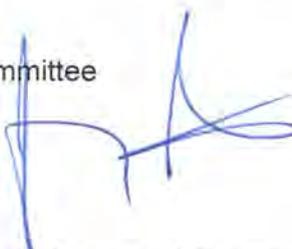


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COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee

FROM: Jimmy L. Morales, City Manager 

DATE: July 22, 2016

SUBJECT: Proposed FY 2016/17 Uses of Law Enforcement Trust Funds

At the July 6th Finance Citywide meeting the Committee requested the guidelines for the uses of the Law Enforcement Trust Funds. This information is included below.

Background

As of July 1, 2016, significant changes to the State of Florida forfeiture statutes (Florida Contraband Forfeiture Act) have taken effect. These legislative changes include multiple additional impediments to all seizing agencies throughout the State of Florida, including the City of Miami Beach Police Department ("MBPD"). Consequently, and as a direct result of these legislative changes, it will be far more expensive and difficult for MBPD to forfeit property with a greater exposure to attorney fees and costs to the Claimants of such seized property. Furthermore, even once property is forfeited, MBPD will have to donate a greater percentage of such forfeitures as outlined below. Some of the more important changes to the Florida Contraband Forfeiture Act ("FCFA") include:

1. Filing Fee – The Seizing Agency must pay a "filing fee" of at least \$1,000 to file a civil forfeiture case (The filing fee used to be \$401).
2. Bond – The Seizing Agency now must deposit a bond of \$1,500 to the Clerk of the Courts with every filed civil forfeiture case. (This never used to be a requirement at all).
 - a. \$1,500 Bond must be payable to the Claimant (whose property was seized) and if the Claimant wins the civil forfeiture case at any point, he/she gets to keep the seizing agency's \$1,500 Bond.
3. Burden of Proof – The Seizing Agency must now prove its forfeiture case to the legal standard of "beyond a reasonable doubt". The previous standard was merely "clear and convincing" evidence and all other civil cases (besides forfeitures) only require a lowly "preponderance of the evidence" standard of proof.
4. Attorney's Fees – The Court shall award Attorney's Fees up to \$2,000 to the Claimant's Attorney if, after the adversarial preliminary hearing, the Court finds no probable cause for the seizure (this used to be only \$1,000).
 - a. Court can award additional Attorney's Fees to the claimant's attorney if, at any time, the Court finds the seizing agency didn't proceed in good faith or grossly abused its discretion.

- b. Nothing precludes claimant/attorney from seeking attorney's fees and costs under Chapter 57 or any other applicable law.
5. Claimant Costs – The Court shall also require the seizing agency (MBPD) to pay to the Claimant any reasonable loss of value when the Claimant prevails at trial or on appeal. Additionally, the Court shall also require the seizing agency (MBPD) to pay to the Claimant any loss of income directly attributed to the continued seizure of income-producing property during the trial or appellate process. (This never used to be a requirement)
 6. Donation of Forfeited Funds – If \$15,000 or more is forfeited to MBPD in any single year, MBPD must donate or expend at least 25% of such funds to drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program/s. (This requirement only used to be 15%)

Law Enforcement Trust Fund Usage

Utilization of Remaining Funds Forfeited under the Florida Contraband Forfeiture Act: The Florida Legislature has also determined that any revenues generated under the FCFA, must only be utilized for certain expenditures such as school resource officer, crime prevention, safe neighborhood, drug abuse education and prevention programs, or for other law enforcement purposes, which include defraying the costs of protracted or complex investigations, providing additional equipment or expertise, purchasing automated external defibrillators for use in law enforcement vehicles, and providing matching funds to obtain federal grants.

Utilization of Federal Forfeiture Funds: Under the Guide to Equitable Sharing, the U.S. Department of Justice and the U.S. Treasury have outlined various permissible expenditures and uses of equitably shared Federal forfeiture funds by State and Local law enforcement agencies. Such permissible uses include, but are not limited to: law enforcement investigations; law enforcement training; law enforcement and detention facilities; law enforcement equipment; law enforcement travel/transportation; law enforcement awards and memorials; and drug and gang awareness programs.

Proposed FY 2016/17 Uses of Law Enforcement Trust Funds

Florida Statute 932.7055 provides for expenditures of forfeiture funds for law enforcement purposes. The Miami Beach Chief of Police, Daniel Oates, has reviewed and identified the need for the FY 2016/17 appropriation and has established that the expenditures of forfeiture funds are in compliance with Section 932.7055, Florida State Statutes, and the Guide to Equitable Sharing of Federally Forfeited Property for Local Law Enforcement Agencies. These forfeiture funds have been deposited in the Police Confiscation Trust Fund.

Attachment A provides the proposed uses of Law Enforcement Trust Funds for FY 2016/17.

The September 30, 2015 available balances, net of FY 2015/16 appropriations plus actual confiscation revenues as of June 30, 2016, are approximately \$265,135 in Federal funds and \$271,752 in State funds. Based on these available balances, the proposed FY 2016/17 request from Federal funds totals \$215,000 and \$121,000 from State funds for a total of \$336,000.

Conclusion

The City administration is recommending funding for proposed FY 2016/17 uses of Law Enforcement Trust Funds as shown in Attachment A.

Attachment A

JLM/CGR



Attachment A

**Miami Beach Police Department
Confiscations - Federal & State Funds
FY 2016/17 Budget Request**

FEDERAL FUNDS:

Federal Funds - (603)

	FY 2016/17 Dept. Request
Organizational Development Travel & Off-site testing	\$ 70,000
Training Supplement to supplement LETTF	\$ 70,000
Bulletproof Vest Partnership	\$ 50,000
Graffiti eradication through Teen Job Corp.	\$ 25,000
Gym Equipment	\$ -
Total Funds (603)	\$ 215,000

STATE FUNDS:

State Funds - (607)

	FY 2016/17 Dept. Request
Costs connected with the prosecution/processing of forfeitures.	\$ 40,000
Crime Prevention initiatives & School Liaison Projects	\$ 20,000
AR Rifle Program/Initiative - City's match for reimbursement of rifles at \$500.	\$ 15,000
25% of State Funds collected in FY15 to be used for drug abuse treatment, drug and crime prevention education and non-profit community based programs.	\$ 36,000
Gym Equipment	\$ 10,000
Total Funds (607)	\$ 121,000

Total Federal & State Funds

\$ 336,000