



**CITY OF PITTSBURGH
DEPARTMENT OF LAW
INTEROFFICE MEMORANDUM**

TO: Michael Huss, DEPARTMENT: Public Safety
Director

FROM: Daniel D. Regan, DEPARTMENT: Law
City Solicitor *DDR*

DATE: April 1, 2013

RE: Confiscated Narcotics Proceeds Imprest Fund

This Memorandum addresses the Bureau of Police's (Bureau) use of funds received from the Confiscated Narcotics Proceeds Imprest Fund (CNPIF). This Memorandum updates a December 29, 2009 memorandum that was sent to Controller Michael Lamb regarding use of CNPIF funds.

As noted in the 2009 memorandum, the CNPIF was created pursuant to City Council Resolution 1070, effective December 22, 1987. That Resolution "authorized and directed the City Controller to create an Imprest Fund, to be designated as the Confiscated Narcotics Proceeds Imprest Fund...and authorizing the use of funds deposited therein by the Department of Public Safety for any and all expenses associated with investigations of narcotics violations." City Council Resolution 978, effective December 15, 1989, amended Resolution 1070 by authorizing the issuance of warrants from time to time upon invoice in order to "maintain a balance of \$30,000.00" in the CNPIF.

As noted in the 2009 memorandum, Resolution 1070 clearly states that the Bureau is only authorized to use CNPIF funds for expenses related to the investigation of narcotics violations. This was not altered by Resolution 978 of 1989, or any subsequent ordinances or resolutions enacted by the City.

The 2009 memorandum, however, did not address whether the City's restriction on the use of the CNPIF funds was mandated by federal law or guidelines. A review of these sources reveals no such federal restrictions.

21 U.S.C.A. §881 (e)(1)(A) authorizes the U.S. Attorney General to transfer forfeited property "to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property." §881 (e)(3) requires that the Attorney General ensures that such forfeited property "has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the

forfeiture,” and that it “will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.”

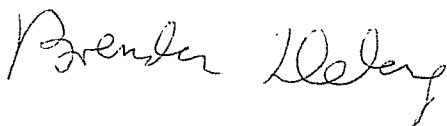
19 U.S.C.A. § 1616a (c)(1)(B) authorizes the U.S. Secretary of the Treasury to transfer forfeited property “any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.”

The U.S. Attorney General's Guidelines on Seized and Forfeited Property (dated July 1990) (Guidelines) guide federal agencies in the distribution of such property. These Guidelines note that “pursuant to 21 U.S.C. §881(e)(1) and 19 U.S.C. §1616a, as made applicable by 21 U.S.C. §881(d) and other statutes, the Attorney General has the authority to equitably transfer forfeited property and cash to state and local agencies that directly participate in the law enforcement effort leading to the seizure and forfeiture of the property.”

Section V of the Guidelines presents a series of rules regarding such transfers, including requirements that “all property transferred to state and local agencies and any income generated by this property shall be used for the law enforcement purposes specified in the request,” and that “cash and property shall be equitably shared with a state or local agency only where it will increase and not supplant law enforcement resources of the specific state or local agency that participated in the forfeiture.” The Guidelines, however, do not require that the property transferred be limited to expenses associated with investigations of narcotics violations.

Thus, the requirement that CNPIF funds be limited to narcotics investigations is a limitation arising from a City Council resolution, and is not required by federal law or guidelines. It is therefore recommended that the City’s requirements with regard to such funds be amended to become more consistent with federal law.

Submitted by



Brendan Delaney
Assistant City Solicitor