

CONFIDENTIAL FUNDS POLICY AND PROCEDURES

Agency:**Policy Title:** Confidential Funds Policy and Procedures**Effective Date:****Scope:** All Members**Standard:** Section 3.12 of the DOJ Grants Financial Guide

POLICY: The funds authorized will be established in an imprest fund which is controlled by a bonded cashier.

The supervisor of the unit to which the imprest fund is assigned must authorize all advances of funds for the purchase of information. In the authorization the supervisor must specify the information to be received, the amount of expenditures, and the assumed name of the informant.

Informant files are confidential files of the true names, assumed names, and signatures of all informants to whom payments of confidential expenditures have been made. To the extent possible, pictures and/or fingerprints of the informant payee(s) should also be maintained. In the RISS Program, the informant files are to be maintained at the member agencies only. Project headquarters may maintain case files.

The agent or officer authorized to make a confidential payment will provide the cashier with a receipt for cash advanced for such purposes. The informant payee must provide the agent or officer a receipt for cash paid to them.

An informant payee receipt must identify the exact amount paid to and received by the informant payee on the date executed. Cumulative or anticipatory receipts are not permitted. Once the receipt has been completed, no alteration is allowed. As shown in the sample above, the agent must prepare an informant payee receipt containing all of the following information:

1. The jurisdiction initiating the payment
2. A description of the information/evidence received
3. The amount of payment in both numerical and word format (e.g., one hundred dollars [\$100.00])
4. The date on which the payment was made
5. The signature of the informant payee
6. The signature of the case agent or officer making payment
7. The signature of at least one other officer witnessing the payment
8. The signature of the first-line supervisor authorizing and certifying the payment

The signed receipt from the informant payee with a memorandum detailing the information received must be forwarded to the agent or officer in charge.

The agent or officer in charge must compare the signatures.

He/she must also evaluate the information received in relation to the expense incurred and enter his/her evaluation remarks in the report of the agent or officer who made the expenditure from the imprest fund.

The certification will be witnessed by the agent or officer in charge on the basis of the report and informant payee's receipt.

Each Project Director must prepare a reconciliation report on the imprest fund on a quarterly basis.

The reconciliation report must include the assumed name of each informant given and to what extent each informant contributed to the investigation.

The recipient should retain the reconciliation report in its files and have it available for review.

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Subrecipients should retain the reconciliation report in their files and have it available for review unless the State agency requests that the report be submitted to them on a quarterly basis.

Each Project Director and member agency must maintain specific records of each confidential fund transaction.

At a minimum, these records must consist of all documentation concerning the request for funds, processing (including the review and approval/disapproval), modifications, closure or impact material, and receipts and/or other documentation necessary to justify and track all expenditures.

In projects where award funds are used for confidential expenditures, please note that all of the above records are subject to the record retention and audit requirements of the awarding agency and program legislation.

However, only under extraordinary and rare circumstances would such access include a review of the true name of confidential informants.

When access to the true name of confidential informants is necessary, appropriate steps to protect this sensitive information must and will be taken by the organization, the awarding agency, and the auditing agency.

Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by both the OJP Program Office Head and the OJP Chief Financial Officer.

A. Informant Files

A separate file should be securely established for each informant for accounting purposes.

Informant files should be kept in a separate and secure storage facility and under the exclusive control of the Project Director, manager, or an employee designated by him/her.

The facility should be locked at all times when unattended.

Access to these files should be limited to those employees who have a necessary and legitimate need.

An informant file should not leave its immediate area within the storage facility, except for review by a management official or the handling agent, and should be returned prior to the close of business on the day of its review.

Sign-out logs should be kept indicating the date, informant number, time in and out, and the signature of the person reviewing the file.

Each file should include the following documentation:

1. Informant Payment Record easily accessible on top of the file. This record provides a summary of informant payments.
2. Informant Establishment Record, including complete identifying and locating data, plus any other documents connected with the informant's establishment.
3. Current photograph and fingerprint card (or Federal Bureau of Investigation [FBI]/State criminal identification number).
4. Agreement with cooperating individual.
5. Receipt for P/I.
6. Copies of all debriefing reports (except for the headquarters case file).

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7. Copies of case initiation reports showing the use of an informant (except for the headquarters case file).
8. Copies of statements signed by the informant (unsigned copies will be placed in appropriate investigative files).
9. Any administrative correspondence pertaining to the informant, including documentation of any representations made on his behalf or any other nonmonetary considerations furnished.
10. Any deactivation report or declaration of an unsatisfactory informant.

B. Regional Information Sharing Systems (RISS) Program

RISS is a national federally funded program of regionally oriented services designed to enhance the ability of local, State, Federal, and tribal criminal justice agencies to:

Identify, target, and remove criminal conspiracies and activities spanning multijurisdictional, multistate, and sometimes international boundaries.

Facilitate rapid exchange and sharing of information among the agencies pertaining to known suspected criminals or criminal activity.

Enhance coordination and communication among agencies that are in pursuit of criminal conspiracies determined to be interjurisdictional in nature.

C. RISS Processing Procedures

The agency must provide a statement agreeing to establish control, accounting, and reporting procedures consistent with the procedures outlined in this chapter. The project policy board establishes the maximum level the Project Director may authorize in disbursements to member agencies.

The Project Director, or his/her designee, may authorize payment of funds to member agencies and their officers for P/I and evidence up to this maximum level.

The Project Director must refer all requests for amounts in excess of the maximum level to the project policy board for review and approval.

Any member agency requesting funds from the project will do so in writing. The request must contain the amount needed, the purpose of the funds, and a statement that the funds requested are to be used to further the project's objectives.

The Project Director, or his/her designee when appropriate, will approve or disapprove the request in writing.

If approved, the request will be forwarded to the project cashier, who will record the request and transmit the monies, along with a receipt form, to the member agency.

Upon receipt of the monies, the member agency will immediately sign and return the receipt form to the cashier.

Each Project Director must record and maintain on file the assumed name and signature of all informants to whom member agencies make payments from project funds for all transactions involving P/I.

The original signed informant payee receipt, with a summary of the information received, will be forwarded to the Project Director by the member agency.

The Project Director will then verify the receipt by comparing the signature of the informant payee on the receipt with the signature maintained by the project in a secure and confidential file.

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If discrepancies exist, the Project Director, or his/her designee, will take immediate steps to notify the member agency and find out the reason(s) for the discrepancies.

The member agency must forward written justification to deal with discrepancies identified by the Project Director. If the justification is sufficient, it will be attached to the informant payee receipt.

D. Informant Management and Utilization

Anyone used as an informant should be identified as such. The specific procedures required in establishing a person as an informant may vary from jurisdiction to jurisdiction but, at a minimum, should include the following:

Assign an informant code name to protect the informant's identity.

Create an informant code book controlled by the Project Director or their designee containing:

1. Informant's code name;
2. Type of informant (i.e., informant, defendant/informant, restricted-use informant);
3. Informant's true name;
4. Name of establishing law enforcement officer;
5. Date the establishment of the informant is approved; and
6. Date of deactivation.

Establish each informant's files in accordance with the documentation listing under the Informant Files section of this chapter.

Search all available criminal records for informants.

1. If a verified FBI number is available, request a copy of the criminal records from the FBI.
2. Where a verified FBI number is not available, fingerprint the informant and send a copy to the FBI and
3. appropriate State authorities for analysis.
4. The informant may be used on a temporary basis while awaiting a response from the FBI.

Review all active-status informant files on a quarterly basis to assure they contain all relevant and current information.

Where a substantive fact that was earlier reported on the Establishment Record is no longer correct (e.g., a change in criminal status or in means of locating the informant), a supplemental establishing report should be submitted with the correct entry.

E. Payment to Informants

Anyone who receives payments charged against P/E or P/I funds should be established as an informant.

This includes anyone who may otherwise be categorized as a source of information or an informant under the control of another agency.

The amount of payment should match the value of services and/or information provided and should be based on the following factors:

1. The level of the targeted individual, organization, or operation.
2. The amount of the actual or potential seizure.
3. The significance of the contribution made by the informant to the desired objectives.

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Payments to informants may be made under various circumstances:

1. When an informant assists in developing an investigation, either through supplying information or actively participating in it, they may be paid for their service either in a lump sum or in staggered payments. Payments for information leading to a seizure, with no defendants, should be on a minimum basis.
2. When an informant needs protection, law enforcement agencies (LEAs) may absorb the expenses of relocation. These expenses may include travel for the informant and their immediate family, movement and/or storage of household goods, and living expenses at the new location for a specific period of time (not to exceed 6 months). Payments for these expenses may be either lump-sum or as they occur and should not exceed the amounts authorized by law enforcement employees for these activities.
3. To use or pay another agency's informant, the person should be identified as an informant. These payments should not be a duplication of a payment from another agency; however, sharing a payment is acceptable.

Documentation of payments to informants is critical and must be noted on a receipt for P/I.

1. Payment should be made and witnessed by two law enforcement officers and authorized payment amounts should be established and reviewed by at least the first-line supervisory level.
2. In unusual circumstances, a non-officer employee or an officer of another LEA may serve as a witness.
3. In all instances, the original signed receipt must be submitted to the Project Director for review and recordkeeping.

F. Accounting and Control Procedures

Special accounting and control procedures will direct the use and handling of confidential expenditures. We describe these procedures below:

It is important that expenditures identified as P/E, P/I, and P/S expenses are in fact allocated and charged to the proper category. This is the only way that these funds may be properly managed at all levels and accurate projections of future needs be made.

Each law enforcement entity should apportion its P/E, P/I, or P/S allowance throughout its jurisdiction and delegate authority to approve P/E, P/I, and P/S expenditures to those offices as necessary.

Headquarters management should establish guidelines authorizing offices to spend up to a predetermined limit of their total allowance on any one investigation.

In exercising their authority to approve these expenditures, the supervisor should consider:

1. The significance of the investigation;
2. The need for this expenditure to further that investigation; and
3. Anticipated expenditures in other investigations.

Funds for P/E, P/I, and P/S expenditures should be advanced to the officer for a specific purpose. If they are not expended for that purpose, they should be returned to the cashier. The funds should not be used for another purpose (including another category) without first returning them and repeating the authorization and advance process based on the new purpose.

Funds for P/E, P/I, or P/S expenditures should be advanced to the officer on a suitable receipt form. A receipt for P/I or a voucher for P/E should be completed to document funds used in P/E or funds paid or advanced to an informant.

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For security purposes, there should be a 48-hour limit on the amount of time for which funds advanced for P/E, P/I, or P/S expenditure may be held outstanding.

1. If it becomes apparent at any point within the 48-hour period that the funds will not be used, then the funds should be returned to the advancing cashier as soon as possible. An extension to the 48-hour limit may be granted by the level of management that approved the advance.
2. Factors to consider in granting an extension are the amount of funds involved, safeguarding of funds, length of extension required, and importance of the expenditure.
3. Extensions are generally limited to no more than an additional 48 hours. Recipients should consult with the program office prior to determining the final course of action. Beyond this time period, the funds should be returned and re-advanced, if necessary.
4. Regardless of circumstances, within 48 hours of the advance, the fund cashier should be presented with either the unexpended funds, an executed receipt for P/I or P/E, or written notification by management that an extension has been granted.

P/S expenditures, when not endangering the safety of the officer or informant, need to be supported by cancelled tickets, receipts, lease agreements, and any other relevant documentation. If supporting documents are unavailable, the Project Director or his or her immediate subordinate must certify that the expenditures were necessary and justify why supporting materials were not obtained.