state for the preceding fiscal year on the type, approximate value, and disposition of the property forfeited and/or seized and the amount of any proceeds received or expended at the state and local levels. The report shall provide a categorized accounting of all proceeds expended. Summary data on seizures, forfeitures and expenditures of forfeiture proceeds shall be disaggregated by agency.

(e) In the course of preparing its annual report, the State Auditor may, in its discretion or for good cause shown, perform a financial audit of records related to inventory of seized property and expenditures of forfeiture proceeds by any law-enforcement agency or office in this state. This audit shall be conducted under the Generally Accepted Government Auditing Standards (GAGAS). A copy of the financial audit report shall be submitted to the State Auditor no later than 90 days after its initiation. The State Auditor shall submit a copy of the financial audit report to the Speaker of the House of Delegates, the President of the Senate, the Attorney General and the Governor.

(f) If, in the course of a calendar year, any law enforcement agency or office that secures seized or forfeited assets valued in excess of 50 percent of the prior year's total seized or forfeited assets, or expends more than 50 percent of the prior year's total expenditures of forfeited assets, shall so advise the State Auditor, who shall perform a financial audit under the Generally Accepted Government Auditing Standards (GAGAS) of records related to inventory of seized property and expenditures of forfeiture proceeds. A copy of the final audit report shall be submitted to the State Auditor no later than 90 days after the end of the fiscal year and shall be made public.

(g) The State Auditor may recoup its costs under this section by charging a fee.

(h) The State Auditor may include in its aggregate report required by subsection (d) of this section recommendations to improve statutes, rules, and policies related to seizure,

WV Legislature

forfeiture, and expenditures. The aggregate report shall be made available on the State Auditor's website.

(i) If a law-enforcement agency fails to timely file the report identified in subsection (b) of this section the State Auditor shall immediately notify the law-enforcement agency that the report has not been received.

(j) The State Auditor may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement this section.

(k) The data and reports compiled and prepared under this section are public information under the West Virginia Freedom of Information Act, chapter 29B of this code.

(l) This section is effective for the reporting period starting January 1, 2021.

(m) Nothing provided in this section would prevent a court of competent jurisdiction from sealing records otherwise made available under the provisions of this section.

WV Legislature