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Director

AG LE DIRECTIVE NO. 2004-4

TO: ALL COUNTY PROSECUTORS

FROM: AAG Jessica S. Oppenheim, Chief 
Prosecutors Supervision and Coordination Bureau

DATE: October 29, 2004

SUBJECT: **ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2004-4:**
Standardization of External Audits of County Prosecutor's Office Forfeiture Funds

Attached is the Attorney General Law Enforcement Directive No. 2004-4 regarding the standardization of external audits of County Prosecutor's Office Forfeiture Funds which became effective October 25, 2004. Also attached is the Manual referred to in the Directive.

jk

Attachments

- c. Peter C. Harvey, Attorney General
Mariellen Dugan, First Assistant Attorney General, OAG
Markus Green, Chief of Staff, Office of the Attorney General, OAG
Director John Kennedy, Office of Government Integrity
Vaughn L. McKoy, Director, DCJ
Deborah R. Edwards, Chief of Staff, DCJ
Keith Poujol, Assistant Director, DCJ
Jessica S. Oppenheim, Chief, Prosecutors Supervision & Coordination Bureau,
Division of Criminal Justice, DCJ
Chief State Investigator Anne Kriegner



ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE No. 2004-4

Standardization of External Audits of County Prosecutor's Office Forfeiture Funds

WHEREAS, it is the policy of the Attorney General that all State, County and Municipal law enforcement agencies shall administer State and Federally forfeited funds and property in a uniform manner, consistent with established State and Federal law, regulations, directives, and standard operating procedures; and

WHEREAS, the Attorney General as the State's chief law enforcement officer, has authority to oversee the Forfeiture operations of the County Prosecutor's Offices and ensure compliance with the forfeiture-related provisions of N.J.S.A. 2C:64-1 et seq.; N.J.S.A. 2C:41-1 et seq.; N.J.S.A. 2C:21-25 et seq.; N.J.S.A. 40A:5-1 et seq.; and, the State of New Jersey Forfeiture Program Administration Standard Operating Procedures (SOP's 1-12); and

WHEREAS, SOP 12 requires County Prosecutors to have a registered municipal accountant (RMA)/certified public accountant (CPA) audit all accounts containing or related to forfeited and seized property, on an annual basis; and

WHEREAS, the Attorney General has surveyed the manner in which the annual RMA/CPA audits of County Forfeiture funds are conducted and has determined that utilization of a standardized format by external auditors would produce more accurate and timely audit results and would allow for more efficient and productive oversight of compliance with SOP's, statutes, regulations, guidelines and directives; and

WHEREAS, this determination was not made in response to any serious existing problem or emergent need, but rather was made in consultation with the County Prosecutors Association of New Jersey to enhance the administration of State and Federally forfeited funds and property;

NOW, THEREFORE, I, PETER C. HARVEY, Attorney General of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 et seq., do hereby ORDER and DIRECT the following:

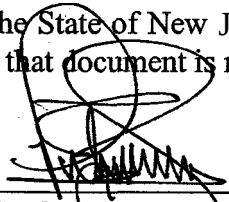
1. The Office of Government Integrity shall establish a "Manual for External Audits of County Forfeiture Accounts." This **manual** will contain instructions for the County Prosecutor, the engaged CPA firm, and the Division of Criminal Justice, to assist all parties in complying with applicable statutes, regulations, directives and SOP's.
2. Each County Prosecutor shall have all Forfeiture accounts audited on **an** annual basis by an external RMA/CPA. The engaged **firm** shall be provided with a copy of the "Manual for External Audits of County Forfeiture Accounts," and any internal documents necessary to complete the audit. The audit shall include the reports and procedures specified in the manual. The manual will also include formats, reports, and schedules which must be

followed.

3. In that N.J.S.A. 40A:5-4 requires the governing body of each County to have an RMA/CPA audit, on an annual basis, all books, accounts and transactions of County government agencies, the Prosecutor's responsibility for ensuring an **annual** audit of forfeiture-related accounts can be satisfied by the County audit conducted pursuant to N.J.S.A. 40A:5-4, provided that the County audit of the Prosecutor's forfeiture-related accounts is conducted, and the audit report is prepared, in conformity with the requirements of the "Manual for External Audits of County Forfeiture Accounts." Otherwise, the County Prosecutor shall arrange for an external audit independent of the County audit.

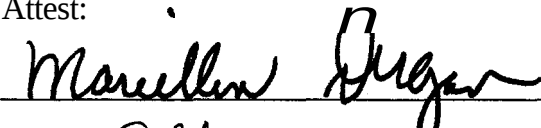
4. Each County Prosecutor shall be responsible for reviewing findings from the annual external audit to ensure compliance with applicable statutes, regulations, directives and SOP's, including this Attorney General Law Enforcement Directive. The Division of Criminal Justice will be responsible for conducting follow-up within 120 days of receipt of a copy of the audit to ensure all findings have been addressed.

This directive shall take effect immediately. However, it shall only apply to audits of Forfeiture accounts commenced after its effective date. In addition, the manual shall be incorporated into the State of New Jersey Forfeiture Program Administration Standard Operating Procedures when that document is next revised.



PETER C. HARVEY
ATTORNEY GENERAL

Attest:



Date:

October 25, 2004

**Manual for External Audits
of
County Forfeiture Accounts**

November 3, 2004

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Enclosures

Forfeiture Program CPA Audit Standards Authority

Tab

1. Attorney General Law Enforcement Directive No. 2004-4 This directive is the authority for the implementation of the audit procedures as outlined in the manual.
2. N.J.S.A. ~~2C:64-1~~ et seq. Forfeiture - This statute is the authority for the implementation of the forfeiture program, and must be followed accordingly.
3. State of New Jersey - Forfeiture Program Administration Standard Operation Procedure - This enclosure provides the index and copies of all the standard operating procedures required in the implementation of the forfeiture program.
4. N.J.S.A. 40A:5-1 et seq. Local Fiscal Affairs Law - Title 40A is the authority for auditing firms to follow in the administration and operation of the audit.
5. N.J.A.C. ~~5:30-6.1~~ et seq. Annual Audit - These regulations describe the requirements and standards for conducting the annual audits.
6. Department of U.S. Treasury - Guidelines for Seized and Forfeited Property, Revised Edition July **2001**

Samples

7. Sample - Audit Plan
8. Sample - Balance Sheet/Statement of Assets, Liabilities, Reserves, and Fund Balance with comparative totals for the previous year
9. Sample - Statement of Revenues, Expenses, and Changes in Fund Balance with comparative totals for the previous year
10. Sample - Cash Flow Analysis with comparative totals for the previous year
11. Sample - Schedule of Distribution to Law Enforcement Agencies
12. Sample - Schedule of Law Enforcement Trust Fund Expenditures
13. Sample - Statement of Vehicles and Property - Seized and Forfeited
- 14.** Sample - Independent Auditor's Report
15. Sample - Report on Compliance and on Internal Control over Financial Reporting based on an Audit of Statutory Basis Financial Statements performed in accordance with Government Auditing Standards
16. Sample - Schedule Findings and Recommendations
17. Sample - Summary Schedule of Prior Audit Findings Year Ended xx/xx/xxxx

Authority: Attorney General Law Enforcement Directive 2004-4
Enclosure 1: Law Enforcement Directive 2004-4

Authority: N.J.S.A. 2C:64-1 et seq. Forfeiture
Enclosure 2: Chapter 64 Forfeiture

Authority: State of New Jersey Forfeiture Program Administration Standard
Operating Procedures (SOP's 1-12)
Enclosure 3: SOP's 1-12

I. Purpose:

The purpose of this manual is to implement the provisions of Attorney General Law Enforcement Directive 2004-4 (Enclosure 1), by providing protocols for annual Certified Public Accountant (CPA) audits of accounts containing seized and forfeited property subject to the provisions of Title 2C of the New Jersey Code (Enclosure 2).

The primary purposes of audits by the independent auditor are:

- A. To evaluate the effectiveness, efficiency, economy, and compliance with which the Prosecutor's Offices carry out their financial, management, and program responsibilities.
- B. To assist the Attorney General and County Prosecutor in carrying out their responsibilities by providing objective and timely information on the conduct of all seizure and forfeiture financial activities, to include conclusions and recommendations.

II. Background:

A review of external independent CPA audit reports revealed the desirability of standardizing the evaluations of the internal accounting and administrative controls over the county forfeiture programs. The Attorney General, in consultation with the County Prosecutors' Association of New Jersey has decided to publish this manual to

elevate, integrate, and institutionalize CPA auditing practices to ensure a uniform audit approach throughout the 21 County Prosecutors' Offices. This decision was made to enhance existing auditing practices, and not in response to any finding of impropriety. The Attorney General Directive authorizing this manual is included in Enclosure 1. Prior to adoption of this Manual for External Audits of County Forfeiture Accounts (Manual), a copy of the Manual was circulated to the County Prosecutor's Association of New Jersey, the Division of Criminal Justice, the New Jersey Society of CPAs, and forfeiture auditors for comment. The Manual was posted on the Office of Government Integrity web page for public comment. Suggestions and comments on the Manual were addressed in the final version of the Manual.

III. Prosecutor's Responsibilities:

Each Prosecutor's Office is responsible for managing and using its resources -- funds, property, and personnel -- for authorized law enforcement programs or activities, and for conducting its programs or activities in an effective, efficient, and an economical manner. Each office's system of organization, management, and control should be designed to accomplish these ends, with due regard to the requirements of applicable laws, regulations, directives, and SOPs.

The prevention of misuse of the forfeiture program is of extreme importance and that responsibility rests with the Prosecutor. The Prosecutor's Office structure, the division of accounting responsibilities, and related control procedures should be devised to prevent misuse, and an internal accounting and administrative control system should be in operation to detect any consequential irregularity.

With regard to the independent audit of seized and forfeited property, the County Prosecutor shall endeavor to include in any written audit agreement executed by the auditor who is to perform the audit a provision that the auditor will adhere to this Manual, the applicable statutes, regulations, and standard operating procedures. The Manual includes all current references as listed in the Table of Contents. It shall

be the responsibility of the County Prosecutor to provide the contracted auditor with a copy of the Manual and all revisions. Furthermore, the County Prosecutor will provide a contact person for the auditor and access to the appropriate records and personnel needed to complete the audit. It is the primary responsibility of the County Prosecutor to insure the contracted auditor provides an audit as defined in the Manual. Prosecutors' Offices with concerns about providing access to confidential information shall consult with DCJ.

Upon receipt, the County Prosecutor shall forward one copy of the CPA audit report to the Division of Criminal Justice and one copy to the Office of Government Integrity. The CPA auditor shall file a copy of the audit report with the Division of Local Government Services, in the Department of Community Affairs pursuant to N.J.S.A. 40A:5-6, if the overall county government audit report does not include forfeiture accounts. Each County Prosecutor shall be responsible for addressing any findings in the annual external audit and furnish a response to DCJ within 120 days of receipt of a copy of the audit.

IV. Scope of Independent Audit:

Section A. Seized and Forfeited Funds

Independent audits extend to seized or forfeited property (funds and other tangible and intangible assets), and the administration and operation of accounts related to seized and forfeited property. The authority for the administration and operation of these accounts is outlined in N.J.S.A. 2C:64-1 et seq. (Enclosure 2) and the State of New Jersey, Forfeiture Program Administration, Standard Operating Procedure (Enclosure 3). The basic audit requirements for these accounts are described in N.J.S.A. 40A:5-1 et seq. (Enclosure 4) and N.J.A.C. 5:30-6.1 Annual Audit (Enclosure 5). In addition to the audit of these accounts, the auditor will be required to test for compliance with the aforementioned statutes, regulations, and standard operating procedures.

Auditors shall have full access to all documents, accounts, and work papers. Audits shall be set up in a manner to avoid confidentiality issues. Any failure by the prosecutor or staff to provide the auditor with access to records and personnel must be incorporated in the auditor's report and opinion.

Section B. Confidential Funds:

The CPA will audit confidential funds only to the extent of reviewing internal controls and the totals, not including allowing or disallowing specific transactions. DCJ shall have responsibility for the financial review of confidential funds.

V. Audit Plan:

Each audit must include an audit plan as a part of the auditor's work papers. The audit plan incorporates the minimum audit procedures which must be utilized by the auditor in establishing accountability for seized and/or forfeited property, and tests for compliance with forfeiture statutes, regulations, directives, and SOPs (Enclosure 7). Both the audit plan and work papers shall be maintained by the auditor for a period of seven (7) years.

VI. Independent Auditor's Report and Opinions:

Upon completion of the audit, the auditors shall prepare two reports to be included in the audit. The first shall be a report and opinion containing the financial audit with findings and recommendations: The second shall be a report as to the internal controls citing material weaknesses and reportable conditions. All the information outlined in the Forfeiture Program CPA Audit Standards segment of this Manual shall be included in the financial audit report. Three copies of the audit report shall be addressed to the County Prosecutor.

VII. Forfeiture Program CPA Audit Standards:

Section A. Basis of Accounting

Accounting principles and practices as prescribed by the Division of Local Government Services require the financial statements to be presented in accordance with a comprehensive basis of accounting other than generally accepted accounting principles. Under this method, revenues are realized only when collected and expenditures are recorded when incurred.

Section B. Audit Standards

In addition to the minimum requirements for all CPA audits set forth above, the auditor shall comply with the requirements outlined in the following authoritative resources, as required by N.J.S.A. 40A:5-1 et seq. (Enclosure 4) and N.J.A.C. 5:30-6.1 (Enclosure 5), incorporated herein by reference, in conducting the annual audit as appropriate and applicable:

1. Generally Accepted Auditing Standards as promulgated by the American Institute of Certified Public Accountants;
2. Government Accounting Standards Board with regard to disclosure of notes to the financial statements;
3. U.S. Office of Management and Budget Circular A-133;
4. New Jersey Office of Management and Budget Circular 98-07; and,
5. Generally Accepted Government Auditing Standards promulgated by the U.S. General Accounting Office.

6. Requirements of Audit may be obtained from:

Local Finance Board
Division of Local Government Services
Department of Community Affairs
PO Box 803
Trenton, New Jersey 08625-0803

Section C. Audit Report Content

The following are the minimum content requirements for the CPA's annual audit of Seized Asset Trust Account, the Law Enforcement Trust Account, the Asset Maintenance Account, Federal Justice Account, and the Federal Treasury Account(Enclosure 6). Each audit must contain the following:

1. Independent Auditor's Report (Enclosure **14**)
2. Report on compliance with forfeiture statutes, regulations, directives, SOPs, and on internal control over financial reporting based on an audit of financial statements performed in accordance with Government Auditing Standards (Enclosure 15).
3. Balance sheet containing assets, liabilities, and fund balance for the forfeiture-related accounts. Unclaimed funds included in the Seized Asset Trust Account balance for more than three (3) years must be clearly identified and reported as a finding. Any other accounts which may be funded by forfeiture funds, i.e., petty cash, extradition account, etc., are to be included in the audit.
4. A Statement of Revenues, Expenses, and Changes in Fund Balance for the forfeiture-related accounts must include revenue, expenditures,

forfeiture-related costs, and changes in fund balance. The Statement of Revenues, Expenses, and Changes in Fund Balance shall include explanatory footnotes relating to each Law Enforcement Trust Account, Asset Maintenance Account, and forfeiture expenditure. The memo section of a check must tie a check into an expenditure, invoice, or corresponding record, if not, this must be reported in the audit report.

5. Statements of Inventory are to be expressed in units and dollar value. Vehicles are to be reported separately from all other property. Units and dollar value for vehicles and property are to be classified in two categories: first, seized property and second, property which has been forfeited to the Law Enforcement Trust Account. Records of forfeited property should be maintained separately for the length of time required by SOP 3 (*2 years **for** vehicles; 1 year **for** other property worth more than \$500*).
6. Minimum supplemental exhibits consisting of the following:
 - a. Statement of Cash Flow - Include a cash flow analysis for the Seized Asset Trust Account, Asset Maintenance Account, and the County Law Enforcement Trust Account.
 - b. Schedule of Municipal and Other Law Enforcement Agency Distributions and Expenditures - Include every local law enforcement entity in the Schedule of Municipal and Other Law Enforcement Agency Distributions and Expenditures regardless of the amount of money received (zero or greater).

- c. Statement of Seized and Forfeited Vehicles expressed in units and dollars, valued at lower of Cost or Market • the auditor shall report on the existence/nonexistence of inventory control systems, as required by SOP 8:2B.3-7, to include the tracking of seized vehicles and the tracking of vehicles forfeited or purchased with forfeiture funds.' The vehicle tracking system shall include the following information maintained in a database and the vehicle file:

- 4 Value of the vehicle at the time of seizure
- 4 Condition of the vehicle at the time of seizure (photographs should be considered for the vehicle file)
- 4 Vehicle mileage
- 4 Final disposition of vehicle

- d. Statement of Seized and Forfeited other Property expressed in units and dollars - The property tracking system shall include the following information maintained in a database and the case file:

- 4 Value of the property at the time of seizure
- 4 Condition of the property at the time of seizure (photographs should be considered for the file)
- 4 Final disposition of property²

Note: Since the dollar value given to unusable items such as weapons and drugs is meaningless, it is further recommended that the inventory value of this type of seized property be eliminated from the financial statements except as a footnote to expenses incurred for the destruction of this type of property.

¹ Forfeited **vehicles** or vehicles purchased with funds from the Law Enforcement Trust Account should be tracked separately as forfeited property for at least two years. SOP 3.

² Forfeited property or property purchased with funds from the Law Enforcement Trust Account with a fair market value of five hundred dollars or more should be tracked separately as forfeited property for at least one year; forfeited real estate should be tracked separately as long as it is held by the funding entity. SOP 3.

- e. Schedule of Findings and Recommendations - if none, state "None"
- f. Summary Schedule of Prior Year Audit Findings and Status.
- g. Notes to Financial Statements

Note: The supplemental exhibits listed in this paragraph 6 are required. Suggested formats and supplemental exhibits are included in Tabs 10 through 17. Auditors need not use a suggested format, so long as the information is presented.

- 7. Other possible supplemental exhibits consisting of the following:
 - a. Schedule of Cash Reconciliation
 - b. Schedule of Investments
 - c. Additional statements and schedules may be added at the discretion of the auditor.

Section D. Standardized Terminology

- 1. CPA auditors shall adhere to the terminology used in the forfeiture-related statutes, regulations, Standard Operating Procedures, and the Manual.
- 2. References to forfeiture-related accounts must not be confused by using any other terms, such as "confiscated," or "special" funds, or related terms when referring to these accounts.

Section E. Financial Statement Presentation •

1. It is recommended that the format for the Balance Sheet (Enclosure 8) and Statement of Revenues, Expenses, and Changes in Fund Balance (Enclosure 9) be in columnar form with a comparison of the current year with the prior year (total memorandum only). All other schedules will be considered as supplemental to the required schedules.
2. If the auditor uses a columnar format or another approach, the statements must include the Seized Asset Trust Account, the Law Enforcement Trust Account, the Asset Maintenance Account, the Federal Justice Account and the Federal Treasury Account. It is not required to use the recommended standardized format as long as the accounting information is prepared as suggested, and is available in the required schedules and supplemental schedules.
3. Specific regulations and requirements for State and Federal forfeiture programs are included in this manual.

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TAB NO. 1

ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE No. 2004-4

Standardization of External Audits of County Prosecutor's Office Forfeiture Funds

WHEREAS, it is the policy of the Attorney General that all State, County and Municipal law enforcement agencies shall administer State and Federally forfeited funds and property in a uniform manner, consistent with established State and Federal law, regulations, directives, and standard operating procedures; and

WHEREAS, the Attorney General as the State's chief law enforcement officer, has authority to oversee the Forfeiture operations of the County Prosecutor's Offices and ensure compliance with the forfeiture-related provisions of N.J.S.A. 2C:64-1 et seq.; N.J.S.A. 2C:41-1 et seq.; N.J.S.A. 2C:21-25 et seq.; N.J.S.A. 40A:5-1 et seq.; and, the State of New Jersey Forfeiture **Program** Administration Standard Operating Procedures (SOP's 1-12); and

WHEREAS, SOP 12 requires County Prosecutors to have a registered municipal accountant (RMA)/certified public accountant (CPA) audit all accounts containing or related to forfeited and seized property, on an annual basis; and

WHEREAS, the Attorney General has surveyed the manner in which the annual RMA/CPA audits of County Forfeiture funds are conducted and has determined that utilization of a standardized format by external auditors would produce more accurate and timely audit results and would allow for more efficient and productive oversight of compliance with SOP's, statutes, regulations, guidelines and directives; and

WHEREAS, this determination was not made in response to any **serious** existing problem or emergent need, but rather was made in consultation with the County Prosecutors Association of New Jersey to enhance the administration of State and Federally forfeited funds and property;

NOW, THEREFORE, I, PETER C. HARVEY, Attorney General of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 et seq., do hereby ORDER and DIRECT the following:

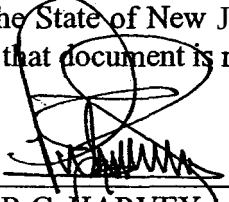
1. The Office of Government Integrity shall establish a "Manual for External Audits of County Forfeiture Accounts." This manual will contain instructions for the County Prosecutor, the engaged CPA firm, and the Division of Criminal Justice, to assist all parties in complying with applicable statutes, regulations, directives and SOP's.
2. Each County Prosecutor shall have all Forfeiture accounts audited on an annual basis by an external RMA/CPA. The engaged firm shall be provided with a copy of the "Manual for External Audits of County Forfeiture Accounts," and any internal documents necessary to complete the audit. The audit shall include the reports and procedures specified in the manual. The manual will also include formats, reports, and schedules which must be

followed.

3. In that N.J.S.A. 40A:5-4 requires the governing body of each County to have an RMA/CPA audit, on an annual basis, all books, accounts and transactions of County government agencies, the Prosecutor's responsibility for ensuring an annual audit of forfeiture-related accounts can be satisfied by the County audit conducted pursuant to N.J.S.A. 40A:5-4, provided that the County audit of the Prosecutor's forfeiture-related accounts is conducted, and the audit report is prepared, in conformity with the requirements of the "Manual for External Audits of County Forfeiture Accounts." Otherwise, the County Prosecutor shall arrange for an external audit independent of the County audit.

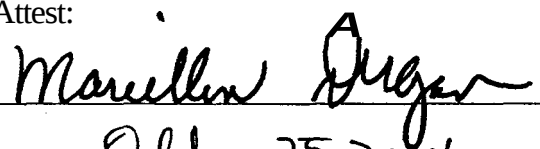
4. Each County Prosecutor shall be responsible for reviewing findings from the annual external audit to ensure compliance with applicable statutes, regulations, directives and SOP's, including this Attorney General Law Enforcement Directive. The Division of Criminal Justice will be responsible for conducting follow-up within 120 days of receipt of a copy of the audit to ensure all findings have been addressed.

This directive shall take effect immediately. However, it shall only apply to audits of Forfeiture accounts commenced after its effective date. In addition, the manual shall be incorporated into the State of New Jersey Forfeiture Program Administration Standard Operating Procedures when that document is next revised.



PETER C. HARVEY
ATTORNEY GENERAL

Attest:



Date:

October 25, 2004

TAB NO. 2

New Jersey Permanent Statutes**TITLE 2C THE NEW JERSEY CODE OF CRIMINAL JUSTICE****2C:64-1. Property subject to forfeiture****2C:64-1. Property Subject to Forfeiture.**

a. Any interest in the following shall be subject to forfeiture and no property right shall exist in them:

(1) Controlled dangerous substances, firearms which are unlawfully possessed, carried, acquired or used, illegally possessed gambling devices, untaxed cigarettes and untaxed special fuel. These shall be designated prima facie contraband.

(2) All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, **or** buildings or premises maintained for the purpose of committing offenses against the State.

(3) Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise.

(4) Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as defined by subsection a. (1), proceeds of illegal gambling, prostitution, bribery and extortion.

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer as evidence pending a criminal prosecution pursuant to section 2C:64-4 or, when no criminal proceeding is instituted, upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or,

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

c. For the purposes of this section:

"Untaxed special fuel" means diesel fuel, No. 2 fuel oil and kerosene on which the motor fuel tax imposed pursuant to R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or transferred in this State in a manner not authorized pursuant to R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).

Amended 1979,c.344,s.1; 1981,c.290,s.46; 1992,c.23,s.70.

2C:64-2. Forfeiture procedures; prima facie contraband

Forfeiture Procedures; Prima Facie Contraband.

Except as provided in N.J.S. 2C:35-21, prima facie contraband shall be retained by the State until entry of judgment or dismissal of the criminal proceeding, if any, arising out of the seizure. Thereafter, prima facie contraband shall be forfeited to the entity funding the prosecuting agency involved, subject to the rights of owners and others holding interests pursuant to section 2C:64-5.

Amended by L. 1979, c. 344, s. 2; 1981, c. 290, s. 47; 1987, c. 106, s. 17.

2C:64-3. Forfeiture procedures

2C:64-3. Forfeiture procedures. a. Whenever any property other than prima facie contraband is subject to forfeiture under this chapter, such forfeiture may be enforced by a civil action, instituted within 90 days of the seizure and commenced by the State and against the property sought to be forfeited.

b. The complaint shall be verified on oath or affirmation. It shall describe with reasonable particularity the property that is the subject matter of the action and shall contain allegations setting forth the reason or reasons the article sought to be or which has been seized is contraband.

c. Notice of the action shall be given to any person known to have a property interest in the article. In addition, the notice requirements of the Rules of Court for an in rem action shall be followed.

d. The claimant of the property that is the subject of an action under this chapter shall file and serve his claim in the form of an answer in accordance with the Rules of Court. The answer shall be verified on oath or affirmation, and shall state the interest in the property by virtue of which the claimant demands its restitution and the right to defend the action. If the claim is made in behalf of the person entitled to possession by an agent, bailee or attorney, it shall state that he is duly authorized to make the claim.

e. If no answer is filed and served within the applicable time, the property seized shall be disposed of pursuant to N.J.S.2C:64-6.

f. If an answer is filed, the Superior or county district court shall set the matter down for a summary hearing as soon as practicable. Upon application of the State or claimant, if he be a defendant in a criminal proceeding arising out of the seizure, the Superior or county district court may stay proceedings in the forfeiture action until the criminal proceedings have been concluded by an entry of final judgment.

g. Any person with a property interest in the seized property, other than a defendant who is being prosecuted in connection with the seizure of property may secure its release pending the forfeiture action unless the article is dangerous to the public health, safety and welfare or the State can demonstrate that the property will probably be lost or destroyed if released or employed in subsequent criminal activity. Any person with such a property interest other than a defendant who is being prosecuted, prior to the release of said property shall post a bond with the court in the amount of the market value of the seized item.

h. The prosecuting agency with approval of the entity funding such agency, or any other entity, with the approval of the prosecuting agency, where the other entity's law enforcement agency participated in the surveillance, investigation or arrest which is the subject of the forfeiture action, may apply to the

Superior Court for an order permitting use of seized property, pending the disposition of the forfeiture action provided, however, that such property shall be used solely for law enforcement purposes. Approval shall be liberally granted but shall be conditioned upon the filing of a bond in an amount equal to the market value of the item seized or a written guarantee of payment for property which may be subject to return, replacement or compensation as to reasonable value in the event that the forfeiture is refused or only partial extinguishment of property rights is ordered by the court.

i. If the property is of such nature that substantial difficulty may result in preserving its value during the pendency of the forfeiture action, the Superior or county district court may appoint a trustee to protect the interests of all parties involved in the action.

j. Evidence of a conviction of a criminal offense in which seized property was either used or provided **an** integral part of the State's proofs in the prosecution shall be considered in the forfeiture proceeding as creating a rebuttable presumption that the property was utilized in furtherance of an unlawful activity.

Amended 1979,c.344,s.3; 1981,c.290,s.48; 1989,c.279,s.1.

2C:64-4. Seized property; evidentiary use



New Jersey Permanent StatutesTITLE 2C THE NEW JERSEY CODE OF CRIMINAL JUSTICE2C:64-4. Seized property; evidentiary use

a. Nothing in this chapter shall impair the right of the State to retain evidence pending a criminal prosecution.

b. The fact that a prosecution involving seized property terminates without a conviction does not preclude forfeiture proceedings against the property pursuant to this chapter.

L.1978, c. 95, s. 2C:64-4, eff. Sept. 1, 1979. Amended by L.1979, c. 344, s. 4, eff. Jan. 23, 1980; L.1981, c. 290, s. 49, eff. Sept. 24, 1981.

2C:64-5. Seized property; rights of owners and others holding interests

Seized Property; Rights of Owners and Others Holding Interests. a. No forfeiture under this chapter shall affect the rights of any lessor in the ordinary course of business or any person holding a perfected security interest in property subject to seizure unless it shall appear that such person had knowledge of or consented to any act or omission upon which the right of forfeiture is based. Such rights are only to the extent of interest in the seized property and at the option of the entity funding the prosecuting agency involved may be extinguished by appropriate payment.

b. Property seized under this chapter shall not be subject to forfeiture if the owner of the property establishes by a preponderance of the evidence that the owner was not involved in or aware of the unlawful activity and that the owner had done all that could reasonably be expected to prevent the proscribed use of the property by an agent. A person who uses or possesses property with the consent or knowledge of the owner is deemed to be the agent of the owner for purposes of this chapter.

c. Property seized under this chapter shall not be subject to forfeiture if the property is seized while entrusted to a person by the owner or the agent of the owner when the property has been entrusted to the person for repairs, restoration or other services to be performed on the property, and that person, without the owner's knowledge or consent, uses the property for unlawful purposes.

L. 1978, c. 95, s. 2C:64-5, eff. Sept. 1, 1979. Amended by L. 1979, c. 344, s. 5, eff. Jan. 23, 1980; L. 1981, c. 290, s. 50, eff. Sept. 24, 1981; L. 1986, c. 79, s. 1, eff. Aug. 6, 1986.

2C:64-6. Disposal of forfeited property

2C:64-6. Disposal of Forfeited Property. a. Property which has been forfeited shall be destroyed if it can serve no lawful purpose or it presents a danger to the public health, safety or welfare. All other forfeited property or any proceeds resulting from the forfeiture and all money seized pursuant to this chapter shall become the property of the entity funding the prosecuting agency involved and shall be disposed of, distributed, appropriated and used in accordance with the provisions of this chapter.

The prosecutor or the Attorney General, whichever is prosecuting the case, shall divide the forfeited property, any proceeds resulting from the forfeiture or any money seized pursuant to this chapter with any other entity where the other entity's law enforcement agency participated in the surveillance, investigation, arrest or prosecution resulting in the forfeiture, in proportion to the other entity's contribution to the surveillance, investigation, arrest or prosecution resulting in the forfeiture, as determined in the discretion of the prosecutor or the Attorney General, whichever is prosecuting the case. Notwithstanding any other provision of law, such forfeited property and proceeds shall be used solely for law enforcement purposes, and shall be designated for the exclusive use of the law

enforcement agency which contributed to the surveillance, investigation, arrest or prosecution resulting in the forfeiture.

The Attorney General is authorized to promulgate rules and regulations to implement and enforce the provisions of this act.

b. For a period of two years from the date of enactment of P.L. 1993, c.227 (C.26:4-100.13 et al.), 10% of the proceeds obtained by the Attorney General under the provisions of subsection a. of this section shall be deposited into the Hepatitis Inoculation Fund established pursuant to section 2 of P.L. 1993, c.227 (C.26:4-100.13).

c. Beginning two years from the date of enactment of P.L.1993, c.227 (C.26:4-100.13 et al.) and in subsequent years, 5% of the proceeds obtained by the Attorney General under the provisions of subsection a. of this section shall be deposited into the Hepatitis Inoculation Fund established pursuant to section 2 of P.L. 1993, c.227 (C.26:4-100.13).

Amended 1979,c.344,s.6; 1985,c.110,s.1; 1986,c.135,s.1; 1993,c.227,s.1.

2C:64-7. Vesting of title in forfeited property



New Jersey Permanent StatutesTITLE 2C THE NEW JERSEY CODE OF CRIMINAL JUSTICE2C:64-7. Vesting of title in forfeited property

Vesting of Title in Forfeited Property. Title to property forfeited under this chapter shall vest in the entity funding the prosecuting agency involved at the time the item was utilized illegally, or, in the case of proceeds, when received.

If another entity's law enforcement agency has participated in the surveillance, investigation, arrest or prosecution resulting in the forfeiture, then the prosecutor or the Attorney General, whichever is prosecuting the case, shall vest title to forfeited property, including motor vehicles, by dividing the forfeited property with the other entity in proportion to the other entity's contribution to the surveillance, investigation, arrest or prosecution resulting in the forfeiture, as determined in the discretion of the prosecutor or the Attorney General. If the property, including motor vehicles, cannot be divided as required by this section, then the prosecutor or the Attorney General, whichever is prosecuting the case, shall sell the property, including motor vehicles, and the proceeds of the sale shall be divided with the other entity in proportion to the other entity's contribution to the surveillance, investigation, arrest or prosecution resulting in the forfeiture, as determined in the discretion of the prosecutor or the Attorney General.

L. 1978, c. 95, s. 2C:64-7, eff. Sept. 1, 1979. Amended by L. 1979, c. 344, s. 7, eff. Jan. 23, 1980; L. 1985, c. 110, s. 2, eff. April 9, 1985; L. 1986, c. 135, s. 2, eff. Dec. 1, 1986.

2C:64-8. Seized property; statute of limitations on claims

Any person who could not with due diligence have discovered that property which he owns was seized as contraband may file a claim for its return or the value thereof at the time of seizure within 3 years of the seizure if he can demonstrate that he did not consent to, and had no knowledge of its unlawful use. If the property has been sold, the claimant receives a claim against proceeds.

L. 1978, c. 95, s. 2C:64-8, eff. Sept. 1, 1979. Amended by L. 1979, c. 344, s. 8, eff. Jan. 23, 1980.

2C:64-9. Forfeited weapons with military value; donation to National Guard Militia Museum

Any weapon with present or historical military value that has been forfeited pursuant to the provisions of chapter 64 of Title 2C of the New Jersey Statutes may be donated to the National Guard Militia Museum of New Jersey at Sea Girt by the law enforcement agency retaining it.

L. 1981, c. 112, s. 1, eff. April 2, 1981.

2C:65-1. Procedure to be followed by law enforcement agencies when stolen property is taken into custody

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**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



01

Title: ***Management of Funds and Property Received
from State and Federal Forfeitures***

Date Issued: 03/01/98

Applicability: All Forfeiture Program Administrators

Supersedes:

1:1 Policy Statement

It is the policy of the Attorney General that all State, county and municipal law enforcement agencies shall administer State and Federally forfeited funds and property in a uniform manner, consistent with established State and Federal law, regulations, directives, guidelines and standard operating procedures.

1:2 Administration of Funds and Property Resulting from State Forfeiture Actions

Any law enforcement agency that receives funds and property resulting from forfeitures brought under the authority of N.J.S.A. 2C:64-1, et seq., (civil forfeiture), N.J.S.A. 2C:41-1, et seq. (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General, shall administer the expenditure of the funds or use of the property in accordance with the following laws, directives, guidelines and standard operating procedures:

- A. N.J.S.A. 2C:64-1, et seq., Civil Forfeiture;
- B. Attorney General's Forfeiture Guidelines - October 1992 and as amended;
- C. Attorney General's Executive Directive 1995-3;
- D. All State of New Jersey Forfeiture Program Administration Standard Operating Procedures;
- E. All other applicable federal and State laws and regulations.

1:3 Administration of Funds and Property Resulting from Federal Forfeiture Actions

Any law enforcement agency that receives funds and property resulting from forfeitures brought under the authority of the United States government shall administer the expenditure of the funds or use of the property in accordance with the following guidelines:

- A. A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies (March 1994 or current edition); U.S. Department of Justice;
- B. Guide to Equitable Sharing for Foreign countries and Federal. State Local Law Enforcement Agencies - (October 1996 or current edition); U.S. Department of the Treasury;
- C. All other applicable State and federal laws, regulations, directives, guidelines and standard operating procedures.

1:4 Separate Accounting for State and Federal Forfeitures

Any agency that receives both State and Federal distributions of forfeited funds or property shall establish accounts and records for any funds or property received under the authority of N.J.S.A. 2C:64-1, et seq., (civil forfeiture), N.J.S.A. 2C:41-1, et seq. (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General, as outlined further in these Standard Operating Procedures. A separate account and records shall be maintained for any funds or property received from the United States Department of Justice as a result of forfeiture actions brought by a Justice Department law enforcement agency. A separate account and records shall also be maintained for any funds or property received from the United States Department of the Treasury as a result of forfeiture actions brought by a Treasury Department law enforcement agency. At no time shall the funds from the three sources commingle since the standards on their acquisition and use are unique for each.

1:5 Designated Chief Executive of the Law Enforcement Agency

The Chief Executive of a participating law enforcement agency shall be responsible for administering funds and property received from either a State or federal forfeiture program, including: entering into equitable sharing agreements; filing and signing equitable sharing requests and annual certification reports; and, ensuring compliance with all applicable federal and state laws, regulations, directives, guidelines or standard operating procedures. The following persons shall be designated as the Chief Executive of a participating law enforcement agency:

- A. The Attorney General for any Division of the Department of Law and Public

Safety and all State law enforcement agencies unless otherwise designated in writing by the Attorney General;

- B. The county prosecutor for the State's twenty-one county prosecutor's offices;
- C. The public safety director, or if none exists, the chief of police for all other agencies.

1:6 Noncompliance

The Attorney General shall enforce compliance with all applicable laws, regulations, directives, guidelines and standard operating procedures. The Director, Division of Criminal Justice shall employ personnel to undertake all forfeiture related oversight activities and shall act as the enforcement mechanism for the Attorney General. Noncompliance by any law enforcement agency may subject that agency to one, or more, of the following sanctions:

- A. Being barred, temporarily or permanently, from further participation in the sharing program;
- B. Offsets from future sharing in an amount equal to impermissible uses;
- C. Civil enforcement actions;
- D. Where warranted, criminal prosecution for violations of applicable criminal laws; or
- E. Any other action deemed appropriate by the Attorney General.

AUTHORITY:

Peter Verniero

PETER VERNIERO, ATTORNEY GENERAL

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



02

Administration of State Forfeiture Program

Date Issued: **03101198**

Applicability: **State & County Programs**

Supersedes: **N/A**

2:1 Policy Statement:

It is the policy of the Attorney General that the Office of the Attorney General (OAG) within the Department of Law and Public Safety (DLPS) shall administer proceeds and funds received by any Division or entity of the DLPS, or any other state law enforcement agency, as a result of forfeitures brought under the authority of N.J.S.A. 2C:64-1, et seq., (civil forfeiture), N.J.S.A. 2C:41-1, et seq. (racketeering); N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General. Additionally, the Division of Criminal Justice (DCJ) within the DLPS shall administer proceeds and funds received by any such state law enforcement agency as a result of seizures subject to forfeiture actions under the above referenced statutory authority. The OAG shall administer separately federally forfeited property or proceeds distributed to any state law enforcement agency by the United States Departments of Justice or Treasury through a Federal Equitable Sharing Program Agreement, as outlined under Forfeiture Program Administration Standard Operating Procedure 01.

2:2 Establishment of the Attorney General's Law Enforcement Forfeiture Account, (AGLEFA)

- A. The OAG has established a trust fund to be used solely for law enforcement purposes which is funded by completed forfeiture actions commenced under N.J.S.A. 2C:64-1 et seq., (civil forfeiture) or N.J.S.A. 2C:41-1, et seq. (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General. This dedicated fund is known as the Attorney General's Law Enforcement Forfeiture Account, (AGLEFA). AGLEFA shall be maintained by the Department of the Treasury and administered by the OAG. investigations performed by three DL&PS divisions: the Division of State Police, (DSP), the Division of Alcoholic Beverage Control and the DCJ are the primary source of funds received from forfeiture actions. All forfeited funds or proceeds from the sale of forfeited property received by the DL&PS, any division of the DL&PS or any state law enforcement agency, shall be deposited into AGLEFA. All interest generated by AGLEFA shall be credited to AGLEFA. Because AGLEFA is a dedicated account, the funds shall not revert to the State General Treasury at the end of a fiscal year, but carryover from year to year.

- B. The Attorney General shall authorize disbursement from AGLEFA. Before funds are expended from AGLEFA the OAG shall provide, upon request by the Director of the Office of Management and Budget, an expenditure plan advising of the intended uses of the funds.

2:3 Establishment of a Seized Asset Dedicated Account

- A. All funds seized by a state law enforcement agency, but ~~not~~ yet forfeited and not held for evidence in a criminal matter, shall be deposited into the **DL&PS** Cash Management Fund Seized Asset Dedicated Account (SADA) ~~or~~, under circumstances as outlined in section 2:3B, the Seized Asset Trust Account (SATA) of the County Prosecutor handling the related forfeiture litigation.
- B. When a forfeiture action is litigated by the DCJ or, an individual seizure made by a state law enforcement agency is equal to or greater than **fifty** thousand Dollars, **(50,000.00)** and the related forfeiture **action** is litigated by a **county** prosecutor, all seized funds, except those held as physical evidence in a criminal matter, must be deposited into the **DL&PS** SADA. When an individual seizure made by a state law enforcement agency is less than fifty thousand Dollars, **(50,000.00)** and the related forfeiture action is litigated by a county prosecutor, the seized funds, except those held as physical evidence in a criminal matter, shall be deposited into the SATA of the county prosecutor's office handling the forfeiture litigation.
- C. The **DL&PS** SADA shall be a series of individual dedicated **sub-accounts** maintained by the Department of the Treasury and administered by the DCJ. Each seizure shall ~~be~~ deposited into a **DL&PS** SADA sub-account where they are individually identified but managed as one large group by the Department of the Treasury. Because the **DL&PS** SADA is a dedicated account, the funds shall not revert to the State General Treasury at the end of a fiscal year, but carryover from year to year.
- D. Disbursements ~~from~~ the **DL&PS** Seized Asset Dedicated Account shall be limited to the following:
1. Transfer of funds to AGLEFA of the State's share of a forfeiture distribution made ~~after~~ either the DCJ or a county prosecutor's office obtains either:
 - a. a final judgment by default;
 - b. a consent decree/stipulation of settlement/final judgment;
 - c. a final judgment confirming forfeiture; or
 - d. a consent to forfeiture placed on the record at guilty plea,

sentencing or similar **dispositional** proceeding-

2. Transfer of funds to a county or municipal Law Enforcement Trust Account or, an escrow account established for a specific municipal law enforcement agency as defined under Forfeiture Program Administration Standard Operating Procedures 04, as that governmental entity's share of a forfeiture distribution made after either the DCJ or a county prosecutor's office obtains one of the following:
 - a. a final judgment by default;
 - b. a consent decree/stipulation of settlement/final judgment;
 - c. final judgment confirming forfeiture; or
 - d. a consent to forfeiture placed on the record at guilty plea, sentencing or similar dispositional proceeding.
3. Return of all, or some portion of, a claimant's seized funds to either the claimant or the claimant's attorney of record in the forfeiture litigation if the claimant obtains either:
 - a. a final judgment by default;
 - b. a consent decree/stipulation of settlement/final judgment; or
 - c. a final judgment confirming the claimant's property right.
4. For seizures where the county prosecutor or the DCJ decline to file a forfeiture complaint or discontinue a forfeiture action, and the seized funds are not held as evidence in a criminal matter or covered under the terms of a settlement agreement, all of the seized funds will be returned to the person from whom the property was seized.
5. For seizures where:
 - a. an attempt to return seized funds as outlined in accordance with Section 2:3D.4 above has been unsuccessful; and
 - b. a claimant has not asserted a right over the seized funds or the owner cannot be found; and,
 - c. the seized funds were originally deposited in the DLPS SADA,

the funds shall remain in the SADA for a period of three years from

the date of the seizure. At the conclusion of the three year period, the funds shall be disposed of as unclaimed property by the **DCJ** Civil Remedies and Forfeiture Bureau, in accordance with applicable law.

- E.** The interest generated from the **DL&PS SADA** shall be periodically transferred by the **DCJ** to the Asset Maintenance Account as outlined under Forfeiture Program Administration Standard Operating Procedures 02.

2:4 Establishment of an Asset Maintenance Account

- A** All interest generated from the **DL&PS SADA** shall be placed into a dedicated fund maintained by the Department of the Treasury and administered by the **DCJ**. This dedicated fund shall be known as the Asset Maintenance Account (**AMA**).
- B.** **Expenditures** from the **AMA** shall be made in accordance with Forfeiture Program Administration Standard Operating Procedures 12 only for forfeiture related purposes. Forfeiture related purposes are those costs directly related to the administration or operation of the Statewide forfeiture program and the seizure, acquisition, maintenance and preservation of seized property prior to a final judgment of forfeiture. Unless otherwise approved by the Attorney General in a specific case, forfeiture related purposes shall not include the cost of routine maintenance of forfeited property for the use of the agency. Forfeiture related purposes shall include the following:
1. The cost of maintaining and safeguarding seized property;
 2. The cost of maintaining and safeguarding seized or forfeited real property;
 3. The cost of returning seized property to the rightful owner;
 4. The cost of placing seized property into service in the **DL&PS** where a use order for the property has been obtained;
 5. The costs incurred when preparing to place forfeited property into service with the **DL&PS**;
 6. The cost of maintaining an equity interest in the seized property pending a forfeiture disposition;
 7. The cost of disposing of property, whether by sale or destruction, either directly after forfeiture or after use of such property by the agency; or

8. The costs incurred in obtaining an appraisal or title insurance for real property or other costs of forfeiture prosecution or other action generating funds subject to administration under this Standard Operating Procedure, including filing and recording fees, inspection fees, costs charged for compliance with subpoenas or investigative interrogatories, and other administrative costs.

- C. When the **DL&PS** decides to place forfeited property into active service, **the** AMA shall be charged the costs of bringing that piece of property up to applicable use standards, (e.g., the costs involved in making a forfeited vehicle roadworthy, or a forfeited boat seaworthy). However, once **the** property is placed into active service, all costs associated with the use and maintenance of the property shall be charged to the normal operating budget of the entity using the property. Any entity that uses forfeited property shall maintain a written form which documents the actual date that the property was placed into service.

Because this account is a dedicated account, the funds shall not revert to the State General Treasury at the end of a fiscal year, but **carryover** from year to year.

2:5 Division of Criminal Justice Asset Forfeiture/Property Management Office

The Property Management Office establishes and maintains **cash** management accounts for all State seized and forfeited monies. Attachment 1 to this standard operating procedure delineates the policies and procedures for opening, transferring and reporting on the status of these accounts as well as general file and information management.

2:6 Standards for the Holding Period and Tracking of Forfeiture Property

- A. Property forfeited to a law enforcement agency, or purchased by a law enforcement agency **with** funds from AGLEFA, including **the AMA**, shall be held by the law enforcement agency for law enforcement purposes:
 1. if real estate, for **as long** as the property exists in the form **of** real property;
 2. if a motor vehicle, for at least two years from the date of forfeiture or purchase with funds from AGLEFA;
 3. in the case of all other property **with** a fair market value of five hundred dollars or more, for at least one year from the date **of** forfeiture or purchase with funds from **AGLEFA**.
- B. A law enforcement agency seeking to dispose or transfer property held for less than the periods stated above for the applicable property shall dispose of the property in accordance with all other applicable law and shall obtain

reimbursement for the property ~~for~~ full market value of the property ~~on~~ the date of transfer. The proceeds from such disposal ~~or~~ transfer shall be deposited in AGLEFA.

- C. A law enforcement agency disposing of or transferring property ~~held~~ beyond the periods stated above for the applicable property shall dispose ~~or~~ transfer the ~~property~~ in accordance with all other applicable law. The proceeds ~~from~~ ~~such~~ disposal ~~or~~ transfer shall be distributed in accordance with all other applicable law-

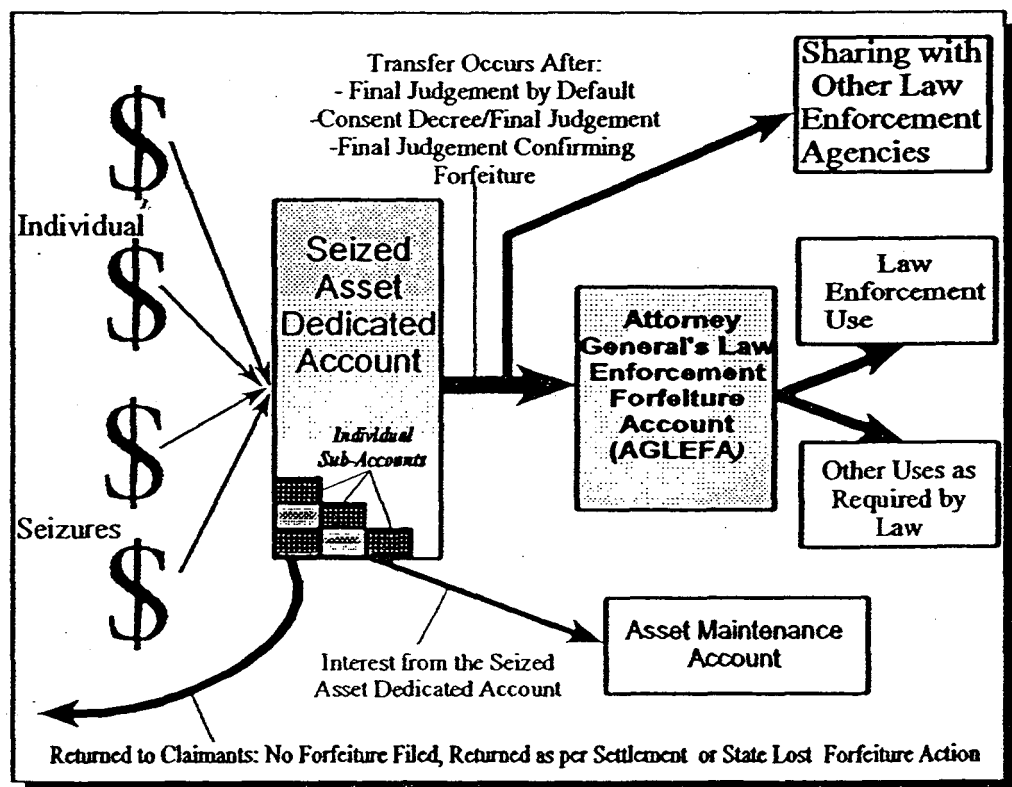


Figure 1

Flowchart of Accounts - Forfeiture Program - NJ / L&PS

2:7 Internal Audit and Compliance Review

In addition to regular audits by the OAG and other State agencies responsible for auditing, the Department's forfeiture program shall be reviewed on an annual **basis** by personnel assigned from the Divisions **of** State Police and Criminal Justice and managed by the OAG internal audit section, or private auditing **firm** hired for this purpose. The results of this review shall be forwarded to **the** Attorney General, **the** Superintendent **of the DSP** and the Director, DCJ.

AUTHORITY: *Peter Verniero*
PETER VERNIERO, ATTORNEY GENERAL

Attachment 1

A Cash Management Fund

All seized funds except that required as evidence or that which must be maintained as cash shall be deposited in the State of New Jersey Cash Management Fund in individual accounts. The Cash Management Fund is supervised by the New Jersey Division of Investment and the State Investment Council.

1. Deposit of Cash

Cash deposits shall be made into a bank account established by the DCJ for such purpose. Checks may be deposited at any time and without prior notice to the bank and should be deposited within one business day of receipt. Deposits should be made within one business day of seizure, or as soon as practical, but not later than four business days after seizure. In instances of large cash deposits, (e.g., a sum in excess of \$25,000 large sum or large amount of small bills) arrangements can be made to count and verify the deposit through the bank's contracted armored car company.

The NJSP Forfeiture Unit or the DCJ Civil Remedies and Forfeiture Section shall promptly notify the Property Management Office of a cash seizure. Upon notification, the Property Management Office will make an appointment with the bank. A representative of the Property Management Office will accompany NJSP or DCJ sworn personnel to the bank and witness the counting and verification process. All cash deposits will be counted by the bank and verified. Any differences in cash amounts shall be noted. Differences in counts can occur if there are counterfeit bills found by bank personnel. All counterfeit bills shall be turned over to the United States Secret Service and deducted from the actual seizure amount.

Every deposit will be accompanied with a deposit slip. Every deposit slip shall include the case name, account number and any other information required by the bank. The Property Management Office shall be provided by the seizing entity with sufficient information required to accurately record the seizure in its records.

2. Establishment of Accounts

The CMF is operated by individual account numbers. In order to establish an account, the following shall be provided to the Division of Investment:

- a. Case name,

- b. Case number (both CJ and State Police number if available),
- c. Department of Law And Public Safety, Civil Remedies and Forfeiture Bureau Address.

The original shall be mailed the Division of Investments with original signatures of the DCJ Deputy Director of Administration and the Property Management **Officer**, or other authorized designee,

In cases where the amount seized is less than **\$2,000**, no individual account need be established. Seizures involving less than **\$2,000** can be deposited directly into the Seized Monies Account.

The Division of Investments will provide, in written form, the individual account numbers requested by the Property Management **Office**. If, after five business days, no account numbers have been received, the Property Management Office shall follow-up with the Division of Investment.

3. Transferring Funds

All funds are initially deposited into a commercial bank account. Once checks are cleared, money is wire transferred to the general CMF account. After individual accounts have been established through the Division of Investments, funds may be wire transferred to each individual account. The Property Management **Office** shall maintain records of all transfers indicating the date of the transfer, the account transferred from and the account transferred receiving the funds. The Property Management Office shall only have authority to transfer funds into the CMF accounts. External transfers shall only be conducted by the **OAG**.

The funds that have been deposited in individual accounts remain in the account until a final disposition (court order or settlement agreement) is received. Settlement agreements are given to the Property Management Office from either the county prosecutor **or** **DCJ**. Money that has been forfeited to the State is then removed from the individual accounts.

All money forfeited to the State, except those funds which are mandated by State law for other purposes, is deposited in the Attorney General's Law Enforcement Forfeiture Account, (**AGLEFA**).

The Property Management Office shall reconcile all bank and Division of Investment statements within two business days of receipt, and shall also review the statements to insure that the transfers and deposits are within the proper accounts. Any discrepancies shall be

immediately reported to the DCJ Deputy Director of Administration.

4. CMF Withdrawals

Withdrawals can be requested to return funds to claimants ~~or~~ their attorney-of-record, share forfeited funds with other law enforcement agencies, or for other categories as a particular case may warrant. Checks are requested from the Property Management **Office** and authorized by the OAG. The Property Management Office shall make all withdrawal requests in memo form, attaching appropriate documentation, and indicating the account number, amount, name and address of the recipient. All *checks issued* for an order to share forfeited funds with another law enforcement agency shall be sent under the signature of the Director, DCJ. All other **checks** shall be sent under the signature of designated personnel of the **Property Management Office**. The Property Management Office shall maintain a record of all checks that are requested.

B. Case Tracking

The seizing entity shall forward to the Property Management **Office** reports of all seizures on a timely basis. When sharing checks are received from a county, the Property Management Office shall close out the corresponding case report and notify the seizing entity of the received funds. Checks that are received without sufficient information, (e.g., case number, sharing number, etc.) to identify a specific seizure report, shall be referred to the seizing entity for proper identification.

1. Case Files

When a report of a seizure is received, a case file is established. At a minimum, the file shall contain the following information:

- a. Case name
- b. CMF account
- c. DCJ case number, and/or
- d. NJSP case number

The files shall be maintained numerically by CMF account number. All items related to a case shall be placed into its respective file.

2. Reports

Monthly summary reports shall be prepared by the Property

Management Office and distributed to the OLPS Administrator, Superintendent of the **NJSP** and Director, **DCJ**. Six **month** reports **shall** also be prepared by the Property Management Office. These reports are due in February for forfeiture activity from July-December and due in August for forfeiture activity from January-June of the fiscal year. The semi-annual reports **shall be** distributed in the same manner **as** the monthly reports.

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



03

Title: County Prosecutor's Office Forfeiture Programs

Date Issued: 03/01/98

Applicability: All Forfeiture Program Administrators

Supersedes:

3:1 Policy Statement:

It is the policy of the Attorney General that each of the state's twenty-one county prosecutor's shall administer property and funds it receives as a result of seizures and forfeitures brought under the authority of N.J.S.A. 2C:64-1 et seq., (civil forfeiture), N.J.S.A. 2C:41-1 et seq., (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq., (financial facilitation of crime), or under any other statute as directed by the Attorney General. A county prosecutor shall administer separately federally forfeited property or proceeds distributed to it by the United States Department of Justice or Treasury through a Federal Equitable Sharing Program Agreement, as outlined under Forfeiture Program Administration Standard Operating Procedure 01.

3:2 Establishment of Forfeited and Seized Trust Funds

A. County Prosecutor's Law Enforcement Trust Account, (CLETA)

1. The county prosecutor through its designated funding entity shall establish a law enforcement trust fund, dedicated for law enforcement purposes and funded by its share of completed forfeiture actions commenced under N.J.S.A. 2C:64-1 et seq., (civil forfeiture), N.J.S.A. 2C:41-1 et seq. (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq., (financial facilitation of crime), or under any other statute as directed by the Attorney General. This trust fund shall be known as the (name of County) County Prosecutor's Law Enforcement Trust Account, (CLETA), which shall be an interest-bearing account. Investigations performed by the prosecutor's office, the State Police and the various municipalities within the county are the primary source of funds received from forfeiture actions. All forfeited funds, or proceeds from the sale of forfeited property received by the county prosecutor's office shall be deposited into CLETA. In addition, any interest generated by CLETA funds shall remain in CLETA for the use of the prosecutor's office. CLETA shall be maintained by the county prosecutor's designated funding entity but shall be administered by the county prosecutor.

Because CLETA is a trust account, the funds shall not revert to the county general treasury at the end of a fiscal year, but shall carryover from year to year and shall be used solely for law enforcement purposes at the discretion of the county prosecutor.

2. The county prosecutor shall authorize all disbursements from CLETA. Before funds can be disbursed, the county prosecutor shall notify its funding entity in writing of the intended expenditures. This notification shall include at a minimum: the date, amount of disbursement, description of requested property/funds, purpose/reason of disbursement, person/company/agency receiving the property/funds, an indication of the proposed law enforcement use and the signature of the county prosecutor. All disbursements in excess of \$10,000 shall require the signature of the county prosecutor and the chief administrative officer of the prosecutor's office.

B. Seized Asset Trust Account

1. The county prosecutor through its designated funding entity shall establish a Seized Asset Trust Account. All seized funds not yet forfeited, and not held for evidence in a criminal matter, shall be deposited into the county prosecutor's Seized Asset Trust Account (SATA), which shall be an interest-bearing account. SATA shall be maintained by the funding entity and administered by the county prosecutor. Individual cash seizures shall be placed into SATA where they are managed as one large group but individual records must be maintained on each case. Since this account is a trust account, in which the funds are held by the prosecuting agency pending their final disposition, the funds shall not revert to the county general treasury at the end of the fiscal year, but carryover from year to year.
2. Disbursements from the county prosecutor's SATA shall be limited to the following:
 - a. Transfer of funds to the CLETA of the county's share of a forfeiture distribution after the county prosecutor's office obtains either:
 1. a final judgment by default;
 2. a consent decree/stipulation of settlement/final

judgment;

3. a final judgment confirming forfeiture; or
 4. a consent to forfeiture placed on the record at guilty plea, sentencing or similar dispositional proceeding.
- b. Transfer of funds to **AGLEFA**, a county or municipal Law Enforcement Trust Account, or an escrow account established for a specific municipal law enforcement agency as defined under Forfeiture Program Administration Standard Operating Procedure 04. These transfers can be made only after the county prosecutor's office obtains either:
1. a final judgment by default;
 2. a consent decree/stipulation of settlement/final judgment;
 3. a final judgment confirming forfeiture; or
 4. a consent to forfeiture placed on the record at guilty plea, sentencing or similar dispositional proceeding.
- c. Return of all, or some portion of, a claimant's seized funds to either the claimant or the claimant's attorney-of-record in the forfeiture litigation if the claimant obtains either:
1. a final judgment by default;
 2. a consent decree/final judgment;
 3. a final judgment confirming the claimant's property right.
- d. For seizures where the county prosecutor or the Division of Criminal Justice decline to file a forfeiture complaint or discontinue a forfeiture action and the seized funds are not held as evidence or covered under the terms of a settlement agreement between the prosecuting agency and the claimant, all seized funds shall be returned to the person from whom the property was seized.
- e. For seizures where: 1) an attempt to return seized funds as outlined in accordance with Section 3:2B.2.d above has been

unsuccessful and; 2) a claimant has not asserted a right over the seized funds and the owner cannot be found; and 3) the seized funds were originally deposited in a SATA the funds shall remain in the SATA for a period of three years from the date of the seizure. At the conclusion of the three year period, the funds shall be disposed of as unclaimed property pursuant to applicable law.

3. The interest from this account shall be transferred periodically by the funding entity to the Asset Maintenance Account (AMA) as outlined under section 3.2C.

C. Asset Maintenance Account

1. All interest or other income generated from SATA shall be transferred periodically into a trust fund maintained by the funding entity and administered by the county prosecutor. This trust fund shall be known as the Asset Maintenance Account (AMA).
2. Expenditures from the AMA shall be made in accordance with Forfeiture Program Administration Standard Operating Procedure 12 only for related forfeiture program administration purposes. Related forfeiture program administration purposes are those costs directly related to the administration or operation of the forfeiture process and the seizure, acquisition, maintenance and preservation of seized property prior to a final judgment of forfeiture. Unless otherwise approved by the Attorney General in a specific case, forfeiture related purposes shall not include the cost of routine maintenance of forfeited property for the use of the agency. Forfeiture related purposes shall include the following:
 - a. The cost of returning seized property to the rightful owner;
 - b. The cost of maintaining an equity interest in the seized property for disposal and;
 - c. The cost of disposing of the seized property whether by sale or destruction either directly after obtaining title through a forfeiture action or after the forfeited property was used by the agency.

Additionally, the AMA may be used by an agency for the cost of disposing of forfeited property or property purchased with forfeiture funds when the agency holds an equity interest in such property and the proceeds from the disposal of the property will be deposited into the agency's Law Enforcement Trust Fund.

Because this account is a trust account, the funds shall not revert to the county general treasury at the end of the fiscal year, but **carryover** from year to year.

D. Maintenance Expenditures

The funding entity is entitled to the reimbursement of expenses resulting from its administration of CLETA, SATA and AMA. These expenses shall be limited to those approved by the county prosecutor and which are normal, customary and comparable to those charged to other county departments by the funding entity in the performance of similar services.

3:3 Standards for the Holdina Period and Tracking of Forfeiture Property

- A. Property forfeited to a law enforcement agency, or purchased by a law enforcement agency with funds from CLETA including the AMA, shall be held by the law enforcement agency for law enforcement purposes:
1. if real estate, for as long as the property exists in the form of real property;
 2. if a motor vehicle, for at least two years from the date of forfeiture or purchase with funds from CLETA.
 3. in the case of all other property with a fair market value of five hundred dollars or more, for at least one year from the date of forfeiture or purchase with funds from CLETA.
- B. A law enforcement agency seeking to dispose or transfer property held for less than the periods stated above for the applicable property shall dispose of the property in accordance with all other applicable law and shall obtain reimbursement for the property for full market value of the property on the date of transfer. The proceeds from such disposal or transfer shall be deposited in CLETA.
- C. – A law enforcement agency disposing **of** or transferring property held beyond the periods stated above for ~~the~~ applicable property shall dispose or transfer the property in accordance with all other applicable law. The proceeds from such disposal or transfer shall be distributed in accordance with all other applicable law.

Peer review

AUTHORITY: _____
PETER VERNIERO, ATTORNEY GENERAL

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



04

Title: *Administration of a Municipal Forfeiture Program*

Date Issued: 03/01/98

Applicability: All Forfeiture Program Administrators

Supersedes:

4:1 Policy Statement

It is the policy of the Attorney General that either the county prosecutor or the municipal law enforcement agency's funding entity shall administer property and funds a municipal law enforcement agency receives as a result of seizures and forfeiture brought under the authority of N.J.S.A. 2C:64-1, et seq., (civil forfeiture) and N.J.S.A. 2C:41-1, et seq., (racketeering). Federally forfeited property and proceeds received by a municipal law enforcement agency as its equitable share of a forfeiture distribution from the United States Departments of Justice or Treasury shall be administered under the provisions of Forfeiture Program Administration Standard Operating Procedure 01.

4:2 Establishment of Law Enforcement Trust Fund

A. Municipal Law Enforcement Trust Account, (MLETA)

1. At the discretion of the county prosecutor, a municipal law enforcement agency through its funding entity or the funding entity of the county prosecutor's office shall establish a law enforcement trust fund dedicated for law enforcement purposes, and funded by completed forfeiture actions commenced under N.J.S.A. 2C:64-1, et seq., (civil forfeiture) or N.J.S.A. 2C:41-1, et seq., (racketeering). Investigations performed by the municipal law enforcement agency, or in conjunction with the county prosecutor's office or a state law enforcement agency are the primary source of funds received from forfeiture actions.
 - a. An account which is established by a municipal law enforcement agency's funding entity shall be known as the (name of municipality) Law Enforcement Trust Account, (MLETA), and shall be an interest-bearing account. MLETA shall be maintained by the funding entity and shall be administered by the agency executive of the municipal law enforcement agency. All forfeited funds or proceeds from the sale of forfeited property received by the municipal law

enforcement agency shall be deposited into MLETA. In addition, any interest or other income generated by the deposited funds shall remain in MLETA. Because MLETA is a trust account, the funds shall not revert to the municipal treasury at the end of the fiscal year, but carryover from year to year. MLETA funds are to be used solely for law enforcement purposes which shall be documented in writing by the agency executive and approved prior to use by the county prosecutor.

- b. An account which is established on behalf of a **municipal** law enforcement agency by the funding entity of the county prosecutor (MEA) shall be maintained as an escrow **account** in the name of the specific municipal law enforcement agency. These **accounts** shall be interest-bearing. **All** forfeited funds or proceeds from the sale of forfeited property designated for a municipal law enforcement agency shall **be** deposited into that agency's escrow account. In addition, any interest or other income generated by the deposited funds shall remain in the agency's escrow account. Because these escrow accounts are trust accounts, the funds shall not revert to the county general treasury at the end of the fiscal year, but carryover from year to year. These funds shall be used solely for law enforcement purposes which shall be documented in writing by the agency executive and approved prior to use by the county prosecutor.

2. Disbursements from MLETA or MEA shall be as follows:

- a. The agency executive shall authorize disbursements from MLETA only after obtaining approval from the county prosecutor. Before funds are expended from MLETA the agency executive shall notify the county prosecutor of the intended expenditure. This notification shall include, at a minimum: ~~the~~ **date**, amount to be disbursed, description of **requested** property, **purpose/reason** of disbursement, **person/company/agency** receiving the funds, an indication of proposed law enforcement use and the signature of the agency executive. All disbursements in excess of **\$5,000** shall require the signature of the agency executive and the municipal administrator.
- b. Disbursements from the MEA maintained by the funding entity of the county prosecutor shall be authorized by the county prosecutor, upon written request by the agency executive. This request shall include the information referred to in section 4:2 A. 2. a. above.

B. Seized Asset Trust Account

1. All seized funds not yet forfeited, and not held in evidence in a criminal matter shall be forwarded to the county prosecutor for deposit into the county prosecutor's Seized Asset Trust Account as outlined under Forfeiture Program Administration Standard Operating Procedure 03.
2. All seized currency not yet forfeited, and not held for evidence in a criminal matter, shall be turned over to the county prosecutor within forty-eight (48) hours of the seizure. A copy of a completed United States Currency Seizure Report prepared by the agency executive, or their designee, shall accompany all seized funds. Procedures for the completion of the United States Currency Seizure Report are detailed in Forfeiture Program Administration Standard Operating Procedure 05.
3. All other assets seized and not held for evidence in a criminal matter, shall be turned over to the county prosecutor within forty-eight (48) hours of the seizure. The agency executive, or their designee, shall complete a form documenting all other assets seized and turned over to the county prosecutor. This form shall include, at a minimum: claimant information (name, address, telephone number, etc.), the name of the agency seizing the asset, the name of the individual seizing the asset, a description of the asset, an indication whether the asset is owned by a third party or has outstanding liens, and shall be signed by the agency executive or their designee.

C. Maintenance Expenditures

The funding entity of the county prosecutor or the municipal law enforcement agency is entitled to charge expenses resulting from its administration of accounts maintained for municipal law enforcement agencies. These expenditures shall be limited to those which are normal, customary and comparable to those charged to other departments by the funding entity in the performance of similar services. Furthermore, reimbursement for expenses must be approved by the county prosecutor.

4:3 Standards for the Holding Period and Tracking of Forfeiture Property

- A. Property forfeited to a law enforcement agency, or purchased by a law enforcement agency with funds from the MLETA or MEA shall be held by the law enforcement agency for law enforcement purposes:
 1. if real estate, for as long as the property exists in the form of real property;

2. if a motor vehicle, for at least **two** years from the date of forfeiture or purchase with funds from the **MLETA** or **MEA**.
 3. in the case of all other property with a fair market value of five hundred dollars or more, for at least one year from the date of forfeiture or purchase with funds from the **MLETA** or **MEA**.
- B.** A law enforcement agency seeking to dispose or transfer property held for less than the periods stated above for ~~the~~ applicable property shall dispose of the property in accordance with all other applicable law and shall obtain reimbursement for the property for full market value of the property on the date of transfer. The proceeds from **such** disposal or transfer shall be deposited in the **MLETA** or **MEA**.
- C.** A law enforcement agency disposing of or transferring property held beyond the ~~periods~~ stated above for ~~the~~ applicable property shall dispose or transfer the property in accordance with all other applicable law. The proceeds from ~~such disposal~~ or transfer shall be distributed in accordance with all other applicable law.

AUTHORITY: Peter Verniero
PETER VERNIERO, ATTORNEY GENERAL

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



05

Title: ***Accounting for Seized Currency***

Date Issued: **03/01/98**

Applicability: **All Sworn Law Enforcement Officers**

Supersedes:

5:1 Policy Statement

It is the policy of the Attorney General that all state law enforcement agencies, each of the state's twenty-one county prosecutor's and agency executives for municipal law enforcement agencies administer proper internal controls over United States Currency they receive as a result of seizures brought under the authority of N.J.S.A. 2C:64-1 et seq., (civil forfeiture), N.J.S.A. 2C:41-1 et seq., (racketeering), or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General. These are the minimum procedures that should be instituted by a law enforcement agency. However, nothing in this standard operating procedure prohibits an agency from adopting more comprehensive procedures. If such a procedure is adopted, it shall be in written form and distributed to every member of the law enforcement agency. The Division of State Police shall account for seized currency under its specific divisional operating procedure.

5:2 Seizure of United States Currency

A. Accounting for Seized Currency

1. United States Currency seized by any Sworn law enforcement officer shall be counted as soon as practical, but not later than the end of the seizing officer's tour of duty. The currency shall be counted by at least **two** officers, independent of one another, preferably at the location of the seizure. If it is impractical to count the currency at the location of the seizure, the currency should be transported, in a manner set forth in the agency's Standard Operating Procedures, to a secure location by at least **two** officers. Both officers must agree and certify the total **dollar** amount of the currency as well as assure the authenticity of the currency by randomly determining that the currency is not counterfeit. The officers shall record the seized currency on a form entitled United States Currency Seizure Report. This form shall include: claimant information (name, address, date of birth, social security number and home and work telephone numbers), name of seizing agency, seizing agency's **ORI #**, name and badge number of the seizing officer, date, time and location of seizure and

a breakdown by denomination of the currency and coins seized. The currency seized shall be **listed by** each denomination with a total for each denomination, a total of all coins and a grand total of **all** currency and coins seized. Upon completion, the **form** shall be signed by the officers conducting the count and the arrested party or their attorney. The original shall be maintained by the seizing officer, a copy shall be given to the arrested party or their attorney and two copies shall be maintained by each of the submitting officers.

2. A currency custodian shall **be** designated by the agency executive of each state law enforcement agency. Currency seized by a Division of the Department of Law and Public Safety shall be forwarded to **the** designated Division currency custodian, who shall **in turn**, follow **the** outlined in Forfeiture Program Administrative Standard Operating Procedure 02.

3. All currency seized by county or municipal law enforcement officers shall be forwarded to a custodian designated by the county prosecutor or agency executive of the municipal law enforcement agency. Seized currency shall **be** forwarded to the custodian, no later than forty-eight hours of seizure. The agency shall establish procedures for the security of currency and coins seized, prior to being **forwarded** to the designated custodian. Upon transfer of these funds, the submitting officers shall sign the United States Currency Seizure Report and include their badge number and date. **The** custodian of the funds shall also sign this form and return a copy to the officers.

Seized currency shall be deposited no later than the first business day after receipt by the designated custodian. The deposit slip shall be attached to the remaining copy and forwarded to the county treasurer or the individual designated by the agency executive of the municipal law enforcement agency. The seizing officer's copy shall be matched to the submitting officer's copy by the county treasurer or an individual designated by the agency executive and any discrepancies shall be immediately reported to the county prosecutor and the Division of Criminal Justice.

B. Security Procedures for Currency

Any officer that seized currency shall exercise due diligence in its handling, storage and security. Willful or gross negligence in currency security may subject a public employee to discipline or criminal charges.

5.3 Seizure of Foreign Currency

Any seizure of foreign currency shall be converted to United States currency on the first business day following the seizure at any banking institution.

AUTHORITY: *Peter Verniero*
PETER VERNIERO, ATTORNEY GENERAL

UNITED STATES CURRENCY SEIZURE REPORT

For Seizing Agency's Forfeiture Program Control Officer Only:

Date Stamp Received:

Control Number:

CLAIMANT INFORMATION

1) Name: _____
(Last) (First) (MI)

2) Address: _____
(Street) (City) (State) (Zip)

3) DOB: _____ 4) Social Security #: _____

5) Home Telephone #: _____ 6) Work Telephone #: _____

SEIZURE INFORMATION

7) Seizing Agency: _____ 8) ORI #: _____ 9) Case #: _____

10) Seizing Officer: _____
(Last) (First) (MI) (Badge Number)

11) Bureau/Section/Unit: _____

12) Date of Seizure: _____ 13) Time of Seizure: _____

14) Location of Seizure: _____
(Street) (Municipality) (County)

UNITED STATES CURRENCY SEIZED

\$100(s) x _____ = _____

Name/Badge #

\$ 50(s) x _____ = _____

Officer Counting: _____

\$ 20(s) x _____ = _____

Name/Badge #

\$ 10(s) x _____ = _____

Officer Counting: _____

\$ 5(s) x _____ = _____

\$ 1(s) x _____ = _____

Claimant: _____

\$ other (including coins) _____

Total Seized: _____

Submitting Officer

Badge Number

Date

Review: (Initials & Date)

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



06

Title: ***Seized and Forfeited Property Management***

Date Issued: **03/01/98**

Applicability: **All Forfeiture Program Administrators**

Supersedes:

6:1 **Policy Statement**

The Attorney General recognizes that in the course of investigations conducted by law enforcement agencies within the state, pursuant to N.J.S.A. 2C:64-1 et seq., (civil forfeiture), N.J.S.A. 2C:41-1 et seq., (racketeering), or under any other statute as directed by **the Attorney General**, property will be seized and at some point forfeited to said agency or returned to the owner of record ("owner"). This property may **be** used by the law enforcement agency, prior to forfeiture, upon obtaining a Use Order from the Superior Court, retained for future use, sale and distribution of proceeds or returned to the owner. Once property has been seized, the seizing agency must maintain the property in a manner to preserve its value and assure that any use will be solely for law enforcement purposes.

6:2 **Maintenance and Use of Seized Property by County and Municipal Law Enforcement Agencies**

- A. Property seized by county prosecutors or municipal law enforcement agencies which is not retained for evidence pending a criminal prosecution, shall be maintained in a manner to preserve its value by the county prosecutor pending distribution, sale or return to the owner. The county prosecutor or agency executive of a municipal law enforcement agency shall **determine** the existence of other owners, lessors or a persons holding a perfected security interest in seized property.

1. Property held by a lessor in the ordinary course of business or held by a person holding a perfected security interest shall not be affected by seizure unless it shall appear that such person had knowledge of or consented to any act or omission upon which the right of forfeiture is **based**. The county treasurer, at the direction of the county prosecutor, may make payment **from** the County Law Enforcement Trust Account to lessors or persons holding a perfected security interest for their interest in seized property.

2. Property in which the owner establishes by a preponderance of the evidence that the owner was not involved in, or aware of the unlawful activity and that the owner had done all that could reasonably be expected to prevent proscribed use of the property by an agent, shall not be subject to forfeiture.
 3. Property in which the owner has entrusted to a person for repairs, restoration or other services to be performed on the property, and that person, without the owner's knowledge or consent, uses the property for unlawful purposes, shall not be subject to forfeiture.
- B. A county prosecutor upon the filing of a forfeiture complaint with the Superior Court and obtaining approval from the county treasurer, or an agency executive upon obtaining approval from the county prosecutor may apply to the Superior Court for an order permitting use of seized property ("Use Order"), pending the disposition of the forfeiture action provided, however, that such property shall be used solely for law enforcement purposes.¹
 - C. The Superior Court may appoint a trustee to protect the interest of all parties involved for property which is of such nature that substantial difficulty may result in preserving its value while awaiting forfeiture action.

6.3 Maintenance and Use of Seized Property by State Law Enforcement Agencies

- A. Property seized by any state law enforcement agency which is not retained for evidence pending a criminal prosecution, **shall** be maintained in a manner to preserve its value pending distribution, sale or return to the owner. The state law enforcement agency shall determine the existence of other owners, lessors or a persons holding a perfected security interest in seized property.
 1. Property held by a lessor in the ordinary course of business or held by a person holding a perfected security interest shall not be affected by seizure unless it shall appear that such person had knowledge of or consented to any act or omission upon which the right of forfeiture is based. The Director, D.C.J., or his designee, may make payment from either the Asset Maintenance Account or AGLEFA to lessors or persons holding a perfected security interest for their interest in seized property.
 2. Property in which the owner establishes by a preponderance of the evidence that the owner was not involved in, or aware of the unlawful activity and that the owner had done all that could reasonably be expected to prevent proscribed use of the property by an agent, shall

¹ For a complete definition of Law Enforcement Purpose, see SOP 12

not be subject to forfeiture.

3. Property in which the owner has entrusted to a person for repairs, restoration or other services to be performed on the property, and that person, without the owner's knowledge or consent, uses the property for unlawful purposes, **shall** not be subject to forfeiture.
- B. A prosecuting agency upon the filing of a forfeiture complaint with the Superior Court and obtaining approval from its funding entity may apply to the Superior Court for an order permitting use of seized property ("Use Order"), pending the disposition of the forfeiture action provided, however, that such property shall be used solely for law enforcement **purposes**.²
- C. The Superior Court may appoint a trustee to protect the interest of all parties involved for property which is of such nature that substantial difficulty may result in preserving its value while awaiting forfeiture action,

6:4 Forfeited Property

A. Transfer of Ownership

1. Upon the completion of a forfeiture action, the Attorney General or the county prosecutor shall direct the state or county treasurer to vest title in property which has been previously seized. The vesting of title shall be performed within five business days of a completed forfeiture action by filing necessary documents with a state motor vehicle agency or county clerk.
2. At the discretion of the Attorney General or county prosecutor, a law enforcement agency that participated in an investigation which resulted in the forfeiture shall receive title in property which has been previously seized. The agency executive shall direct its designated funding entity to vest title in this property within five business days of receiving an acknowledgment of a completed forfeiture action by the prosecuting agency by filing necessary documents with a state motor vehicle agency or county clerk.
3. If property cannot be divided among agencies that have participated in an investigation which resulted in a forfeiture, the Attorney General or county prosecutor shall cause such property to be sold at public auction, unless otherwise directed by the Attorney General. The proceeds from these sales shall be distributed to any agency which participated in an investigation resulting in forfeiture, at the discretion of **the** Attorney General or the county prosecutor.

² For a complete definition of Law Enforcement Purpose, see SOP 12

4. No office-holder, employee or other agent of any law enforcement agency shall purchase forfeited property, nor shall their spouses or dependent children purchase or otherwise acquire through sale title to forfeited property.

6:5 Maintenance Expenditures

The funding agency is entitled to charge expenses resulting from its securing a perfected interest in or clear title to forfeited property. These expenses shall be **limited** to those which are normal, customary and comparable to those charged to other governmental departments which the funding entity performs similar services,

6:6 Statute of Limitations on Claim

Any person who could not with due diligence have discovered that property which they own was seized as contraband may file a claim for its return or the value thereof at the time of seizure within three, **(3)** years of the seizure if they can demonstrate that they did not consent to, and no knowledge of its unlawful use. If the property has been sold, the claimant will receive a claim against proceeds.

AUTHORITY: *Peter Verniero*
PETER VERNIERO, ATTORNEY GENERAL

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



07

Title: ***Requests for Distribution of Forfeited Property***

Date Issued: **03/01/98**

Applicability: **All Law Enforcement Officers**

Supersedes:

7:1 Policy Statement:

The Attorney General recognizes that requests will be made by law enforcement agencies within the state with each of the state's twenty-one county prosecutor's and the New Jersey Division of Criminal Justice ("Division") for distribution of forfeited property obtained pursuant to N.J.S.A. 2C:64-1 et seq., (Civil forfeitures), N.J.S.A. 2C:41-1 et seq., (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General. The submission and review of all such requests shall be governed by Forfeiture Program Administration Standard Operating Procedure 12. However, procedures must be implemented to uniformly document these requests on a form entitled, "Request for Distribution of Forfeited Property."

7:2 Preparation of Form A

A. Each Form A shall be prepared by the agency executive of a requesting law enforcement agency ("agency executive") or their designee.

B. Information contained on this form shall include the following:

1. Prosecuting Agency Information

Indicate the number corresponding to the county prosecutor's office or Division of Criminal Justice, who has been designated to prosecute the civil forfeiture case. (Item #1)

2. Requesting Agency's Information

This section shall require the requesting agency to include the following information:

a. Case Name (Item #2)¹

¹

The Division of State Police will identify a case name by the *Confiscated Money/Property Case Management Report Log Identification Number*.

- b. Case Number (Item #3)
- c. Agency Name (Item #4)
- d. Agency Address (Item #5)
- e. Contact **Person/Title** (Item #6)
- f. Telephone Number (Item #7)
- g. Agency **ORI** Number (Item #8)

3. Description of Requested Property

- a. Indicate a description of the property which has been requested, either **U. S. Currency** (Item #9) or **Other Property** (Item #10). The description shall include the type of property requested including a **Vehicle Identification** Number ("VIN") or serial number and the estimated value.
- b. Based upon the agency's participation in the surveillance, investigation, arrest **and/or** prosecution, the requesting agency shall indicate a proportionate share (Item #11), in the form of a percentage, of the total contributive share distribution made by the prosecuting agency. The county prosecutor, or in the case of the Division of Criminal Justice, the Director shall determine all contributive share distributions in a manner consistent with applicable law and administrative code.
- c. The requesting agency shall also indicate whether or not it agrees to pay any fees or expenses necessary to effect transfer of title (Item #12). Should the requesting agency not agree to pay these expenses, the prosecuting agency may, at its discretion, refuse to honor the request for distribution of forfeited property.

4. Fiscal, Administrative and Property Officer Information

- a. The requesting agency shall include the **Name/Title**, Address **and Telephone** Number of the fiscal, administrative or property officer who will be the recipient of forfeited property. This individual may be either:
 - 1. The fiscal officer of the entity to whom the disbursement of money should be made (Item #13),
 - 2. The official to whom the property transfer documents should **be delivered** (Item #14), or
 - 3. The official to whom property should be delivered (Item #15).

5. Certification

Upon completion of this form, the requester shall sign the **form** including their title as well as typing or printing their **name/title** and including the current date. (Item #16) A signature on this form certifies that the request complies with all applicable provisions of law, administrative code and Forfeiture Program Administration Standard Operating Procedures and that the **information** contained is true and correct.

6. Maintenance of Form A

The county prosecutor's office or the Division shall maintain all completed Form A's, which it receives, whether **or** not a distribution has been approved. These forms shall be filed by corresponding case number and shall cross reference the requesting agency and be readily available for review. Any requests for distribution which have been denied shall have an explanation for such denial and the signature of the county prosecutor or Director of the Division of Criminal Justice, depending on who is prosecuting the civil forfeiture case.

7:3 Failure to Submit Form A to Prosecuting Agency

Any law enforcement agency that fails to submit a Form A within 90 days of the seizure shall be precluded from receiving a contributive share when distribution of the forfeited property is apportioned by the prosecuting agency.

AUTHORITY: Peter Verniero
PETER VERNIERO, ATTORNEY GENERAL

REQUEST FOR DISTRIBUTION OF FORFEITED PROPERTY

PROSECUTING AGENCY'S INFORMATION

1) Agency Prosecuting Civil Forfeiture Case, (Number Only): _____

01- Atlantic County Prosecutor's Office
 02- Bergen County Prosecutor's Office
 03- Burlington County Prosecutor's Office
 04- Camden County Prosecutor's Office
 05- Cape May County Prosecutor's Office
 06- Cumberland County Prosecutor's Office
 07- Essex County Prosecutor's Office
 08- Gloucester County Prosecutor's Office
 09- Hudson County Prosecutor's Office
 10- Hunterdon County Prosecutor's Office
 11- Mercer County Prosecutor's Office

12- Middlesex County Prosecutor's Office
 13- Monmouth County Prosecutor's Office
 14- Morris County Prosecutor's Office
 15- Ocean County Prosecutor's Office
 16- Passaic County Prosecutor's Office
 17- Salem County Prosecutor's Office
 18- Somerset County Prosecutor's Office
 19- Sussex County Prosecutor's Office
 20- Union County Prosecutor's Office
 21- Warren County Prosecutor's Office
 22- New Jersey Division of Criminal Justice

REQUESTING AGENCY'S INFORMATION

2) Case Name: _____

3) Case Number: _____

4) Agency Name: _____

5) Agency Address: _____

6) Contact Person/Title: _____

7) Telephone Number: _____ 8) Agency ORI Number: _____

DESCRIPTION OF REQUESTED PROPERTY

Estimated Value

9) United States Currency, (Total Seized) _____

10) Other Property, (List and describe the property requested, including VIN or serial number, if known.)

- 11) The requesting agency seeks _____ % of the total contributive share distribution. •

▪ The County Prosecutor, or in the case of the Division of Criminal Justice, the Director shall determine the percentage distributed to the entities involved in this matter consistent with applicable law and administrative code.

- 12) Requesting agency agrees to pay any fees or expenses necessary to effect transfer of title not later than the time of the transfer.

Yes: _____ No**: _____

•• If the requesting agency does not agree to pay any fees or expenses necessary to effect the transfer of title, the prosecuting agency may, at its sole discretion, refuse to honor this request for distribution of forfeited property.

FISCAL, ADMINISTRATIVE AND PROPERTY OFFICER INFORMATION

- 13) Fiscal Officer of Entity to Whom Disbursement of Money Should be Made:

Name / Title: _____

Address: _____

Telephone Number: _____

- 14) Official to Whom Property Transfer Documents Should be Delivered:

Name / Title: _____

Address: _____

Telephone Number: _____

- 15) Official to Whom Property Should be Delivered:

Name / Title: _____

Address: _____

Telephone Number: _____

CERTIFICATION

- 16) The requester certifies that this request complies with all applicable provisions of law, administrative code and **Forfeiture Program Administration Standard Operating Procedures**, and that the information contained in this request is true and correct.

Date: _____

Signature / Title _____

Typed or Printed Name Title _____

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



08

Title: *County Forfeiture Program Reports*

Date Issued: **03/0198**

Applicability: **All Forfeiture Program Administrators**

Supersedes:

8:1 Policy Statement:

The Attorney General requires that each of the state's twenty-one county prosecutors prepare a quarterly report detailing the distribution, receipt or expense of forfeited property or funds obtained pursuant to N.J.S.A. 2C:64-1 et seq., (civil forfeitures), N.J.S.A. 2C:41-1 et seq., (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General. . This information shall be recorded on forms promulgated by the Attorney General and known as NJL&PS Form B, entitled County Forfeiture Program Report. The completed forms are to be forwarded to the Division of Criminal Justice ("Division") within thirty days of the end of a previous calendar quarter.

8:2 Instructions For Completion of Form B Report

A. General

The report shall be mailed to:

State of New Jersey
Department of Law & Public Safety
- Division of Criminal Justice
Operations - Bureau
Forfeiture Program Review Unit
P.O. Box 085
Trenton, NJ 08625-0085

Any additional pages attached to the report shall include a reference to the particular part of the Form B report, (e.g., 10- Additional distributions of non-currency property).

The report shall include the full name of the County Prosecutor's Office, the beginning and ending dates of the reporting period, and its "ORI" number assigned by the Division of State Police for access to the National Crime information Center, (NCIC). The report shall indicate the quarter, by circling

the appropriate number, and calendar year of the reporting period.

B. Part I: Assets Seized and Forfeited

1. Record on line 1 all United States Currency seized during the reporting period by any law enforcement agency within the county and forwarded to the County Prosecutor's Office for review and action.
2. Record on line 2 all United States Currency in which a Final Judgement by Default, a Consent Decree/Final Judgement, a Final Judgement Confirming Forfeiture, or other action granting right to the currency to the County Prosecutor's Office has occurred-

All currency forfeited shall be categorized by the specific offense listed below-

Narcotics Offenses: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:35-1 et seq. And N.J.S.A. 2C:36-1 et seq.

Gambling Offenses: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:37-1 et seq.

Racketeering: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:41-1 et seq.

Public Indecency: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:34-1 et seq.

Official Corruption: Any forfeitures of currency as a result of an underlying offense in violation of, N.J.S.A. 2C:27-1 et seq., N.J.S.A. 2C:30-2, 30-3 and 30-4.

Theft Offenses: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:20-1 et seq., N.J.S.A. 2C:21-1 et seq.

Other Offenses: Any forfeitures of currency as a result of any other underlying offense.

3. Record on line **3** any other tangible or intangible property, other **than** United States Currency listed in line **1**), that has been seized by any law enforcement agency within the county and on which a complaint or other forfeiture action has been taken by the County Prosecutor's Office. Provide individually; a description of the property, the underlying offense, the estimated value and the total estimated value of all property seized during the period.
4. Record on line 4 any use orders obtained during the reporting period. Provide individually; a description of use order property, the agency having use of the property and the agency's **ORI** number.'
5. Record on line 5 all tangible and intangible property, except United States Currency reported in line **2**), in which a Final Judgement by Default, a Consent ~~Decree~~ **Final** Judgement Confirming Forfeiture, or other action granting title to the property to the County Prosecutor's Office has occurred. Provide individually; a description of the property, the underlying offense, the estimated value and the total estimated value of all property forfeited during the period.
6. Record on line 6 **all** forfeited tangible or intangible property, except United States Currency, that was sold, auctioned or **otherwise** disposed of, (e.g., scrapped) during the reporting period. Do not include property that was distributed to another law enforcement agency or Prima Facie contraband. Provide individually; a description of the property, the underlying offense, the actual value received from sale, auction or other disposition and a total of all property sold, auctioned or disposed of during the period.
7. Record on line 7 all forfeited tangible or intangible property, except United States Currency, that was placed into law enforcement use by the County Prosecutor's Office. Provide individually; a description of the property, a description of the law enforcement use, a justification for using the property versus selling, **etc.**, the appraised value or estimated value of ~~the~~ property and the total appraised or estimated value of **all** property liquidated during the period. Do not include property that was distributed to another law enforcement agency or Prima Facie contraband.

C. Part II: Expenditures Relating to Forfeiture Program

Record on line 8 the amount of any expenditures relating to the forfeiture program, (e.g., for security interests, asset maintenance and forfeiture

¹ The ORI number is the number assigned by the Division of State Police for access to the National Crime Information Center, (NCIC).

prosecution costs. Examples of such expenditures include, but are not limited to: 1) the care custody expense and disposal of seized and forfeited property; 2) filing and recording fees; 3) brokerage fees; 4) advertising costs; 5) court appointed custodian fees. Provide individually; the property incurring expenditure, the reason for the expenditure, the amount and the total expenditures for the period-

D. Part III: Distribution of Forfeited Property to Other Law Enforcement Agencies

1. Record on line 9 the name and **ORI** number of any law enforcement agency receiving funds as a result of a contributing share or any other reason. Other agencies include, but are not limited to: the **N.J.** Department of Law and Public Safety, other County Prosecutor's Offices and local police departments. Provide individually; the agency name, the agency **ORI** number, the amount distributed and the total amount of all distributions for the period.
2. Record on line 10 the name and **ORI** number of any law enforcement agency receiving tangible and intangible property, except funds reported in line 9), as a result of a contributing share for any other reason- Other agencies include, but are not limited to: the **N.J.** Department of Law and Public Safety, other County Prosecutor's Offices and local police departments. Provide individually; the agency name, the agency **ORI** number, a description of the property, the estimated value and the total estimated value of all property distributed during the period.

E. Part IV: Distribution of Forfeited Property to County Prosecutor's Office

Record on line 11 the recipient or vendor, law enforcement purpose and amount for all distributions of forfeited funds for use by the County Prosecutor's Office during the period. This should not include distributions previously reported in 7), 8), 9) and 10). Provide individually; the payee, the law enforcement purpose, the amount and the total for all expenditures during the period. Expenditures made in accordance with Forfeiture Program Administration Standard Operating Procedure 10, Reallocation to the Department of Law & Public Safety of Property Purchased with Forfeited Funds by a Governmental Agency, shall be annotated with the ROP # of the approved and properly executed Form F.

F. Certification

The County Prosecutor or their designee will record their name and title, full address and telephone ~~number/fax~~ number. This individual will sign and date the form certifying that the information contained is true and correct based upon records maintained by the County Prosecutor's Office and its funding agency.

AUTHORITY: *Peter Verniero*
PETER VERNIERO, ATTORNEY GENERAL



State of New Jersey
Department of Law and Public Safety
Division of Criminal Justice
County Forfeiture Program Report

Prosecuting Agency Name _____

Period: to - from _____

Agency ORI Number _____

1 2 3 4
Circle Quarter

Calendar Year _____

Part I: Assets Seized and Forfeited

- 1) Total U.S. Currency *SEIZED* in Quarter: _____
- 2) Total U.S. Currency *FORFEITED* in Quarter: _____

**Categorize the U.S. Currency *FORFEITED* by underlying offense,
(NOTE: total should equal total reported in Part I, 2).**

Narcotics Offenses: _____

Gambling Offenses: _____

Racketeering: _____

Public Indecency: _____

Official Corruption: \$ _____

Theft Offenses: _____

Other Offenses: \$ _____

3) List and describe SEIZED property, excluding U.S. Currency reported in Part I, line 1). Include the underlying offense and estimated value:

	(3) Total Estimated Value	
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County Forfeiture Program Report

- 4) List any *USE ORDERS* obtained by description of the specific property. Include the agency having use of the property and that agency's ORI number.

Description of Use Order Property	Agency Having Use of the Property	Agency ORI Number
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Comfy Forfeiture Program Report

- 5) List and describe *FORFEITED* property, excluding U.S. Currency reported in Part I, line 2). Include the underlying offense and estimated value:

Property	Underlying Offense	Estimated Value
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♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦	(5) Total Estimated Value	
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6) **List and describe forfeited property and the amount of money received from its SALE, AUCTION OR OTHER DISPOSITION. Include the underlying offense-**

♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦	(6) Total Value Received	
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7) List and describe *forfeited* property, its law enforcement use and **JUSTIFICATION FOR NOT LIQUIDATING SUCH PROPERTY**:

Property	Law Enforcement Use	Justification	Estimated Value
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*****	(7) Total Estimated Value	
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County Forfeiture Program Report

Part II: Expenditures Relating to Forfeiture Program

- 8) Indicate the amount of any *EXPENDITURES RELATING TO THE FORFEITURE PROGRAM*, (e.g., for security interests, asset maintenance and forfeiture prosecution costs.) Examples of such expenditures include, but are not limited to: 1) the care custody expense and disposal of seized and forfeited property; 2) filing and recording fees; 3) brokerage fees; 4) advertising costs; 5) court appointed custodian fees.

Property Incurring Expenditure	Reason for Expenditure	Amount
--------------------------------	------------------------	--------

♦ ♦ ♦ ♦ ♦ ♦ ♦ ♦ ♦ ♦ ♦ ♦ ♦ ♦ ♦ ♦	(8) Total Expenditures	
---------------------------------	------------------------	--

Agency Name	Agency ORI Number	Description of the Property	Estimated Value
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Page 9 of 11

County Forfeiture Program Report

CERTIFICATION

- 12) On behalf of the County Prosecutor's Office, the undersigned certifies that the above information is true and correct based upon the records maintained by the County Prosecutor's Office and the responsible funding agency.

Printed Name and Title of Preparer

Address, City, State, Zip Code

Telephone Number / Fax Number

Signature of Preparer

Date

Signature of the County Prosecutor

Date

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



09

Title: ***Municipal Forfeiture Program Reports***

Date Issued: **03/01198**

Applicability: **All Forfeiture Program Administrators**

Supersedes:

9:1 Policy Statement:

The Attorney General requires that a law enforcement agency **which** receives or expends forfeited property or funds obtained pursuant to **N.J.S.A. 2C:64-1, et seq.** (civil forfeitures) **N.J.S.A. 2C:41-1 et seq.**, (racketeering), or from actions brought under **N.J.S.A. 2C:21-25 et seq.** (financial facilitation of crime), or under any other statute as directed by the Attorney General, shall prepare a quarterly report detailing the distribution, receipt or expense of forfeited property or funds. This information shall be recorded **on** forms promulgated by the Attorney General and known as **NJL&PS Form C** entitled Municipal Forfeiture Program Report. The completed forms are to be forwarded to both the appropriate county prosecutor's office and the Division of Criminal Justice ("Division") within thirty days of the end of a previous calendar quarter.

9:2 Instructions For Completion of the Form C report

A. General

The report shall be mailed to:

– State of New Jersey
Department of Law & Public Safety
Division of Criminal Justice
Operations Bureau
Forfeiture Program Review Unit
P.O. Box 085
Trenton, NJ 08625-0085

Any additional pages attached to the report shall include a reference to the particular part of the Form C report, (e.g., 3 - Indivisible property received during the period).

The report shall include the full name of the police agency, the beginning and ending dates of the reporting period, and the police agency's "ORI" number assigned by the Division of State Police for access to the National

Crime Information Center, (NCIC). The report shall indicate the quarter, by **circling** the appropriate number, and calendar year of the reporting period.

B. Part I: Forfeited Assets Received

1. Record on line 1 the balance in the agency's law enforcement trust account (forfeiture fund account) at the beginning of **the** period.
2. Record on line 2 the total forfeited funds received during the quarter. Funds should be categorized by the specific underlying offenses and categories listed in the report:

Narcotics Offenses: Any forfeitures of currency as a result of **an** underlying offense in violation of N.J.S.A. 2C:35-1 et seq. And N.J.S.A. 2C:36-1 et seq.

2. Gambling Offenses: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:37-1 et seq.

Racketeering: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:41-1 et seq.

Public Indecency: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:34-1 et seq.

Official Corruption: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:27-1 et seq., N.J.S.A. 2C:30-2, 30-3 and 30-4.

Theft Offenses: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:20-1 et seq., N.J.S.A. 2C:21-1 et seq.

Other Offenses: Any forfeitures of currency as a result of any other underlying offense.

Income from Other Sources: Income derived from any source, other than contributive share distributions previously accounted for in other categories, shall be recorded. Examples include, but are not limited to: interest income; reimbursements of towing and storage fees; contributive share distributions of seized but not forfeited property that exceeds the statute of limitations specified by law; and, non-federal contributive share distributions received from another state.

3. Record and describe on line 3 any other forfeited tangible or intangible property, other than funds reported in line 2, that has been distributed to the police agency by any county prosecutor's office or the Division of Criminal Justice. Provide individually; a description of the property, the underlying offense, the intended law enforcement use, the estimated value and the total estimated value of all property received by the police agency during the period.

C. Part II: Use of Forfeited Funds for Law Enforcement Purposes

Record on line 4 the payee or recipient, (e.g., vendor, individual, DARE program, etc.) the law enforcement purpose of the expenditures, the amount of the expenditure made by the police agency or funding entity and the total of all expenditures made during the reporting period.

D. Part III: Disposition of Indivisible Property

Record on line 5 any forfeited property permanently removed from service and the amount of money received from its sale, auction or other disposition. Provide individually; a description of the property, the disposition (sale, auction or other), the actual value received and the total value received for all forfeited property disposed during the reporting period.

E. Certification

The agency executive or their designee will record their name and title, full address and telephone number/fax number. This individual will sign and date the form certifying that information contained is true and correct based upon records maintained by the police agency and its funding agency.

AUTHORITY: Peter Verniero
PETER VERNIERO, ATTORNEY GENERAL



State of New Jersey
Department of Law and Public Safety
Division of Criminal Justice
Municipal Forfeiture Program Report

Police Agency Name _____

Period: to from _____

Agency ORI Number _____

1 2 3 4
Circle Quarter

Calendar Year _____

Part I: Forfeited Assets Received

- 1) Beginning balance of Agency LETA: _____
- 2) Total forfeited funds **RECEIVED** in Quarter: _____

**Categorize the funds *RECEIVED* by underlying offense,
(NOTE: total should equal total reported in Part I, 2).**

Narcotics Offenses: _____

Gambling Offenses: _____

Racketeering: \$ _____

Public Indecency: \$ _____

Official Corruption: • \$ _____

Theft Offenses: \$ _____

Other Offenses: \$ _____

Income from Other Sources': \$ _____

* Includes, but is not limited to, interest income, reimbursements of asset maintenance costs and miscellaneous contributiveshare distributions.

Municipal Forfeiture Program Report

CERTIFICATION

- 6) On behalf of the police agency and the responsible funding agency, the undersigned certifies that the above information is true and correct based upon the available records.

Printed Name and Title of Preparer

Address, City, State, Zip Code

Telephone Number / Fax Number

Signature of Preparer

Date

Signature of Police Agency Executive

Date

STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE



10

Title: ***Reallocation to the Department of Law & Public Safety of Property Purchased with Forfeited Funds by a Governmental Agency***

Date issued. **7/8/96**

Applicability: **All Forfeiture Program Participating Agencies**

Supersedes:

10-1: Policy Statement

The Attorney General recognizes that the Department of Law and Public Safety, (hereafter referred to as the "Department") provides services to other law enforcement agencies and prosecutor's offices. From time-to-time, local and county law enforcement or prosecutorial agencies have offered to reallocate forfeiture funds which would be used to purchase equipment and which, when used by the Department, would serve a law enforcement need of the agency making the reallocation.

This reallocation process will improve the overall level of law enforcement services provided to the citizens of the State. The Attorney General recognizes that the procurement process is governed by State law and that all parties involved in the transaction need to be informed of the intended use, cost and source of the equipment or services. It is therefore the policy of the Attorney General that all such reallocations shall be memorialized in written form and that all parties involved agree to the terms of the reallocation as outlined in that document.

10-2: Source of Funding for Reallocations

The unit of government, (hereafter referred to as the "Agency") which desires to make a reallocation to the Department shall only use funds that are the Agency's share of funds forfeited under the authority of N.J.S.A. 2C:64-1 et seq., (*Civil Forfeiture*) and such funds shall be, at the time of the reallocation, available for use in the Agency's Law Enforcement Trust Account. Equipment or services can not be reallocated in-lieu of forfeiture funds that would be distributed to the Department as its share of a forfeiture action. All reallocations shall be for a law enforcement purpose consistent with the law and with administrative regulation.

10-3: Forms of Reallocations

Direct Purchase of Equipment by Agency - The Agency shall specify a listing of equipment to be reallocated to the Department. The Agency may then purchase the specified equipment, consistent with all applicable State laws, and provide it directly to the Department. The Department shall insure that **all** equipment received is marked with standard inventory markings and placed into the Department's inventory records.

10-4 Restrictions on Equipment or Services Use

The Agency donating the equipment may place restrictions **on** the equipment's use, (e.g., Mobile Data Terminals purchased by the Bergen County Prosecutor's Office shall only be installed and used in Division of State Police vehicles assigned to barracks that patrol Bergen County). However, the restrictions cannot be inconsistent with State law. In addition, the Department must agree that the restrictions would not be detrimental to the efficient operation of the Department. If unacceptable restrictions are **imposed**, the Department shall not accept the reallocation.

10-5: Acceptance of Terms

The following parties shall be informed of, and consent to, any reallocation:

- a) the Agency Chief Executive Officer;
- b) the Department Administrator or designee;
- c) the applicable Department's Division Director or in the case of the Division of State Police, the Superintendent.

10-6: Reallocation of Property or Services - (Form F)

All reallocations shall be memorialized **in** written form and shall be agreed to and signed by persons specified in Standard Operating Procedure 10-5. In order to **implement** a reallocation, the agency shall complete a Reallocation of **Property, (Form F)** and submit it, signed by the Agency's Chief Executive Officer, to the Department, Division of Criminal Justice, Operations Bureau, (hereafter referred to as DCJ Operations). The DCJ Operations shall assign a unique identification number to the request, (referred to as a **ROP Control Number**), maintain a record of the **Form F** and insure that the persons specified in Standard Operating Procedure 10-5 review and agree to the conditions specified. When all signatures have been affixed, DCJ Operations shall maintain the original, provide photocopies to all parties involved and notify the agency, in writing, that it may proceed with the reallocation.

a) Record keeping Requirements for Agency Purchase

When the Agency purchases the equipment it shall maintain all relevant purchase orders, sales invoices and payment checks. All such documents shall be marked with the *Form F ROP Control Number* found in the upper right corner of the original completed document, (e.g., ROP 001-96).

b) Completion of Form F

The following are block by block instructions for the completion of *Form F*. The numbers correspond to the numbered blocks on the form.

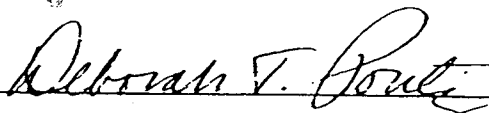
- 1) Enter the complete name of the governmental unit that has legal authority to expend the forfeiture funds that are the subject of the reallocation, (e.g., Union County Prosecutor's Office).
- 2) Enter the business mailing address of the Agency entered in block 1).
- 3) Enter the name of the person who is legally empowered to commit funds of the agency entered in block 1).
- 4) Enter the title of the person entered in block 3), (e.g., County Prosecutor).
- 5) Enter the National Crime Information Center, (NCIC) Origination Number, (ORI) of the Agency identified in block 1). If the Agency has more than one ORI, enter the one which designates the Agency's headquarters location.
- 6) Enter the Agency telephone number for the person specified in block 3).
- 7) Enter the Agency fax number for the person specified in block 3).
- 8) Enter a detailed listing of all the equipment that is the subject of the *Form F*. If separate pages are required, enter "See Attachment for Block 8)" in the space provided. Attach a separate sheet of paper with the header "Block 8) - List of Identified Equipment" centered at the top.

- 9) Enter the total purchase price of the equipment specified in Block 8) in the space provided.
- 10) Enter the equipment's required use by the Department. This use must be consistent with the definition of "law enforcement purpose" as specified in *N.J.A.C. 13:77 et seq.* If separate pages are required, enter "See Attachment for Block 10)" in the space provided. Attach a separate sheet of paper with the header "Block 10) - Law Enforcement Purpose" centered at the top.
- 11) Enter any restrictions in the use of the equipment by the Department. If separate pages are required, enter "See Attachment for Block 11)" in the space provided. Attach a separate sheet of paper with the header "Block 11) - Restrictions Imposed by Agency" centered at the top.
- 12) Enter the Agency name from block 1) The *Form F* shall then be signed and dated by the person named in block 3).
- 13) Enter the title of the person who signed from the Agency. This should be the same as the title entered in block 4).

10-7: Removal of Reallocated Equipment From State Service

All equipment that is funded through the method described in **Standard Operating Procedure 10** shall remain in State service until it is of no useful value to the Department. The equipment shall then be removed from use and disposed in a manner that is consistent with applicable laws and administrative regulations. Any funds received from the disposal of this property shall revert to the State of New Jersey General Treasury.

AUTHORITY:


DEBORAH T. PORITZ, ATTORNEY GENERAL

REALLOCATION OF PROPERTY

Division of Criminal Justice Use Only:

Date Stamp Received:

Control Number:

ROP

AGREEMENT BETWEEN THE DEPARTMENT OF LAW AND PUBLIC SAFETY AND

- 1) Agency Name: _____
- 2) Agency Address: _____
- 3) Agency's Chief Executive Officer: _____
- 4) Agency CEO Title: _____
- 5) Agency ORI Number: _____
- 6) Agency Telephone Number: _____
- 7) Agency Fax Number: _____

- A) This document shall serve as an agreement between the Department of Law and Public Safety, (hereafter referred to as the "Department"), and the agency named in block "1", (hereafter referred to as the "Agency"), on the reallocation of equipment purchased by the Agency's forfeiture funds and given to the Department for its exclusive use;
- B) The Chief Executive Officer of the Agency certifies that the funds used in this reallocation are the Agency's share of funds forfeited under the authority of N.J.S.A. 2C:64-1, et seq., (Civil Forfeiture) and that such funds are currently deposited in the Agency's Law Enforcement Trust Account;
- C) The Chief Executive Officer of the Agency certifies that he/she has determined that a legitimate need for equipment exists within the Department and said equipment, when used by Department personnel, would enhance the overall law enforcement efforts of the Agency's jurisdiction;
- D) The Department has determined that the equipment would benefit the overall operation of the Department when used for the law enforcement purpose and within the restrictions, if any, specified by the Agency;
- E) The Department accepts the equipment identified by the Agency and such use would be consistent with the restrictions placed on its use by the Agency, as long as those restrictions do not conflict with existing laws;

The Agency and the Department have identified the following equipment that would benefit the operation of the Department and enhance the law enforcement efforts within the Agency's jurisdiction:

8) List the Identified Equipment:

G) That the Agency will purchase the equipment specified in block "8," consistent with all applicable State purchase laws and regulations, and provide it directly to the Department consistent with this document. The total cost of the equipment shall not exceed:

9) \$ _____

H) That the equipment identified in block "8" will be used by the Department for the following law enforcement purpose:

10) Specify the law enforcement purpose:

- I) That the following restrictions have been imposed by the Agency on the use of the equipment and these restrictions are not inconsistent with the law or detrimental to the efficient operations of the Department:

1) Specify any restrictions imposed by the Agency:

This agreement has been executed below by authorized representatives of the parties.

2) AGENCY NAME: _____

BY: _____ DATE: _____

13) Title: _____

DEPARTMENT OF LAW AND PUBLIC SAFETY

BY: _____ DATE: _____
DEPARTMENT ADMINISTRATOR, OR DESIGNEE

DEPARTMENT'S DIVISION DIRECTOR OR IN THE CASE OF THE DIVISION OF STATE POLICE, THE SUPERINTENDENT

BY: _____ DATE: _____
DIRECTOR, OR DESIGNEE

STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE



11

Title: ***Fund Disbursement to a Non-Law Enforcement Agency***

Date Issued: 03/01/98

Applicability: **All Forfeiture Program Participating Agencies**

Supersedes:

11-1: Policy Statement

The Attorney General recognizes that the intent of the Legislature when it crafted N.J.S.A. 2C:64-1 et seq., was to designate that all funds derived from a forfeiture program be used for a 'law enforcement purpose.' As defined in Forfeiture Program Administration Standard Operating Procedure 12, the term allows the funding of a broad spectrum of programs that can enhance a law enforcement agency's ability to respond to the ever changing complexities of providing competent, efficient and fair law enforcement services to the citizen's of the State. Forfeiture funds are also used from time to time to support community based programs that may not have an obvious law enforcement purpose, but often provides a clear benefit to the citizen's quality-of-life. Strong arguments can be made that these programs benefit the law enforcement agency by providing a positive community atmosphere that tends to reduce the influence of criminal elements and ultimately crime in the community.

However, the funding of these programs without a uniform evaluation of the program's merits and overall benefits to law enforcement can lead to expressions of concern by the taxpayers of the State and a questioning of the expenditure's merits. Therefore, it is the policy of the Attorney General that all planned forfeiture fund or property disbursement to a non-law enforcement agency, organization, program or group must first be reviewed and approved, in writing, by both the county prosecutor of jurisdiction and the Division of Criminal Justice. The evaluation will focus on reviewing the exact use of the funds; the law enforcement purpose that will be served in the use of these funds, and; the extent of law enforcement's involvement and participation in the project.

11-2: Determination of a Non-Law Enforcement Agency

Every year, numerous forfeiture fund expenditures are made by the State's law enforcement community. The vast majority of these expenditures are made to procure equipment, training or services for the law enforcement agency. Expenditures, such as

the funding of narcotics enforcement operations provide money to purchase evidence and information of criminal conduct. These types of expenditures have a clear and direct law enforcement purpose and are not the subject of this Standard Operating Procedure.

However, any expenditure to fund, in whole or in part, any program which is not under the direct, exclusive control and supervision of a law enforcement agency is considered a community based program, subject to all of the provisions of this Standard Operating Procedure.

11-3: Request for Forfeiture Fund Distribution to a Non-Law Enforcement Agency, (Form D)

A Requesting Law Enforcement Agency Responsibilities

Any law enforcement agency that seeks approval to expend forfeiture funds on a community based program shall **complete a** Request for Forfeiture Fund Distribution to a Non-Law Enforcement Agency, (Form D). The ~~completed~~ form shall be reviewed, approved and certified **as** to accuracy by the administrator of the requesting law enforcement agency.

B. Completion of Form D

The following are block **by** block instructions for the completion **of** Form D. The numbers correspond to the numbered blocks on the **form**.

1. Enter the complete name of the governmental Agency that has legal authority to expend the forfeiture funds that are the subject of the proposed disbursement. (e.g., Union County Prosecutor's Office).
2. Enter the business mailing address of the Agency entered in block 1).
3. Enter the name and title of the person **who is** legally empowered to commit funds of **the** agency entered in block 1).
- 4. Enter the Agency telephone number of the person specified in block 3).
5. Enter the New Jersey Law Enforcement Telecommunication System, **(NJLETS)** Origination Number, **(ORI)** of the Agency identified in block 1). If the Agency has more than one **ORI**, enter the one **which** designates the Agency's headquarters location.
6. Enter the complete name of the person, group or organization that would receive the forfeiture funds which are the subject of the proposed disbursement.
7. Enter the business mailing address **of** the person, group **or**

organization entered in block 1).

8. Enter the name and title of the person who is legally empowered to receive funds on behalf of the person, group or organization entered in block 1).
9. Enter the telephone number of the person specified in block 3).
10. Enter a description of the person's group's or organization's mission, (e.g., mission statement, legal responsibilities, duties, organization structure, etc...). If separate pages are required, enter "See Attachment for Block 10)" in the space provided. Attach a separate sheet of paper with the header 'Block 10) -Organization's Mission' centered at the top.
11. Enter the proposed amount of forfeiture funds to be expended **by** the Agency on the program that is the subject of this **request**.
12. Enter a detailed description of the proposed program, including its expected duration. If separate pages are required, enter "See Attachment for Block 12)" in the space provided. Attach a separate sheet of paper with the header "Block 12) - Description of Program" centered at the top.
13. Enter a detailed listing of what the forfeiture funds would be used to purchase or otherwise compensate. If separate pages are required, enter "See Attachment for Block 13)" in the space provided. Attach a separate sheet of paper with the header "Block 13) - Specified Use of Forfeiture Funds" centered at the top.
14. Enter the law enforcement purpose that would be served **by** expending forfeiture funds in the proposed manner. This purpose must be consistent with the definition **of** 'Law enforcement purpose' in Forfeiture Program Administration Standard Operating Procedure 12. If separate pages are required, enter 'See Attachment for Block 14)" in the space provided. Attach a separate sheet of paper with the header 'Block 14) - Law Enforcement Purpose' centered at the top.
15. Enter a description of law enforcement personnel's involvement in the proposed program. **NOTE:** Attorney General's Directive 1995-3(9) states that: "Forfeited property or monies shall not **be** used to defray the costs of a community based program unless law enforcement personnel are substantially involved in the program." If separate pages are required, enter "See Attachment **for** Block 15)" in the space provided. Attach a separate sheet **of** paper with the header "Block 15) - Law Enforcement's Involvement" centered at the top.

16. The completed Form D shall then be reviewed for accuracy, signed and dated by the person named in block 3).
17. Enter the printed or typed name of the person who signed in block 16).

C. Review by County Prosecutor

The certified Form D shall be reviewed by the county prosecutor of jurisdiction. **He/she** shall determine if the expenditure of forfeiture funds is appropriate and consistent with the provisions of the applicable Statutes, Attorney General's Guidelines and the Forfeiture Program Administration Standard Operating Procedures. If the request is from the county prosecutor's office, the county prosecutor shall both certify and approve **the** request.

D. Review by Division of Criminal Justice

If approved, the completed Form D shall be forwarded to the Division of Criminal Justice, Operations Bureau for final review and approval. Upon making a determination, the Director, Division **of** Criminal Justice, **or** designee, shall sign and date the appropriate "Approved" or "Denied" block.

The Division of Criminal Justice may impose limitations on any aspect of the request. The original Form D shall then be maintained by DCJ - Operations and the person who signed in block 16) shall receive a photocopy along with written notification from the Division of Criminal Justice to proceed.

AUTHORITY:

Peter Verniero
PETER VERNIERO, ATTORNEY GENERAL

REQUEST FOR FORFEITURE FUND DISBURSEMENT TO A NON-LAW ENFORCEMENT AGENCY

For Division of Criminal Justice Use Only:

e Stamp Received:

Control Number:

REQUESTING AGENCY'S INFORMATION

- 1) Agency Name: _____
- 2) Agency Address: _____
- 3) Contact Person/Title: _____
- 4) Telephone Number: _____
- 5) Agency ORI Number: _____

NON - LAW ENFORCEMENT ORGANIZATION'S INFORMATION

- 5) Organization Name: _____
- 7) Organization Address: _____
- Contact Person/Title: _____
- 8) Telephone Number: _____

10) Description of the Organization's Mission: (e.g., Mission Statement, Legal Responsibilities, Duties, Organizational Structure, etc...) _____

11) Proposed Amount of Forfeiture Funds to be Used in this Project: _____

12) Description and Length of Project: _____

13) Specified Use of Forfeiture Funds:

LAW ENFORCEMENT PURPOSE AND INVOLVEMENT IN PROJECT

14) Law Enforcement Purpose of This Use of Forfeiture Funds:

(Law Enforcement Purpose is defined in Forfeiture Project Administration Standard Operating Procedure 12.)

5) Description of the Substantial Involvement of Law Enforcement in This Project:

(NOTE: A non-law enforcement agency cannot receive forfeiture funds without direct and substantial involvement of law enforcement agency in the project.)

16) _____
Signature of Administrator for Requesting Agency

Date

17) _____
Typed or Printed Name of Administrator for Requesting Agency

CERTIFICATION: By signing in Block 16, I certify that the information provided in this *Request for Forfeiture Distribution to a Non-Law Enforcement Agency, (Form - D)* is true, I am aware that if any of information provided is willfully false, I am subject to punishment.

AUTHORIZATION FOR FORFEITURE FUND DISBURSEMENT TO A NON-LAW ENFORCEMENT AGENCY

REVIEW BY THE COUNTY PROSECUTOR

APPROVED

I have reviewed the attached ***Request for Forfeiture Fund Distribution to a Non - Law Enforcement Agency, (Form - DI)*** and have determined that the expenditure of forfeiture funds is appropriate in the manner detailed in this request and is not inconsistent with the provisions of the New Jersey Constitution, applicable Statutes, Administrative Code or ***Forfeiture Program Administration Standard Operating Procedures***.

County Prosecutor _____

Date _____

DENIED

I have reviewed the attached ***Request for Forfeiture Fund Distribution to a Non - Law Enforcement Agency, (Form - DI)*** and have determined that the expenditure of forfeiture funds is not appropriate as detailed in this request.

County Prosecutor _____

Date _____

REVIEW BY THE DIVISION OF CRIMINAL JUSTICE

APPROVED

I have reviewed the attached ***Request for Forfeiture Fund Distribution to a Non - Law Enforcement Agency, (Form - DI)*** and have determined that the expenditure of forfeiture funds is appropriate in the manner detailed in this request, with limitations imposed, if any, below, and is not inconsistent with the provisions of the New Jersey Constitution, applicable Statutes, Administrative Code or Attorney General's Guidelines.

Director, Division of Criminal Justice, or Designee _____

Date _____

LIMITATIONS IMPOSED BY THE DIVISION OF CRIMINAL JUSTICE:

I have reviewed the attached ***Request for Forfeiture Fund Distribution to a Non - Law Enforcement Agency, (Form - DI)*** and have determined that the expenditure of forfeiture funds is not appropriate as detailed in this request.

Director, Division of Criminal Justice, or Designee _____

Date _____

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



12

Title: ***Distribution of Forfeited Property to Participating Law Enforcement Agencies***

Date Issued: **03/01/98**

Applicability: **All Law Enforcement Personnel**

Supersedes: **N.J.A.C. 13:77.1 et. seq.**

12:1 Policy Statement

This standard operating procedure governs the division and distribution of property forfeited pursuant to **N.J.S.A. 2C:64-1 et seq.** The standard is promulgated to provide guidance and prior notice regarding the procedures governing the equitable distribution, use and accountability of law enforcement agencies for such property in **accordance** with the statutory intent. **When** property is forfeited as a result of the combined efforts of more than one law enforcement agency, each law enforcement agency contributing to the forfeiture is to share proportionately in the forfeiture proceeds. Where property cannot be divided, the general policy is to sell the property and divide the proceeds among all participating law enforcement agencies in a manner which will enhance law enforcement efforts and cooperation. All forfeited property, and all funds derived from the sale, auction or other disposition of said property shall be used solely for law enforcement purposes. This standard is intended to further these general purposes and shall be interpreted accordingly.

- A.** The prosecuting agency shall determine the contributive share to be apportioned to each participating law enforcement agency, including that of the prosecuting agency itself.
- B.** The prosecuting agency shall divide the forfeited property or its proceeds equitably and fairly, and in accordance with these standards, with any law enforcement agency, for that agency's use, where the law enforcement agency participated in the surveillance, investigation, arrest or prosecution which resulted in the forfeiture.
- C.** The funding entity shall fully credit the participating law enforcement agency with its contributive share of the forfeited property, which share is to be dedicated solely for law enforcement purposes in accordance with these standards.

12:2 Legal authority

- A. Under N.J.S.A. 2C:64-6 and N.J.S.A. 2C:64-7, the Attorney General ~~or~~ the county prosecutor, whichever is the prosecuting agency, shall divide the forfeited property ~~according~~ to each law enforcement agency's ~~contribution~~ to ~~the surveillance~~, investigation, arrest or prosecution which resulted in the forfeiture.
- B. These standards are promulgated pursuant to the authority of the Attorney General, as the State's Chief law enforcement **officer**, to provide for the general supervision of criminal justice throughout the State-

12:3 Delegation of authority of Attorney General in apportionment

Where the Attorney General is the prosecuting agency, the Director of the Division of Criminal Justice is designated to ~~act~~ on behalf of the Attorney General in determining the relative contributions of participating law enforcement agencies so that an equitable division of forfeited property can be made. Further, ~~the Director of the~~ Division of Criminal Justice shall be directly responsible for the general administration, execution and compliance of the standards governing forfeiture by all law enforcement agencies ~~within~~ the State.

12:4 Definitions

The following words and terms when used in ~~the~~ Forfeiture Program Administration Standard Operating Procedures, shall have the following meanings, unless the context clearly indicated otherwise:

- A. "Contributive share" means the proportionate share of forfeited property which is allocated by the prosecuting agency in the exercise of its discretion to any participating law enforcement agency based on the participating **law** enforcement agency's relative contribution to the surveillance, investigation, arrest or prosecution.
- B. "Entity" means the ~~funding~~ **entity** or entity having budgetary control over **a** participating law enforcement agency. In the case of the State law enforcement agency, that entity shall be the State Treasury.
- C. "Forfeited property" means property, proceeds **and** monies seized and subject to a confirming final judgment pursuant to N.J.S.A. 2C:64-3.
- D. "Forfeiture records" means the financial documentation and case files maintained in the regular course ~~of~~ business which relates to, and accounts for, the seizure, forfeiture and/or disposition of prima facie contraband and/or property under the authority of N.J.S.A. 2C:64-1 et seq.
- E. "Investigative unit" means a State law enforcement investigative agency,

bureau, division, section or other unit that engages in criminal investigation, surveillance or arrests and which is under the control, direction or supervision of the Attorney General in the Department of Law and Public Safety.

- F. "Law enforcement purpose" means a purpose which is calculated to enhance a law enforcement agency's ability to conduct criminal investigations, surveillance, arrests and prosecutions and to respond more fully to the effects of crime and, for purposes of these rules, shall be beyond that allocated by the law enforcement agency's annual budget. A law enforcement purpose shall include expenditures to defray the costs of protracted or complex investigations; to educate the public in crime prevention techniques; to provide additional technical assistance or expertise, which may, for example, include participation in funding the purchase of Statewide automated fingerprint identification equipment, an automated uniform offense and arrest report system, the purchase of surveillance and undercover transportation and investigation equipment, and computer hardware and software to enhance the coordination and sharing of information among the law enforcement agencies of a county and the State; to provide matching funds to obtain Federal law enforcement enhancement grants, or for such other purposes as the Attorney General may from time to time authorize.
- G. "Participating law enforcement agency" means a law enforcement agency, including, but not limited to, a New Jersey State investigative unit, a county multi-agency strike force or task force, county prosecutor's office, county or local police agency, law enforcement agencies of the United States Government and law enforcement agencies of State and local jurisdictions outside the State of New Jersey which substantially contributes to the surveillance, investigation, arrest or prosecution which results in a forfeiture.
- H. "Prosecuting agency" means either the Attorney General or the county prosecutor, whichever in a particular case bears the responsibilities for prosecuting the defendant or filing the forfeiture action-
- I. "State law enforcement agency" means any department of the State which by itself or through any subordinate investigative unit or other agency, which it controls, directs or supervises, engages in law enforcement activities through State personnel that are sworn police officers- The Department of Law and Public Safety shall be the State law enforcement agency for all investigative activity conducted by its investigative units.

12:5 Distribution of Contraband

Property defined in N.J.S.A. 2C:64-1 as Prima Facie Contraband, which has been forfeited shall be destroyed if it can serve no lawful purpose or it presents a danger to the public health, safety or welfare.

- A. Before Prima Facie Contraband can be used **by a** law enforcement agency, a written request shall be made to, and approved **by**, the Division of Criminal Justice, Operations Bureau. The request shall state the law enforcement purpose, (as defined in SOP 12:4 (f)), duration of use and the law enforcement agency that shall maintain custody and control over the property. When the property is no longer useful **to** the **law** enforcement agency, it shall be destroyed.

12:6 Property forfeited that contains or displays any counterfeit copyright, trademark or registration

Property forfeited which contains or displays **any** counterfeit brand name, insignia, design feature or any other identifiable feature which is protected by United States copyright, trademark or registration shall be either: 1) destroyed, or; 2) returned to **the** owner of the copyright, trademark or registration. In lieu of receiving the forfeited property, **the** owner of the copyright, trademark **or** registration may provide written consent **to the** donation of **the** forfeited property to any charitable or non-profit organization operating within the State. The charitable or non-profit organization that receives forfeited property under this provision, shall use the property in order **to** fulfil the mission of the organization and shall not **sell** the forfeited property **to** any person or entity.

12:7 Law Enforcement Trust Fund for prosecuting agency

All forfeited property other than contraband, or any proceeds resulting from **the** forfeiture and all monies seized or forfeited, shall become the property of the entity funding the prosecuting agency effecting the forfeiture, and shall, if feasible, be placed in a dedicated Law Enforcement Trust Fund established by that entity, as outlined by the Forfeiture Program Administration Model Standard Operating Procedures.

12:8 Contributive Share

After deductions are made for security interests and asset maintenance and forfeiture prosecution costs, payments shall be made from the **SADA** or **SATA** **to** the participating **law** enforcement agency-State, county, local or other, where the **law enforcement** agency contributed to the **surveillance**, investigation, arrest or prosecution resulting in the forfeiture, in Proportion **to** that agency's relative contribution as determined by the prosecuting agency. Payment shall be made to the **Law** Enforcement Trust Fund established for the participating law enforcement agency.

12:9 Use of Forfeiture Funds

- A. Moneys in AGLEFA, a CLETA, a **MLETA** or a MEA shall only be used for law enforcement purposes, as defined in this standard operating procedure. **All** expenditures are subject to certification of availability by the funding entity, which certification should not **be** unreasonably and ultimately withheld. Forfeiture funds shall not be a source of revenue to meet normal operating

needs of the law enforcement agency. **No** funding entity shall anticipate forfeitures or proceeds therefrom in the adoption and approval of the budget for its law enforcement agency.

- B. Forfeiture funds may not be used for payment of regular salaries or to create new personnel positions, to pay dues or fees in an organization that represents any interest other than a law enforcement interest, such as a **bar** association, or to pay any expense imposed as a condition of maintaining professional standing, such as the FAIR Act Attorney Fee. **If** approved by the Division of Criminal Justice, Deputy Director - Operations, forfeiture funds may be used to pay the salaries of temporary employees hired for a specific function, such as persons with a special expertise which is needed for a particular investigation. Funds may be expended from a **MLETA** or MEA only upon the request of the participating law enforcement agency, to the appropriate county prosecutor accompanied by a **written** certification that the request complies with the provisions of these standard operating procedures, and only upon appropriation to the participating law enforcement agency in accordance with the accepted budgetary provisions of its funding entity. No expenditure shall be made from either a **CLETA**, a **MLETA** or MEA without the approval of the appropriate county prosecutor. Any expenditure of forfeiture funds, like the expenditure of other public funds, shall be subject to the public bidding requirements imposed upon the funding entity.

12:10 Disposal of indivisible forfeited property

Where forfeited property, including motor vehicles, cannot be divided as required by **N.J.S.A.** 2C-64-7, the general policy of this State shall be to **sell** the property and divide the proceeds as set forth in this standard operating procedure rather than to retain the property for law enforcement use. Where, however, full value cannot be obtained for indivisible forfeited property and where the property is needed for a law enforcement purpose, the prosecuting agency effecting the forfeiture may determine to retain the forfeited property for official use.

12:11 Procedures for disposing **indivisible forfeited property**

If the prosecuting agency **decides** to distribute indivisible forfeited property to a participating law enforcement agency, the participating law enforcement agency must reimburse **the** entity funding the prosecuting agency for any moneys that were expended by that entity in furtherance of securing a perfected interest in or clear title to the forfeited property. If the participating law enforcement agency does not agree to such reimbursement, or if other agreement cannot be reached by all interested parties, **the** forfeited property shall be sold and the proceeds shall be distributed as set forth in this standard operating procedure.

12:12 Procedures for **apportioning forfeited property**

- A Calculation of the contributive share of any participating law enforcement agency is to be determined in the discretion of the prosecuting agency. **The** distribution **decision** of the prosecuting agency shall generally reflect **the** relative contribution of any law enforcement agency **participating** in any of the acts which led to the seizure or forfeiture of the **property**.
- B. A participating law enforcement agency shall submit a written request **for** distribution as detailed in Forfeiture Program Administration Standard Operating Procedure 07 within 90 days of the seizure and file **the** request with the prosecuting agency.

12:13 Criteria for **apportioning** forfeited **property**

- A In determining the contributing share of any participating law enforcement agency, the prosecuting agency shall consider the following enumerated factors:
 - 1. The amount of money directly expended in pursuing the case: **These** funds, while "out-of-pocket" costs of the case itself, generally are not directly tied to an asset seized for forfeiture. Thus, these expenditures are not to be included with the asset maintenance and forfeiture prosecution costs which are to be deducted prior to calculation of law enforcement agency's contributive share. Payments for information **or** assistance relating to or in furtherance of a law enforcement investigation are costs associated with the underlying criminal investigation itself, independent of a forfeiture action. Nevertheless, because the expended money represents **an** identifiable out-of-pocket expense, the prosecuting agency money represents an identifiable out-of-pocket expense, the prosecuting agency shall generally reimburse such costs as fully as possible in determining a law enforcement agency's contributive share.
 - 2. The agency which initiated the case: The initiating law enforcement agency may well have been able to proceed with a criminal investigation without the assistance of others. To the extent **that** agency **collaborated** with other law enforcement agencies to further an investigation and develop a more significant **case**, it **should** not "lose" the value of an asset which it may in the normal course, and without assistance from other law enforcement agencies, have obtained independently. In these circumstances, the contributive share of the initiating **law** enforcement agency may be calculated in a greater than pure percentage contribution fashion in order to encourage and foster future law enforcement cooperation. Furthermore, the agency which initiated the case may have made an insignificant manpower contribution to the forfeiture. For example, a stop by a State Trooper could result in a find of a large cache of drug money. The few moments expended by the trooper would be far less

than expended in the prosecution of the case itself, which **could**, indeed, result in a major prosecution if the investigation could ascend the drug distribution hierarchy. Nevertheless, the "but for" nature of the trooper's act may warrant a greater **contributive** share for his agency than would be calculated solely by **considering** manpower or costs expended.

3. The agency which identified the asset: An asset may, for example, be identified as subject to forfeiture by using evidence contained in financial records, just as inconsistencies between one's net worth or purchases and legitimate known sources of income can reveal illegal income. Investigative accounting techniques may show that **unlawfully** acquired income was used to infiltrate or purchase a business or indirectly to acquire other apparently legitimate property. Thus, demonstration of a connection between the proceeds of **crime** and property would enable the forfeiture of that asset. Under these circumstances, the law enforcement agency's identification of the assets or business as an ultimate product of criminal activity could significantly expand the value of forfeiture in a particular case and may be appropriately rewarded.
4. The manpower expended in pursuing the case, including overtime costs: Manpower expenditures provide a reasonable indication of a law enforcement agency's efforts in pursuing a case, and thus its contribution to the overall law enforcement effort. It will undoubtedly be difficult or impossible to be completely accurate, however, in evaluating this cost, since **officers** will rarely work on only one case.
5. The law enforcement agency actively participates in and contributes personnel or other resources to a multi-jurisdictional task force.
6. The relative needs of the law enforcement agencies involved: Generally, these needs are not to be a factor in calculating a contributive share. In an unusual case involving a particularly large forfeiture, **however, this** would become a consideration in order to assure that forfeited assets are in fact used to enhance **law** enforcement efforts. The **Attorney** General, as chief law enforcement officer **of** the State, or the prosecutor, as chief law enforcement officer of a county, should, in making a decision distributing forfeited property, **take** into account the needs of the law enforcement agencies within his jurisdiction. Thus, from a public policy perspective, the prosecuting agency may in its discretion determine that division of forfeited property be made other than in a purely mathematical allocation based in contribution.
7. Alternative availability of the asset to the agency in the near future from other seizures: if two participating law enforcement agencies

are equally entitled to forfeited property or proceeds and one of the agencies, but not the other, regularly obtains forfeited funds, it is proper to consider that fact in calculating a contributive share. In general, of course, contributive shares are to be calculated on each participating law enforcement agency's relative contribution: Nevertheless, as discussed above, a factor to consider in dividing forfeitures is the overall effect on law enforcement within the State. Where tangible and indivisible property is to be distributed, the prosecuting agency, in deciding which participating law enforcement agency is to have the use of the property, should consider whether either agency may be able to obtain similar property alternatively in the near future.

12:14 Monitoring, reporting and auditing procedures

- A. A law enforcement agency distributing, receiving or expending forfeited property, proceeds or money shall maintain the full records documenting these distributions, receipts and expenditures. Every law enforcement agency distributing, receiving or expending such property or funds shall submit a quarterly report documenting those distributions, receipts and expenditures to both the Attorney General and the appropriate county prosecutor, as detailed in Forfeiture Program Administration Standard Operating Procedures 08 and 09.
- B. The Attorney General and the county prosecutor shall institute a record keeping system that fully document the seizure, return, (if applicable) forfeiture, distribution and use of all property subject to forfeiture or proceeds derived from the disposition of said property. Any record keeping systems used by a county prosecutor to maintain forfeiture records shall be reviewed and approved by the Division of Criminal Justice, Operations Bureau prior to its implementation or use.
- C. All county and municipal forfeiture records shall be audited as authorized in N.J.S.A. 40A:5-4 et seq. A copy of the final audit report for each forfeiture records audit shall be forwarded to the Division of Criminal Justice, Operations Bureau.
- D. The Attorney General reserves the right to audit the forfeiture records of any law enforcement agency. This right shall not restrict or impede the Attorney General's supervisory power pursuant to the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 et seq., or any other law, rule, regulation, directive, opinion or agreement. The Attorney General may assess the county prosecutors for the cost of conducting audits of forfeiture records. These administrative costs shall be within a maximum established by agreement from time to time between the Attorney General and a majority of the county prosecutors. The cost of the audit may be assessed against the audited agency's law enforcement trust fund.

- E** The prosecutor of each county may audit the forfeiture records of any **municipal** law enforcement agency or any **coalition** of municipal law enforcement **agencies** within that county. The cost of the audit may be assessed against **the** audited agency's law enforcement trust fund.

AUTHORITY: *Peer review*
PETER VERNIERO, ATTORNEY GENERAL

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New Jersey Permanent StatutesTITLE 40A MUNICIPALITIES AND COUNTIES40A:5-1. Short title**40A :5-1. Short title**

This chapter shall be known and may be cited as the "Local Fiscal Affairs Law" .

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-2. Definitions

40A :5-2. As used in this chapter and any act amendatory to and supplementary thereto unless the context indicates otherwise: "local unit" means any county, municipality, special district or any public body corporate and politic created or established under any law of this State by or on behalf of any one or more counties or municipalities, or any board, commission, department or agency of any of the foregoing having custody of funds, but shall not include a school district;

"governingbody" means the governing body of a county or the commission, council, board or body having control of the finances of a municipality or any other local unit as defined herein;

"chief financial officer" means, except in the case of a municipality, the director of revenue and finance, comptroller, treasurer, collector or other financial officer of a local unit. In the case of a municipality, the chief financial officer means the person appointed pursuant to section 5 of P.L.1988, c.110 (C.40A:9-140.10); in the case of a county, the chief financial officer means the person appointed pursuant to section 4 of P.L. 1993, c.87 (C.40A:9-28.4);

"chief executive officer" means the county executive, county manager, county supervisor or president of the board of chosen freeholders, as appropriate to the form of government of a county, or the mayor, manager or commissioner, as appropriate to the form of government of a municipality, or the chairman, president, director or other chief executive officer of any other local unit;

"warrant" means the draft or check of any local unit used in warranting disbursement of moneys and shall, in every instance, be evidenced by the issuance of a check of the local unit. In no instance shall it be necessary for the local unit to refer to, or issue, a check separate and distinct from the warrant;

"check" means the instrument by which moneys of any local unit are disbursed.

— Amended 1983,c.8;s.1; 1991,c. 175,s.15; 1993,c.87,s.8.

40A :5-3. Fiscal year

40A :5-3. The fiscal year of every local unit shall be the period for which a local unit adopts a budget, as required pursuant to the "Local Budget Law," N.J.S.40A:4-1 et seq.

Amended 1991,c.75,s.25.



New Jersey Permanent Statutes**TITLE 40A MUNICIPALITIES AND COUNTIES****40A:5-4. Annual audit required: extensions****40A :5-4. Annual audit required; extensions**

40.4 :5-4. The governing body of every local unit shall cause an annual audit of its books, accounts and financial transactions to be made and completed within six months after the close of its fiscal year. The governing body of every local unit may by resolution petition the Director of the Division of Local Government Services in the Department of Community Affairs for **an** extension to complete and file the annual audit with the division. Upon good cause being shown the director may grant an extension upon whatever terms or conditions he may deem reasonable. The determination of the director in the granting of **an** extension is final.

The governing body of every local unit shall employ a registered municipal accountant of New Jersey to prepare its annual audit or it shall enter into an agreement with the Director of the Division of Local Government Services for an annual audit to be made by qualified employees of the division. The director shall establish a fee based upon the time spent and other expenses incurred by qualified employees of the division when conducting the annual audit for a local unit. The local unit shall upon request for payment for audit services, forward a check to the director, payable to the State Treasurer.

Amended 1977,c.396,s.1; 1991,c.216.

40A :5-5. Scope of audit

Each audit shall embrace the books, accounts and transactions of the local unit and every board, body, officer or commission supported and maintained wholly or in part by funds appropriated by the local unit, unless otherwise provided by statute or regulations of the board. Each audit shall cover a complete fiscal year and, in addition, shall include a verification of all cash and bank balances as of the date of the audit thereof and an audit of the accounts to such date.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-6. Report of audit

Every such registered municipal accountant shall file the original report of his audit and recommendations with the clerk and shall, within 5 days thereafter, file a certified duplicate copy thereof, over his signature, in the office **of** the director.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.



New Jersey Permanent Statutes**TITLE 40A MUNICIPALITIES AND COUNTIES****40A:5-7. Publication of report and recommendations****40A :5-7. Publication of report and recommendations**

A synopsis of all audits, together with the recommendations made by the registered municipal accountant, shall be prepared and published by the clerk of the local unit at least once in the official newspaper of the local unit, if there be one, or if there be none, in a newspaper published in the local unit. If there is no newspaper published within the local unit, it shall be published in a newspaper having a general circulation in the local unit.

If the clerk fails to have such publication made within 30 days after receipt of the report of audit and recommendations, he shall be subject to a fine of \$10.00 payable to the local unit for each day after the expiration of the 30 days that such publication fails to appear.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-8. Audit by director

If any local unit does not carry out the provisions of this chapter by reason of the failure of the governing body thereof to institute and complete such audit within the time provided herein, the director may, by his employees and agents or by auditors employed for that purpose, conduct an audit of the books of such local unit and such audit shall be taken to be the statutory audit of the local unit and shall be paid for by the local unit on bill rendered therefor.

For the services of the said director, or his employees or agents, or the pay of the auditors employed by him, whether permanent employees of the division or not, there shall be paid to him by the local unit for deposit in the State treasury, a per diem allowance not to exceed \$75.00 for each person for work done in connection with the audit or examination of the accounts. Said amount, if not paid when billed, shall be recoverable in an action at law.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1973, c. 243, s. 1, eff. Nov. 21, 1973.

40A :5-9. Audit by registered municipal accountant

Every audit required under this chapter shall be completed by an accountant or auditor who holds an uncanceled license as a registered municipal accountant of New Jersey. Such license shall be issued annually by the New Jersey State Board of Public Accountants, shall be dated September 1 and run until August 31 of the following year, unless sooner canceled or revoked by the said State Board of Public Accountants.

Every report of audit shall be signed by the registered municipal accountant making the audit, or in charge thereof, who shall be the person authorized by the local unit to make the audit. In case any license shall be revoked, such revocation shall not be construed to affect any agreement which may be made by any local unit with any other registered municipal accountant, even though such accountant shall have been associated with the person whose license has been revoked.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.



New Jersey Permanent StatutesTITLE 40A MUNICIPALITIES AND COUNTIES40A:5-10. Revocation or cancellation of license**40A :5-10. Revocation or cancellation of license**

Upon proof that any registered municipal accountant shall have knowingly omitted to report any error, omission, irregularity, violation of law or discrepancy found in the books or accounts, or shall have issued false reports of the audit of any local unit, or of such a nature as not to comply with the requirements of the director, or if such registered municipal accountant shall fail to file such report and recommendations as herein directed, or neglect or refuse to carry out any agreement for audit, his registration license may be canceled by the State Board of Public Accountants. It shall be the duty of the director to notify the State Board of Public Accountants of any matters coming to his attention relative to any of the foregoing. Upon cancellation or refusal of a license, a person aggrieved thereby shall have the right to a review by the Superior Court in a proceeding in lieu of prerogative writ.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-11. Advertising for bids unnecessary

No local unit shall be required to advertise for bids for any of the work performed pursuant to **40A :5-4**.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-12. Annual financial statement and reports of local unit

40A :5-12. The chief financial officer of each local unit shall file annually with the director a verified statement of the financial condition of the local unit as of the close of the fiscal year. Such statement shall be filed, upon forms furnished and prescribed by the director, not later than January 26 in the case of a county and not later than February 10 in the case of a municipality after the close of the calendar fiscal year, or not later than August 10 of the State fiscal year in those municipalities which operate on the State fiscal year pursuant to section 2 or 3 of P.L.1991, c.75 (C.40A:4-3.1 or C.40A:4-3.2).

If the official charged with the responsibility of filing shall fail to file such statement within 10 days after the time fixed for filing the same, he shall be subject to a penalty of \$5.00 for each day of neglect to file the same, to be recovered in a summary proceeding against such official instituted and prosecuted under the penalty enforcement law (N.J.S.2A:58-1 et seq.).

Amended 1969, c.294; 1977, c.396, s.2; 1991, c.75, s.26; 1994, c.72, s.14.



New Jersey Permanent StatutesTITLE 40A MUNICIPALITIES AND COUNTIES40A:5-13. Annual financial statements by boards, committees and commissions of a local unit**40A :5-13. Annual financial statements by boards, committees and commissions of a local unit**

40A :5-13. Every board, committee or commission of a local unit which by law is vested with power to expend public moneys, other than by warrant upon its financial officer, shall, not later than 10 days after the close of the fiscal year, file with the said financial officer a statement showing in detail the items of moneys received and disbursed by it during the preceding fiscal year, and also the balance of unexpended funds at the end of the fiscal year.

Amended 1991,c.75,s.27.

40A :5-14. Adoption of cash management plan

40X :5-14. a. Each local unit shall adopt a cash management plan and shall deposit, or invest, or both deposit and invest, its funds pursuant to that plan. The cash management plan shall include :

(1) the designation of a public depository or depositories as defined in section 1 of P.L.1970, c.236 (C.17:9-41) and may permit deposits in such public depository or depositories as permitted in section 4 of P.L. 1970,c.236 (C.17:9-44);

(2) the designation of any fund that meets the requirements established pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1);

(3) the authorization for investments as permitted pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1) ;or

(4) any combination of the designations or authorizations permitted pursuant to this subsection a.

b. The cash management plan shall be approved annually by majority vote of the governing body of the local unit and may be modified from time to time in order to reflect changes in federal or State law or regulations, or in the designations of depositories , funds or investment instruments or the authorization for investments. The chief financial officer of the local unit shall be charged with administering the plan.

c. The cash management plan shall be designed to assure to the extent practicable the investment of local funds in interest bearing accounts and other permitted investments. The cash management plan shall be subject to the annual audit conducted pursuant to N.J.S.40A:5-4. When an investment in bonds maturing in more than one year is authorized, the maturity of those bonds shall approximate the prospective use of the funds invested.

d. The cash management plan may include authorization to invest in any of the investments authorized pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1) and shall set policies for selecting and evaluating investment instruments accordingly. Such policies shall consider preservation of capital, liquidity, current and historical investment returns, diversification, maturity requirements, costs and fees, and when appropriate, policies of investment instrument administrators. Policies shall be based on a cash flow analysis prepared by the chief financial officer and be commensurate with the nature and size of the funds held by the local unit. **All** investments shall be made on a competitive basis insofar as practicable.

e. The cash management plan shall require a monthly report to the governing body summarizing all investments made or redeemed since the last meeting. The report shall set forth each organization holding local unit funds, the amount of securities purchased or sold, class or type of securities purchased, book value, earned income, fees incurred, and market value of all investments as of the report date and other information that may be required by the governing body.

f. The official charged with the custody of moneys of a local unit shall deposit or invest them as designated or authorized by the cash management plan pursuant to subsection a. of this section and shall thereafter be relieved of any liability for loss of such moneys due to the insolvency or closing of any depository designated by, or the decrease in value of any investment authorized by, the cash management plan pursuant to subsection a. of this section.

g. Any official involved in the designation of depositories or in the authorization for investments as permitted pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1), or any combination of the preceding, or the selection of an entity seeking to sell an investment to the local unit who has a material business or personal relationship with that organization shall disclose that relationship to the governing body of the local unit and to the Local Finance Board or a county or municipal ethics board, as appropriate.

h. The registered principal of any security brokerage firm selling securities to the local unit shall be provided with, and sign an acknowledgment that the principal has seen and reviewed the local unit's cash management plan, except that with respect to the sale of a government money market mutual fund, the registered principal need only be provided with and sign an acknowledgment that the government money market mutual fund whose securities are being sold to the local unit meets the criteria of a government money market mutual fund as set forth in paragraph (1) of subsection e. of section 8 of P.L.1977, c.396 (C.40A:5-15.1).

Amended 1977, c.281, s.4; 1979, c.315, s.1; 1981, c.196, s.1; 1983, c.8, s.2; 1997, c.148, s.2.

40A :5-14.1. Rules and regulations

The Division of Local Government Services shall adopt rules and regulations to implement this act. The division may provide for a grace period of time to permit local administrators flexibility in transferring funds between accounts and for variances from the rules and regulations for the handling of small amounts of money as defined by the division.

L.1979, c. 315, s. 2, eff. Jan. 1, 1981.



New Jersey Permanent Statutes**TITLE 40A MUNICIPALITIES AND COUNTIES****40A:5-15. Deposit of funds paid to the local unit****40A :5-15. Deposit of funds paid to the local unit**

All moneys, including moneys collected by taxation, received from any source by or on behalf of any local unit or any board or department thereof shall, within 48 hours after the receipt thereof, either

a. be paid to the officer charged with the custody of the general funds of the local unit, who shall deposit all such funds within 48 hours after the receipt thereof to the credit of the local unit in its designated legal depository, or

b. be deposited to the credit of the local unit in its designated legal depository.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-15.1. Securities which may be purchased by local units

____8. Securities which may be purchased by local units.

____a. When authorized by a cash management plan approved pursuant to N.J.S.40A:5-14, any local unit may use moneys which may be in hand for the purchase of the following types of securities which, if suitable for registry, may be registered in the name of the local unit:

____(1) Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America;

____(2) Government money market mutual funds;

____(3) Any obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress, which security has a maturity date not greater than 397 days from the date of purchase, provided that such obligation bears a fixed rate of interest not dependent on any index or other external factor;

____(4) Bonds or other obligations of the local unit or bonds or other obligations of school districts of which the local unit is a part or within which the school district is located;

____(5) Bonds or other obligations, having a maturity date not more than 397 days from the date of purchase, approved by the Division of Investment of the Department of the Treasury for investment by local units;

____(6) Local government investment pools;

____(7) Deposits with the State of New Jersey Cash Management Fund established pursuant to section 1 of P.L. 1977, c.281 (C.52: 18A-90.4); or

____(8) Agreements for the repurchase of fully collateralized securities, if:

____(a) the underlying securities are permitted investments pursuant to paragraphs (1) and (3) of this subsection a.;

____(b) the custody of collateral is transferred to a third party;

____(c) the maturity of the agreement is not more than 30 days;

____(d) the underlying securities are purchased through a public depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41); and

____(e) a master repurchase agreement providing for the custody and security of collateral is executed.

____b. Any investment instruments in which the security is not physically held by the local unit shall be covered by a third party custodial agreement which shall provide for the designation of such investments in the name of the local unit and prevent unauthorized use of such investments.

____c. Purchase of investment securities shall be executed by the "delivery versus payment" method to ensure that securities are either received by the local unit or a third party custodian prior to or upon the release of the local unit's funds.

____d. Any investments not purchased and redeemed directly from the issuer, government money market mutual fund, local government investment pool, or the State of New Jersey Cash Management Fund, shall be purchased and redeemed through the use of a national or State bank located within this State or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L. 1967, c.93 (C.49:3-56) and has at least \$25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits, or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in and borrowing on such U.S. Government securities.

____e. For the purposes of this section:

____(1) a "government money market mutual fund" means an investment company or investment trust:

____(a) which is registered with the Securities and Exchange Commission under the "Investment Company Act of 1940," 15 U.S.C. s.80a-1 et seq., and operated in accordance with 17 C.F.R. s.270.2a-7;

____(b) the portfolio of which is limited to U.S. Government securities that meet the definition of an eligible security pursuant to 17 C.F.R. s.270.2a-7 and repurchase agreements that are collateralized by such U.S. Government securities in which direct investment may be made pursuant to paragraphs (1) and (3) of subsection a. of this section; and

____(c) which is rated by a nationally recognized statistical rating organization.

____(2) a "local government investment pool" means an investment pool:

____(a) which is managed in accordance with 17 C.F.R. s.270.2a-7;

____(b) which is rated in the highest category by a nationally recognized statistical rating organization;

____(c) which is limited to U.S. Government securities that meet the definition of an eligible security pursuant to 17 C.F.R. 270.2a-7 and repurchase agreements that are collateralized by such U.S.

Government securities in which direct investment may be made pursuant to paragraphs (1) and (3) of subsection a. of this section;

____(d) which is in compliance with rules adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) by the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs, which rules shall provide for disclosure and reporting requirements, and other provisions deemed necessary by the board to provide for the safety, liquidity and yield of the investments;

____(e) which does not permit investments in instruments that: are subject to high price volatility with changing market conditions; cannot reasonably be expected, at the time of interest rate adjustment, to have a market value that approximates their par value; or utilize an index that does not support a stable net asset value ; and

____(f) which purchases and redeems investments directly from the issuer, government money market mutual fund, or the State of New Jersey Cash Management Fund, or through the use of a national or State bank located within this State, or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least \$25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits, or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in and borrowing on such U.S. Government securities .

____f. Investments in, or deposits or purchases of financial instruments made pursuant to this section shall not be subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

____L.1977,c.396,s.8; amended 1991,c.458, s.2; 1997, c.148, s.3.

40A :5-15.2. Record and report of securities received

When said securities are received by the local unit the chief financial officer shall duly record the receiving thereof in an appropriate manner and at the next regular or special meeting after such receipt he shall transmit a written report to the governing body setting forth the amount of securities so received, the series, date, numbers and interest periods, if any, thereof and at the same time, transmit said securities to such depository, person or persons as the governing body shall direct for safekeeping. Such written report shall be recorded in the minutes at such meeting, and a certified copy of such minute record shall forthwith be filed with the bureau.

L.1977, c. 396, s. 9, eff. Feb. 23, 1978.



New Jersey Permanent Statutes**TITLE 40A MUNICIPALITIES AND COUNTIES****40A:5-15.3. Securities of local unit purchased by it not to be canceled; sale thereafter****40A :5-15.3. Securities of local unit purchased by it not to be canceled; sale thereafter**

Securities of a local unit purchased by it shall not be canceled but may be sold as and when directed by resolution adopted by a majority vote of all the members of the governing body.

L.1977, c. 396, s. 10, eff. Feb. 23, 1978.

40A :5-16 Local unit, requirements for paying out moneys.

40A :5-16. The governing body of any local unit shall not pay out any of its moneys

a. unless the person claiming or receiving the same shall first present a detailed bill of items or demand, specifying particularly how the bill or demand is made up, with the certification of the party claiming payment that it is correct. The governing body may, by resolution, require an affidavit in lieu of the said certification, and the clerk or disbursing officer of the local unit may take such affidavit without cost, and

b. unless it carries a written or electronic certification of some officer or duly designated employee of the local unit having knowledge of the facts that the goods have been received by, or the services rendered to, the local unit.

c. Notwithstanding the provisions of subsection a. of this section, upon adoption by the Local Finance Board of rules adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) that provide for procedures to be followed by local units and under those circumstances deemed appropriate by the board, a local unit shall be permitted to pay out its moneys without requiring a certification of the party claiming payment as otherwise required by subsection a. of this section. Such circumstances may include, but shall not be limited to:

(1) when payment to vendors is required in advance of the delivery of certain materials or services that cannot be obtained from any other source at comparable prices; or

(2) when ordering, billing and payment transactions for goods or services are made through a computerized electronic transaction; or

(3) when claim or demand is less than a threshold set by the board and the certification is not readily obtainable by the contracting unit; but such exceptions shall not include reimbursement of employee expenses or payment for personal services.

Amended 2000, c.126, s.21.

40A :5-16.1. Advances for expenses of authorized official travel; resolution; verification; repayment of excess

New Jersey Permanent Statutes

TITLE 40A MUNICIPALITIES AND COUNTIES

40A:5-16.1. Advances for expenses of authorized official travel: resolution: verification: repayment of excess

40A :5-16.1. Advances for expenses of authorized official travel; resolution; verification; repayment of excess

Notwithstanding the provisions of N.J.S. 40A 5-16, the governing body of any local unit may, by resolution, provide for and authorize payment of advances to officers and employees of the local unit toward their expenses for authorized official travel and expenses incident thereto. Any such resolution shall provide for the verification and adjustment of such expenses and advances and the repayment of any excess advanced by means of a detailed bill of items or demand and the certifications or affidavit required by N.J.S. 40A :5-16 which shall be submitted within 10 days after the completion of the travel for which an advance was made.

L.1971, c. 323, s. 1, eff. Oct. 28, 1971.

40A :5-16.2. Payment of advance to nonprofit organization or agency with which local unit has service contract; resolution; conditions

Notwithstanding the provisions of N.J.S. 40A :5-16, the governing body of any local unit may, by resolution, provide for and authorize payment of an advance to any nonprofit organization or agency with which the local unit has entered into a service contract, for the purpose of meeting service program start-up costs; provided, however, that:

- a. The source of the funds to be advanced is a Federal grant allowing the local unit to receive funds in advance of disbursement and requiring that any interest earned on said funds be returned to the Federal Government;
- b. The governing body has determined, by resolution, that the advance is necessary in order to prevent undue hardship to said contractor in achieving the objectives of the Federal grant;
- c. The amount of the advance to any given contractor does not exceed **an** amount equal to the total amount of the contract divided by the number of months in the term of the contract, and provided further that the total disbursements of the local unit to the contractor, including the amount of the advance outstanding, shall not, at any time, exceed the total cash receipts of the local unit under the Federal grant up to that time; and,
- d. The resolution authorizing the advance includes a schedule for the depletion of the advance, in accordance with sound accounting practice, **indicating** that the advance will be entirely depleted by the termination date of the contract.

L.1978, c. 114, s. 1, eff. Sept. 11, 1978.

40A :5-16.3. Payment in advance

Notwithstanding the provisions of N.J.S. 40A 5-16 the governing body of any local unit participating in a statutorily authorized joint, inter-local or other cooperative activity may, by resolution, provide for and authorize payment in advance of estimated administrative or direct service costs to the local unit or other party providing administrative services or otherwise acting on behalf of or for the group.

L. 1985, c. 419, s. 1, eff. Jan. 13, 1986.

New Jersey Permanent Statutes**TITLE 40A MUNICIPALITIES AND COUNTIES****40A:5-16.4. Issuance, acceptance of purchase order for license or permit fee****40A :5-16.4. Issuance, acceptance of purchase order for license or permit fee**

Except as provided below, whenever a department, agency or bureau of the State requires that the fee for issuing a license or permit be paid in advance, a county, municipality, authority, or other subdivision of local government shall be deemed to have met that requirement by the issuance of a duly executed purchase order payable pursuant to the provisions of the "Local Fiscal Affairs Law" (N.J.S.40A:5-1 et seq.):

a. the Division of Motor Vehicles in the Department of Law and Public Safety shall not be required to accept a duly executed purchase order; and

b. the Department of Transportation may accept a duly executed purchase order ~~from~~ a county, municipality, authority, or other subdivision of local government for the fee for issuing a license or permit if the department determines that its accounting procedures permit the acceptance ~~of~~ such purchase orders.

L. 1991, c. 174, s. 1.

40A :5-17. Approval and payment of claims and required general books of account

Approval and payment of claims and required general books of account. a. Approval of claims. The governing body shall approve or disapprove all claims. In the case of a county, other than a county which has adopted a form of government pursuant to the "Optional County Charter Law," P.L. 1972, c. 154 (C. 40:41A-1 et seq.), the governing body may, by resolution, designate one person who may approve claims between meetings of the governing body. The specified designee shall be chosen from the following positions: the certified financial officer, chief fiscal officer, county administrator, director of finance, treasurer or comptroller. Any approval by the designated person shall be presented to the county governing body at its next meeting for ratification, except that, prior to being paid, such vouchers shall be brought to the attention of the freeholder who has responsibility for the designee. The county governing body may establish a maximum dollar amount for which payment may be approved without prior approval of the governing body. Claims shall be approved or disapproved in the manner prescribed by rules made and promulgated by the bureau unless the governing body adopts an ordinance or resolution, as may be appropriate, in the case of a county, or an ordinance, in the case ~~of~~ a municipality, including the following provisions:

- (1) Designating an approval officer with the title of certifying and approval officer;
- (2) Prescribing the duties of the approval officer, including the making of certifications required by 40A :5-16b., ascertaining the existence of proper and sufficient appropriations for the payments to be made and determining that there is legal authority for the payments, evidenced by action of a purchasing department or agent or officer in respect to the goods or services ordered and the incumng of the expense therefor;
- (3) Prescribing the procedure for approving and certifying to the proper officer claims for payments and drawing checks therefor;
- (4) Prescribing the procedure for certifying approved claims to the governing body and regulating its action of approval or disapproval thereon.

b. Payment of claims. A resolution or an ordinance adopted pursuant to this section may also provide a method of disbursing moneys or payment of claims approved, but if it does not so provide the method shall be as follows:

(1) In the case of a county organized pursuant to the provisions of the "Optional County Charter Law" (P.L. 1972, c. 154; C. 40:41A-1 et seq.), by check issued upon the requisition of and signed by the chief executive officer and countersigned by the treasurer, and in all other counties by check issued upon requisition of the clerk of the board of chosen freeholders, signed by the county treasurer and countersigned by such other officer or officers as are designated by ordinance or resolution of the governing body;

(2) In the case of a municipality, by check drawn on the municipality, signed by the mayor or other chief executive officer and the municipal clerk and countersigned by such other officer or officers as are designated by ordinance.

c. Required general books of account. The bureau shall prescribe the kind and manner of keeping of general books of account for the financial officers of the local units and said officers shall be required to keep and maintain said books.

Amended by L. 1985, c. 127, s. 1, eff. April 12, 1985.

40A :5-17.1. Refund, delinquency of less than \$10.00

1. a. Notwithstanding the provision of any law to the contrary, the governing body of a municipality may adopt a resolution authorizing a municipal employee chosen by the governing body to process, without further action on the part of the governing body, any property tax refund of less than \$10.00.

b. Notwithstanding subsection a. of this section or any provision of law to the contrary, the governing body of a municipality may adopt a resolution authorizing a municipal employee chosen by the governing body to process, without further action on the part of the governing body, the cancellation of any property tax refund or delinquency of less than \$10.00.

L. 1983, c. 568, s. 1; amended 1987, c. 82; 1996, c. 113, s. 14.



New Jersey Permanent StatutesTITLE 40A MUNICIPALITIES AND COUNTIES40A:5-18. Public recording of approved claims**40A :5-18. Public recording of approved claims**

All claims approved for payment by the local unit shall be recorded by the local unit, either in its minutes or in a manner prescribed by the director. The record of approval shall be open to the public.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-19. Payment of salaries and wages

The governing body of any local unit may provide by ordinance for the manner in which and the time at which salaries, wages or other compensation for services shall be paid, and prescribe the form and manner in which checks upon the treasury shall be drawn and signed for that purpose.

The local unit may, by resolution, provide for the bi-weekly payment of the salaries, wages and compensation of officers and employees, both elective and appointive.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-20. Officers to deliver funds and records when term expires

Whenever any official ceases to hold office in any local unit, on the day of the expiration of his term of office, he shall forthwith deliver to the clerk of the local unit, or other person who may be designated by the governing body to receive the same, all moneys, papers, books, memoranda, accounts and any data of any nature whatever pertaining to his office.

On failure or refusal to carry out the provisions of this section within 5 days after the expiration of his term, he shall, on notice in writing of such delinquency from the chief executive officer of the local unit, be subject to a penalty of \$50.00 for each day of refusal or neglect to comply therewith. The penalty shall be collected by the local unit in an action at law.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.



New Jersey Permanent Statutes**TITLE 40A MUNICIPALITIES AND COUNTIES****40A:5-21. Petty cash fund of local unit****40A :5-21. Petty cash fund of local unit**

A local unit may establish a petty cash fund upon written application to and after approval by the director. All matters relating to the establishment, account, repayment and discontinuance of such fund shall be in the discretion of the director, who shall promulgate reasonable rules and regulations in respect thereto.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A 5-22. Investigation of expenditures of local unit

A judge of the Superior Court may, in his discretion, make a summary investigation into the affairs of any local unit and appoint an expert or experts to prosecute such investigation whenever

a. a petition for such investigation shall be presented to him, signed by 25 freeholders, who have paid taxes on real estate located within the local unit within 1 year, and such petition sworn to and subscribed by them sets forth that they have cause to believe that the moneys of such local unit are being, or have been, unlawfully or corruptly expended, in which case, at least 10 days' notice of the hearing thereon shall be given to the disbursing officer and the governing body of the local unit; or

b. a resolution of the governing body requesting such investigation shall be presented to him.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-23. Costs, taxation and payment bond

The judge, if he deems it advisable, may require the applicants to furnish a bond to be filed with the county clerk for the payment of the costs and expenditures of the investigation.

The costs, including witness fees and mileage, shall, by his order, be taxed to and paid by the local unit whose expenditures have been investigated.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

New Jersey Permanent StatutesTITLE 40A MUNICIPALITIES AND COUNTIES40A:5-24. Filing and publication of report of investigation**40A :5-24. Filing and publication of report of investigation**

The results or report of the investigation shall be filed in the office of the Clerk of the Superior Court within 10 days after the completion thereof. The judge shall cause the results of the investigation to be published thereafter in such manner as he may deem proper.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-25. Attorney of local unit may appear on its behalf

Whenever an investigation shall have been ordered to be made pursuant to this chapter, and the governing body of the local unit shall pass a resolution directing its attorney, counsel or other legal representative, as it may choose, to appear and act on its behalf or on the behalf of any of its officials, such attorney may appear at the investigation and on behalf of the local unit or any of its officials, present evidence, examine witnesses and take part in the investigation.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-26. Subpoenas and testimony of witnesses

A judge of the Superior Court during the conduct of an investigation pursuant to this chapter may

a. upon his own motion or upon application of the expert designated to conduct such investigation, exercise the subpoena powers of the Superior Court and enforce such subpoena in similar manner as in civil actions in the Superior Court;

b. take or order the obtaining of evidence and the taking of testimony, by deposition or otherwise, in similar manner as in civil actions in the Superior Court.

Any person who shall willfully and corruptly testify falsely to any material matter upon oath administered by the judge or the expert designated to conduct the investigation shall be guilty of perjury.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

New Jersey Permanent StatutesTITLE 40A MUNICIPALITIES AND COUNTIES40A:5-27. Witness fees and mileage taxed as costs**40A :5-27. Witness fees and mileage taxed as costs**

Witnesses subpoenaed by virtue of this chapter shall be entitled to receive the same fees and mileage as witnesses in civil actions.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-28. Duty of officers and employees of local unit

Every officer and employee of a local unit, which is the subject of a summary investigation as provided in this chapter, shall obey all orders of the judge and shall facilitate the conduct of the said investigation. A refusal or failure to obey such orders or an intentional failure to facilitate the conduct of the investigation may be punished by the judge as for contempt.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-29. Acceptance of bequests, legacies, gifts

Any local unit is authorized and empowered to accept bequests, legacies and gifts made to it and is empowered to utilize such bequests, legacies and gifts in the manner set forth in the conditions of the bequest, legacy or gift, provided, however, that such bequest, legacy or gift shall not be put to any use which is inconsistent with the laws of this State and of the United States.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.



New Jersey Permanent StatutesTITLE 40A MUNICIPALITIES AND COUNTIES40A:5-30. Acceptance of Federal grants**40A :5-30. Acceptance of Federal grants**

Any local unit shall have power to accept any advance or grant of money made by the Federal government to aid in financing the cost of preparing plans for any public project which the local unit has lawful authority to undertake, and shall have power to agree to repay any such advance or grant if, and when, the local unit shall undertake such public project. Notwithstanding the provisions of any other law, any local unit may make such an agreement although the funds necessary to make the repayment required by the agreement shall not have been previously made available by an appropriation or by the authorization of bonds.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-31. Award programs for local units

Any local unit may establish and maintain plans for award programs for employees, designed to promote efficiency and economy in government functions, to reward individual employees for meritorious performances and suggestions. Award programs may include any or all of the following:

A suggestion award program;

Awards for heroism;

An efficiency and incentive award program;

Awards for professional accomplishments;

Awards for service.

Any local unit shall have power and authority to make appropriations of money therefor, establish and make awards in the form of cash, medals, citation certificates, insignia or other appropriate devices to employees selected as recipients of awards by it or its committee appointed in accordance with programs established pursuant to this act. Such committee shall be known as the "Public Employees' Awards Committee" and shall consist of 5 persons who shall be officers or employees of the local unit, or members of the governing body, and no 2 of such officers or employees shall be employed in the same department of the local unit. Of the members first appointed to the committee, 2 shall be appointed for terms of 3 years, 2 for 2 years and 1 for 1 year, and thereafter appointments shall be made for terms of 3 years. Members shall serve for the terms for which they are appointed and until their successors have been appointed and qualified; a vacancy occurring by reason other than expiration of term shall be filled for the unexpired term. Members of the committee shall serve without compensation. The committee shall meet and organize as soon as practicable after the first appointment of members and annually, thereafter, on the call of the chief executive officer, and select a chairman from among its members. The committee shall hold regular meetings at least once each month during the year, except during July and August, at the call of the chairman or the chief executive officer of the local unit.

The committee is authorized to request, and shall receive, such assistance as it may require from any department, official or agency.

The committee shall be responsible for the formulation of programs and shall have the power to adopt and promulgate rules and regulations for the conduct and operation of awards programs.

The committee shall make an annual report to the governing body concerning the operation of awards programs established pursuant to this act.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-32. Reimbursement

Whenever any work shall be done **or** money expended by any local unit, whether by agreement or by the terms of any insurance policy, for which an individual or corporation is liable, the local unit shall be authorized to collect from such individual or corporation such sum or sums as shall be necessary to reimburse the local unit, and such sum or sums, when received, shall be placed to the credit of the appropriation from which the cost of doing such work shall have been expended.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.



New Jersey Permanent StatutesTITLE 40A MUNICIPALITIES AND COUNTIES40A:5-33. Oath taken before assuming office**40A :5-33. Oath taken before assuming office**

In addition to any oath that may be specially prescribed, every person elected or appointed to any office in any local unit shall, before assuming such office, take and subscribe to the oaths required by chapter 1 of the Title "Oaths and Affidavits" (R.S. 41:1-1 et seq.). The oaths shall be filed with the county clerk in the case of a county, and with the municipal clerk in the case of a municipality, and shall be preserved by these officials as public records.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-34. Bonds of officials and employees

Every officer or employee, by virtue of his office or position, or of any law, entrusted or charged with the receipt, custody or expenditure of money or funds of the local unit, and any other officer or employee required so to do by the governing body thereof, shall, before entering upon the duties of his office or position, execute and deliver his bond, or shall be otherwise bonded to the local unit in its corporate name, conditioned for the true and faithful performance of his duties. All bonds shall be in such form, for such sum and with such surety as the governing body of the local unit shall, by resolution, direct. The governing body may, in any instance, require corporate surety. All such bonds, in the case of a county, shall be filed with the clerk of the board of chosen freeholders, except that the bond of the clerk, if there be any, shall be filed with the county treasurer. In the case of municipalities, all bonds shall be filed with the municipal clerk, except the bond of the clerk, which shall be filed with the treasurer. The bonds shall be preserved for and be the property of the local unit.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-34.1 Blanket bond coverage provided for certain county, municipal officers, employees; evidence.

1. The board of chosen freeholders of any county or the governing body of any municipality, as the case may be, may provide by blanket bond for the bonding of certain county or municipal officers and employees for faithful performance and discharge of their duties. Blanket bond coverage may be by one or more blanket bonds issued by a surety company or companies or one or more underwriters or by a joint insurance fund established pursuant to P.L. 1983, c.372 (C.40A:10-36 et seq.) of which the county or municipality is a member. Blanket bond coverage may be provided in lieu of an individual bond as to any officer or employee required by law to be bonded, except treasurers and tax collectors, by whatever title known, provided the blanket bond meets the requirements for the individual bond in amount, rights of cancellation, and the governmental agencies in whose favor it runs.

Whenever a copy of an individual bond is required by law to be filed with or supplied to specified officers, evidence of blanket bond coverage filed with or supplied to such officers by the board of chosen freeholders or governing body shall be compliance with such requirement.

L.1967, c.283, s.1; amended 1996, c.4, s.1.



New Jersey Permanent StatutesTITLE 40A MUNICIPALITIES AND COUNTIES40A:5-35. Recording of bonds**40A :5-35. Recording of bonds**

The local unit may require such bonds, or any of them, to be recorded in the office of the clerk of the county and a copy of any bond so recorded, certified by the county clerk, shall be received in evidence in all the courts of this State and be as good and available in law as if the original bond were produced and proved.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A :5-36. Protection to be afforded by bond

Every bond given by a municipal court judge or clerk of a municipal court as hereinafter provided shall be for the protection of the State, the county and the municipality or, in the case of an intermunicipal court, the municipalities, and also for the protection of defendants, litigants, bondsmen and all other persons in interest.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1977, c. 396, s. 4, eff. Feb. 23, 1978.

40A :5-37. Condition of bond broken

40A :5-37. Upon application to the Superior Court by a citizen and taxpayer thereof, alleging that the condition of the bond of any officer, member of committee or employee of the local unit has been broken, the court shall make such investigation regarding the truth of the allegations as it shall deem proper, and in its discretion may order an action to be brought upon the bond in the name of the local unit, or otherwise, for the benefit of the local unit or any officer, board or department thereof.

Amended 1991,c.91,s.392.



New Jersey Permanent Statutes**TITLE 40A MUNICIPALITIES AND COUNTIES****40A:5-38. Rules and regulations****40A :5-38. Rules and regulations**

The Local Finance Board may prescribe rules and regulations pertaining to the bonds of municipal court judges and municipal court clerks consistent with the rules of administration applicable to the municipal courts. Notwithstanding any other provision of law, the Local Finance Board shall, in accordance with a classification system established by said board, determine and **fix** the minimum amount of any official bond which may be required of a municipal court judge or clerk of a municipal court.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1977, c. 396, s. 5, eff. Feb. 23, 1978.

40A :5-39. Fixing of bond in excess of minimum amount

The governing body of any municipality authorized by law to fix the amount of any bond given by a municipal court judge or clerk of a municipal court may fix such amount in excess of the minimum prescribed by the local finance board.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1977, c. 396, s. 6, eff. Feb. 23, 1978.

40A :5-41. Classification system for purpose of determining amount of bond; minimum amount

In establishing the said classification system, the board shall utilize audits made by it or under its supervision and also the reports of the municipal magistrates, on file in the administrative office of the courts. The board shall confer with the administrative director of said office and, if it shall so desire, with municipal officials. The board shall take into consideration the probable amounts of money which will be received from fines, penalties and costs, and which will be handled for bail, security, fees and other purposes. After the establishment of the said classification system, no such official bond shall be given or accepted below the minimum amount prescribed by the said classification system and in no case shall any such official bond be in an amount less than \$1,000.00.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.



New Jersey Permanent StatutesTITLE 40A MUNICIPALITIES AND COUNTIES40A:5-42. Purchase and retirement of outstanding bonds; procedure; duties of Local Finance Board**40A :5-42. Purchase and retirement of outstanding bonds; procedure; duties of Local Finance Board**

Any local unit, by resolution adopted by vote of at least two-thirds of the full membership of the governing body, may at any time appropriate and apply any unappropriated funds to the purchase and retirement of any of its then outstanding bonds, notes or other obligations. The purchase price may be the face value, or may be below or above the face value of such bonds, notes or other obligations. Any such proposed purchase shall be subject to the following provisions:

a. Before adoption of the resolution, the governing body shall cause satisfactory proof to be filed with the bureau that such funds then are, or within a reasonable time will be, available.

b. Before contracting to purchase **any** bonds, notes or other obligations at a price above their face value, the governing body shall submit such resolution to the said bureau for approval by the Local Finance Board. Before taking definite action, the said Local Finance Board may require the submission of additional information and may require that the governing body of the local unit shall call for public tenders of bonds, notes or other obligations on such notice and subject to such rules as the board may prescribe. On receipt of such tenders, the governing body shall report them to the said Local Finance Board together with a further proposed resolution for approval by that board.

In approving or disapproving any proposed purchase of bonds, notes or other obligations, the said Local Finance Board shall find and determine whether such appropriation of available funds is in the interest of the local unit, having regard for (1) the prospective need of funds for other purposes, (2) reasonableness of the price proposed to be paid, (3) any saving of interest to result from retirement of the bonds, notes or other obligations at the price proposed to be paid, (4) the equality and reasonableness of the debt service on obligations which will remain outstanding, and (5) fairness to the holders of other obligations.

After purchase of any bonds, notes or other obligations, satisfactory proof of cancellation of the bonds, notes or other obligations and of any coupons thereto annexed shall forthwith be filed with the bureau by the chief financial officer of the local unit.

Any local unit, by resolution adopted by vote of at least two-thirds of the full membership of the governing body may at any time appropriate to and pay into any sinking fund maintained by such local unit any unappropriated funds; provided, a certified copy of such resolution shall be submitted to the Local Finance Board and the Local Finance Board, by resolution, shall determine that it is satisfied by proof submitted to it that such funds then are, or within a reasonable time will be, available, and shall consent to such appropriation.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1977, c. 396, s. 7, eff. Feb. 23, 1978.

40A :5-43. Short title

1. This act shall be known and may be cited as the "Government Electronic Payment Acceptance Act."

L.1995,c.325,s.1.

40A :5-44. Definitions relative to card or other electronic based payments**2. As used in this act:**

"Association" means an organization whose members are issuers.

"Cardholder" means the person or organization named on the face of a credit card or debit card to whom or for whose benefit the credit card or debit card is issued by an issuer.

"Card based payment" means a monetary obligation tendered by the user of a credit card or debit card.

"Card payment system" means a technical procedure by which obligations owed a local unit or court may be paid by credit card or debit card.

"Credit card" means any instrument or device linked to an established line of credit, whether known as a credit card, charge card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in satisfying outstanding financial obligations, obtaining money, goods, services or anything else of value on credit.

"Debit card" means any instrument or device, whether known as a debit card, automated teller machine card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value through the electronic authorization of a financial institution to debit the cardholder's account.

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

"Electronic funds transfer system" means a technical procedure by which obligations owed to or collected by the Supreme Court, the Superior Court, Tax Court or a local unit may be paid by an electronic transaction between the financial institution of the person or organization owing the obligation and the financial institution of the governmental entity.

"Issuer" means the business organization or financial institution which issues a credit card or debit card, or its duly authorized agent.

"Local unit" means any unit of government subject to the provisions of chapter 5 or 5A of Title 40A of the New Jersey Statutes, and the constituent parts of those units, including but not limited to independent local authorities, public libraries, municipal courts and joint municipal courts.

"Service charge" means a fee charged by the Supreme Court, the Superior Court, Tax Court or local unit in excess of the total obligation owed by a person or organization to offset processing charges or discount fees for the use of a card payment system or an electronic funds transfer system.

L.1995,c.325,s.2.

New Jersey Permanent Statutes**TITLE 40A MUNICIPALITIES AND COUNTIES****40A:5-45. Electronic payment systems established by resolution of governing body****40A :5-45. Electronic payment systems established by resolution of governing body**

3. Subject to the provisions of sections 5 and 6 of P.L.1995, c.325 (C.40A:5-47 and C.40A:5-48), a local unit may establish a card payment system or electronic funds transfer system upon passage of a resolution of the governing body. The resolution shall specify those types of charges, taxes, fees, assessments, fines, or other obligations approved for card based or electronic funds transfer payment, except that credit card payment shall not be authorized for the payment of delinquent local unit obligations or for the redemption of local unit liens.

L.1995,c.325,s.3.

40A :5-46. Service charges; collection, assessment

4. Notwithstanding the provisions of any other law to the contrary and if not legally prohibited by an association or by an issuer, local units are authorized to assess and collect service charges related to obligations owed to or collected by the local unit when credit cards, debit cards or electronic funds transfer systems are utilized.

L.1995,c.325,s.4.

40A :5-47. Rules, regulations

5. The director, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate such rules and regulations as are necessary to effectuate the purposes of sections 2 through 4 of P.L.1995, c.325 (C.40A:5-44 through C.40A:5-46).

L.1995,c.325,s.5.



TAB NO. 5

2. In the case of a three year emergency, **an** amount not less than one-third of the net deferred charge, unless the local unit elects to include a greater amount until the emergency has been funded in **full**.

(c) Revenues from Federal or State governments for emergencies resulting from natural or other disaster shall be recognized as miscellaneous revenues, or may be credited to the appropriation, only if the grant is a reimbursement for funds expended by the local unit for emergency purposes in advance of receipt of the grant and in the fiscal year the emergency took place.

(d) If an emergency appropriation is being funded by ordinance, adopted pursuant to the Local Bond Law, the funding shall be for the net amount reflected in the deferred charge and shall represent the total subject to bonding, plus not more than one percent of the amount of the deferred charge for the costs of issuing the bonds.

5:30-5.2 (Reserved)

5:30-5.3 (Reserved)

5:30-5.4 through 5:30-5.11 (Reserved)

5:30-5.12 (Reserved)

5:30-5.13 (Reserved)

5:30-5.14 (Reserved)

SUBCHAPTER 6. ANNUAL, AUDIT

5:30-6.1 Uniform accounting system for local units

(a) The Requirements of Audit that have been promulgated for municipalities, and counties, which are deemed to include the county surrogate's office and the county probation department, are considered as minimum requirements and should be elaborated upon whenever, in the judgment of the registered municipal accountant, it is required.

(b) Copies of Requirements of Audit may be obtained from:

Local Finance Board
Division of Local Government Services
Department of Community Affairs
PO Box 803
Trenton, New Jersey 08625-0803

(c) In addition to the Requirements of Audit, the registered municipal accountant of each local unit shall also utilize the requirements of the following authoritative resources, incorporated herein by reference, in conducting the annual audit as appropriate and applicable:

1. Generally Accepted Auditing Standards as promulgated by the American Institute of Certified Public Accountants;

2. Government Accounting Standards Board with regard to disclosure of notes to the financial statements;

3. U.S. Office of Management and Budget Circular A-133;

4. New Jersey Office of Management and Budget Circular 98-07; and

5. Generally Accepted Government Auditing Standards promulgated by the U.S. General Accounting Office.

5:30-6.2 through 5:30-6.4 (Reserved)

5:30-6.2 through 5:30-6.4 (Reserved)

5:30-6.5 Certification of governing body

(a) The annual audit of accounting records and transactions required of every local unit pursuant to N.J.S.A. 40A:5-4 shall be filed by the local unit's registered municipal accountant with the clerk of the board of chosen freeholders or municipal clerk pursuant to N.J.S.A. 40A:5-6, and a copy shall be delivered to each member of the governing body.

(b) The governing body of each local unit shall, by resolution, certify to the Local Finance Board that all members of the governing body have personally reviewed, as a minimum, the sections of the annual audit entitled: General Comments, Recommendations, Auditor's Opinions, and Single Audit Findings,

1. Such certification shall also be evidenced by the execution of a group affidavit form, promulgated by the Board, that shall be originally signed by each member of the governing body.

2. Such resolution of certification and group affidavit shall be adopted and executed by the governing body not later than 45 days after the receipt of the annual audit.

(c) Failure to comply with these requirements may subject the members of the local governing body to the penalty provisions of N.J.S.A. 52:27B-52.

5:30-6.6 (Reserved)

5:30-6.7 (Reserved)

5:30-6.8 through 5:30-6.11 (Reserved)

5:30-6.8 through 5:30-6.11 (Reserved)

SUBCHAPTER 7. MUNICIPAL BUDGET LOCAL EXAMINATION AND APPROVAL

5:30-7.1 Authority

(a) Pursuant to N.J.S.A. 40A:4-78, the Local Finance Board is empowered to adopt criteria relating to municipal exemption from the Director's examination of the annual budget.

(b) This subchapter is to ensure that municipalities participating in the program are financially sound and the temporary elimination of the Director's review of the budget will not expose the municipality to evidence financial risk.

5:30-7.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Annual budget" or "budget" means the annual budget of the municipality as described in the Local Budget Law.

Top 5 Things to Know About: Financial Reporting & Audit Report

1. Annual Debt Statement

- Due 30 days after close of the fiscal year.
- Debt limit shall not **exceed 3.5%** of 3-year average equalized valuation.
- To exceed the debt limit the governing body must apply to the Local Finance Board.
- School districts can absorb "unused" municipal capacity **if** they exceed their own limit (which varies by type of district - maximum of 4%).
- Self-liquidating utilities do not affect the net debt.

2. Annual Financial Statement

- Due 40 days after close of the fiscal year.
- Annual Financial Statement presents the financial position of the municipality as of the close of the fiscal year, **I t** provides closing amounts of surplus, tax collection rate, results of operations, and outstanding debt and required maturities. Also includes municipal utilities.
- Vital for preparation, introduction and adoption of annual municipal budget.

3. Audit Report

- Due 6 months after close of fiscal year.
- Filed by a Registered Municipal Accountant (RMA) appointed by the governing body.
- Governing body is required to review and sign Group Affidavit within 45 days of receipt of audit.

4. Audit Opinions and Management Letter

- Governing body should meet with the Auditor to discuss findings and recommendations.

5. Corrective Action Plan

- Due 60 days after the filing of the Audit Report with the governing body.
- **Requires** the Chief Financial Officer to file and describe how the local unit will correct the problems identified in the Audit.
- The governing body should follow up with appropriate officials.



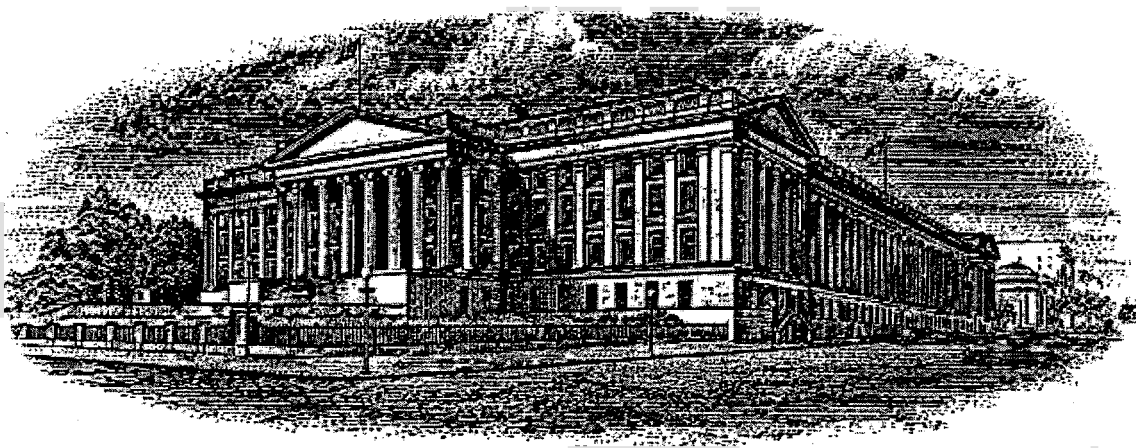
For more information contact:

NJ Division of Local Government Services
101 South Broad Street
PO Box **803**
Trenton, NJ 08625

Call us at: 609-292-4806
Fax us at: 609-984-7388
E-mail at: dlgs@dca.state.nj.us
On the web at: www.nj.gov/dca/lgs/

TAB NO. 6

DEPARTMENT OF THE TREASURY
Office of the Under Secretary for Enforcement



*Guidelines for Seized and
Forfeited Property*

Revised Edition
JULY 2001

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Executive Office for Asset Forfeiture (EOAF) Policy Directives Referred to in the Guidelines:

- Directive 4 Seized Cash Management Policy
- Directive 9 Weed and Seed Initiative; Transfers of Real Property
- Directive 14 Expedient Payment of Liens, Mortgages and Taxes by the
Department of the Treasury
- Directive 18 Policy for Payment(s) to Local, County, and State Police Officers
Participating with Treasury Law Enforcement Agencies
- Directive 27 Processing Interlocutory Sales
- Directive 33 Seizure of Motor Vehicles, Payment of Liens and Official Use
Requirements
- Directive 34 Adoptive Seizure Policies and Procedures

EOAF Policy Directives are periodically revised due to changes in the law **or** to improve the efficiency and effectiveness of Treasury Forfeiture Fund operations. To obtain a complete set of EOAF Policy Directives, contact EOAF at **(202) 622-9600**.

INTRODUCTION

This revised edition of the Department of the Treasury Guidelines for Seized and Forfeited Property (*Guidelines*) is applicable to all forfeitures. There are several significant changes to the *Guidelines* from the October 1, 1993 edition. Some of the changes were necessitated by changes in the law while others were *Executive Office for Asset Forfeiture* deemed necessary for the operation of a more effective and efficient Treasury Forfeiture Fund.

- Payment of joint operation costs of state or local law enforcement officers that are incurred in operations with a Department of the Treasury law enforcement organization are now a mandatory category expense.
- The purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program), training, printing, and contracting for services directly related to (1) the identification of forfeitable assets, (2) the processing of and accounting for forfeitures, and (3) the storage, maintenance, protection, and destruction of controlled substances are now mandatory expense categories.

These *Guidelines* are not intended to create or confer any rights, privileges, or benefits on prospective or actual claimants, defendants, or petitioners.

This revised edition supersedes the information provided in the October 1, 1993 edition. Questions regarding these *Guidelines* should be addressed to:

Department of the Treasury Executive Office for Asset Forfeiture 740 15 th Street, N.W., Suite 700 Washington, D.C. 20220 Phone: (202) 622-9600 Fax: (202) 622-9610

STRATEGIC OBJECTIVE AND GOALS OF THE TREASURY FORFEITURE PROGRAM

The mission of the Treasury Forfeiture Fund is to affirmatively influence the consistent and strategic use of asset forfeiture by Treasury law enforcement bureaus to disrupt and dismantle criminal enterprises.

Within the context of the strategic objective identified above, the Department of the Treasury Asset Forfeiture Program has four primary goals:

1. Deprive criminals of property used in or acquired through illegal activities.
2. Encourage joint operations among federal, state and local law enforcement agencies, as well as foreign countries.
3. Strengthen law enforcement.
4. Protect the rights of the individual.

To achieve these goals, the program must be administered in a fiscally responsible manner that seeks to minimize the administrative costs incurred, thereby maximizing the benefits for law enforcement and the society it protects. Moreover, recognizing that the continued viability of the program rests upon public confidence in its integrity, safeguarding the rights of affected individuals constitutes an overminding concern in the administration of the program.

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DEFINITIONS

Adoptive Seizures are only those seizures where 100 percent of the pre-seizure activity was performed by the seizing state, local or foreign law enforcement agency. Joint investigation or task force cases are not adoptive seizures.

Appraised Value is the estimated value of the property at the time of seizure. The seizing agency or a certified third party establishes the appraised value.

Cash refers to currency or monetary instruments.

Costs are those expenses paid out of the Treasury Forfeiture Fund.

Department Component refers to agencies, divisions, offices, sections or units of the Department of the Treasury.

District refers to the federal judicial district.

Equitable Sharing refers to the transfer of seized and forfeited cash, property or net proceeds to participating law enforcement agencies, pursuant to these *Guidelines* and the detailed policies and practices set forth in the “*Guide to Equitable Sharingfor Foreign Countries and Federal, State, and Local Law Enforcement Agencies.*”

Fair Market Value refers to the current value of property in a given market at which both buyers and sellers are willing to do business with neither being under a compulsion to buy or sell. The national seized property contractor assigns the estimated fair market value.

The Fund refers to the Department of the Treasury Forfeiture Fund, which was created by Section 638 of Public Law 102-393(1992), codified at 31 U.S.C. §9703.

Joint Investigation refers to cases in which one or more foreign, federal, state or local law enforcement agencies participate in an investigation with a Treasury investigative agency.

Net Proceeds refer to the forfeited cash or gross receipts from the sale of forfeited property less expense.

Official Use refers to the utilization of property in the performance of the activities of an agency.

Purchase of Evidence (POE) refers to the purchase of evidence that is pursuant to an investigation.

Purchase of Information (POI) refers to the purchase of information that is pursuant to an investigation.

Property refers to tangible and real property, other than cash.

Property Custodian is the individual, agency, or firm, which has custody of the seized property.

Reverse Asset Sharing is the cash, property, or sales proceeds received by a Treasury law enforcement organization representing the agency's participation in a forfeiture investigation made by a non-Treasury investigative agency.

State and Local Agencies refer to state and local law enforcement agencies that participate in an investigation with a federal agency.

Suspense Account refers to the holding account that is administered by the U.S. Customs Service in its capacity as Executive Agent for the Treasury Forfeiture Fund for seized cash pending resolution of forfeiture cases.

Task Force refers to the joining of multi-agency resources for the purpose of cooperating in investigations.

Treasury Investigative Agency refers to the United States Customs Service; the United States Secret Service; the Bureau of Alcohol, Tobacco, and Firearms; and the Internal Revenue Service. For purposes of this text, the United States Coast Guard is also considered an investigative agency.

Treasury Law Enforcement Organization refers to the United States Customs Service; the United States Secret Service; the Bureau of Alcohol, Tobacco and Firearms; the Internal Revenue Service; the Federal Law Enforcement Training Center; the Financial Crimes Enforcement Network; or any other enforcement component of the Department of the Treasury so designated by the Secretary.

Weed and Seed refers to the initiative designed to reclaim and rejuvenate embattled neighborhoods and communities.

GENERAL PROVISIONS

- A. Whenever reference is made to a specific Department official, such reference also includes any duly authorized person acting for that official by law, regulation, or delegation. References to the Executive Office for Asset Forfeiture (EOAF) include any successor organization.
- B. The Secretary of the Treasury, or designee, may issue supplementary and interpretive guidance to address issues that arise under these *Guidelines*. EOAF shall provide assistance to the Secretary of the Treasury in the oversight and management of the asset forfeiture program. Requests for interpretive guidance should be addressed to the **Executive Office for Asset Forfeiture, Department of the Treasury, 740 15th Street, N.W., Suite 700, Washington, D.C. 20220.**
- C. In the event of any unresolved dispute between the Department of the Treasury and the Department of Justice, the Under Secretary (Enforcement), and the Deputy Attorney General, or their designees, shall resolve the issue.

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OVERVIEW OF THE TREASURY FORFEITURE FUND

Administration of the Fund

The Secretary of the Treasury has delegated responsibility for the operation and administration of the Fund to the Under Secretary (Enforcement) who has redelegated these functions and duties to the Director of EOAF.

The Under Secretary (Enforcement), or designee, shall make all determinations regarding distributions from the Fund. As part of this process, EOAF shall prepare annual budget estimates for the Fund based on information submitted by the requesting agencies.

EOAF shall be responsible for annual reports submitted to the Congress on the Fund. Treasury law enforcement agencies shall provide necessary information to EOAF for the preparation of these reports.

Spending Authority of the Fund

The Treasury Forfeiture Fund is a *special fund*. *Special funds* are federal fund collections that are earmarked by law for specific purposes. The enabling legislation for the Treasury Forfeiture Fund defines those purposes for which Treasury forfeited revenue may be used. The revenue may be allocated and used without the enactment of an annual appropriation by Congress. Forfeited revenue comprises the budget authority for meeting expenses of the Treasury asset forfeiture program.

There are three types of spending authority of the Fund:

- 9 The **Mandatory Authority** items are used to meet business expenses of the Fund. The mandatory expenses of the Fund are set in a relative priority so that unavoidable or mandatory costs are met first.
- **Secretary's Enforcement Fund (SEF)** is derived from equitable shares received from the Department of Justice or U.S. Postal Inspection Service (USPIS) for work done by Treasury law enforcement bureaus leading to Justice or USPIS forfeitures and is available for federal law enforcement related purposes of the Department of Treasury law enforcement bureaus.
- **Super Surplus** represents the remaining unobligated balance after an amount is reserved for Fund operations in the next fiscal year and is available for the law enforcement activities of any federal agency.

The Fund is not available to reimburse Treasury law enforcement bureaus for expenses that those bureaus do not have legal authority to pay from an appropriation.

Payments and Reimbursements from the Fund**Mandatory Authority Expenses**

- A. Payment of all proper expenses of seizure and forfeiture including the expenses of detention, inventory, security, maintenance, advertisement, sale or disposal of the property.
- All such expenses must be directly attributable to a particular seizure and normally would not have been incurred but for the law enforcement activity leading to the seizure.
 - Investigative costs may include travel, transportation of objects, rentals, communication expenses, translation/transcription expenses, supplies and purchases of evidence or information. Such costs must have been incurred prior to forfeiture. The cost of equipment and supplies are payable if they were incurred in a particular operation or investigation leading to forfeiture and they are consumed or expended in support of said forfeiture. Salaries of Treasury personnel participating in investigations leading to seizures are not payable from the Fund.
 - Purchases of evidence or information may be payable if: a particular seizure is associated with each payment for information or evidence, the case file of the investigating bureau field office in which the seizure is made contains detailed documentation describing the relationship between particular seizures and payments, and the amount paid bears a reasonable relationship to the value of the evidence or information to the government. Purchase of evidence or information of \$250,000 or more must be approved by the Under Secretary (Enforcement) or designee.
 - Costs of detention are payable if the property has been seized.
 - Security expenses are payable if the security features have no regular agency use and would not have been incurred but for a particular seizure.
 - Generally, the expenses of property disposal are incurred under the terms of the contract with the national seized property contractor and are paid under that contract.
- B. Payment for ^{4.6}
1. contract services;
 2. the employment of outside contractors to operate and manage properties or to provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and
 3. reimbursing any federal, state, or local agency for any functions described in this subparagraph.

It is the policy of EOAF to use this authority for storage, maintenance and disposition of seized property only.

C. Awards of compensation to informers under Section 619 of the Tariff Act of 1930.

D. Satisfaction of

1. liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate Customs officer according to law; and
 2. subject to the discretion of the Secretary of the Treasury, other valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by a Department of the Treasury law enforcement organization.
- To determine the validity of any such lien or mortgage, the amount of payment to be made, and to carry out the functions described in this subparagraph, the Secretary may employ and compensate attorneys and other personnel skilled in state real estate law.
 - Liens and mortgages shall be satisfied after a final order of forfeiture has been attained except in the case of an interlocutory sale or where the court orders otherwise (see EOAF Directives 14 and 27, both dated October 1, 1995).
 - Any payment of a lien or mortgage shall not exceed the fair market value of the property at the time of seizure.
 - Liens or mortgages on real property placed into federal official use or shared with state and local agencies are not payable from the Fund unless approved by the Director of EOAF.
 - Liens on personal property placed into official use by investigative agencies may be paid from the Fund provided there is intent to place the property into official use for at least one year.
 - Requests for exceptions must be submitted in writing to the Director of EOAF (see EOAF Directive 33, dated June 7, 1999).
- E. Payment of amounts authorized by law with respect to remission and mitigation.
- Payments for remission or mitigation may not exceed the value of the property at the time of seizure. Payments will be made pursuant to a court order or a petition determination letter.
- F. Payment of claims of parties in interest to property disposed of under Section 612(b) of the Tariff Act of 1930, in amounts applicable to such claims at the time of seizure.

- Payments shall not exceed the fair market value of the property at the time of seizure, or the gross proceeds of sale.
- G. Equitable sharing payments made to other federal agencies, state and local law enforcement agencies, and foreign countries.
- Payment shall not exceed the net value of the forfeited property at the time of disposition (See *Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies*).
- H. Payment for services of experts and consultants needed by a Department of the Treasury law enforcement organization to carry out the organization's duties relating to seizure and forfeiture.
- Payment for these services is subject to the terms and conditions of signed contracts and in accordance with Federal Acquisition Regulations (FAR).
- I. Payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of state or local law enforcement officers that are incurred in joint law enforcement operations with a Department of the Treasury law enforcement organization (See EOAF Directive 18, dated October 7, 1994).
- J. Payments made pursuant to *Guidelines* promulgated by the Secretary of the Treasury, if such payments are necessary and directly related to seizure and forfeiture program expenses. Such payments include but are not limited to:
 - 1. The purchase or lease of automatic data processing systems (not less than a majority of which use will be related to the seizure and forfeiture program).
 - 2. Training;

The Treasury Forfeiture Fund may be used to finance training expenses directly related to the Asset Forfeiture Program. The Director of EOAF may grant exceptions on a case-by-case basis.
 - 3. Printing-and
 - 4. Contracting for services directly related to:
 - a. the identification of forfeitable assets;
 - b. the processing of and accounting for seizure and forfeitures; and
 - c. the storage, maintenance, protection, and destruction of controlled substances.
- Given the variance in annual revenues experienced by the Fund, critical and recurring expenses relating to the storage, maintenance, protection and destruction of

contraband (i.e., controlled substances, counterfeit currency, weapons) are best funded by each agency's annual Salaries and Expenses (S&E) appropriation.

Limitations on the Mandatory Spending Authority

Expenses *not* payable from the Fund include, but are not limited to:

- (1) purchase of real property or any interest therein except to acquire full title to or to satisfy liens or mortgages;
- (2) expenses of equipping or improving property transferred to non-Treasury agencies;
- (3) reception and representation expenses; and
- (4) claims of unsecured creditors generally may not be paid from the Fund, particularly if such payment may jeopardize the claims of existing lien holders.

Discretionary Category Expenses

The Secretary of the Treasury has the discretion to make payments from the Fund for other specifically authorized expenses when funds are appropriated for that purpose. Congress has not appropriated funds for such purpose since fiscal year 1997. Should funds be appropriated for this purpose, those funds shall be made available to meet the authorized expenses identified by the law.

Allocation of Funds and Payment of Expenses

Financial transactions between the Fund and each agency are coordinated pursuant to the provisions of a Memorandum of Understanding with EOAF.

Cash Management

Seized cash, except where it is to be used as evidence, is to be deposited promptly into the Suspense Account pending forfeiture. (See EOAF Directive **4**, dated June **19,1996**). Seized cash valued at \$5,000 or less may be held only upon the approval of the United States Attorney and amounts more than \$5,000 may be held only upon approval of the Chief of the Department of Justice's Asset Forfeiture and Money Laundering Section.

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RETENTION AND USE OF FORFEITED PROPERTY

General Authorization

The Secretary of the Treasury has the authority to retain or transfer any forfeited property for official use by any federal agency. No seized property shall be placed into official use until a final decree or final order of forfeiture has been made and the request to place the property into official use has been approved by the appropriate official. Property forfeited for a trademark violation may be donated by the Customs Service to charitable organizations in accordance with established procedures.

Cash

Forfeited cash or proceeds from the sale of forfeited property may not be retained by any Treasury investigative agency.

Non-Cash Personal Property

The Secretary of the Treasury has delegated the authority to place non-cash personal property into official use to the head of the Treasury investigative agency responsible for the seizure. The agency head, or designee, will determine whether to place such forfeited property into official use.

Real Property

The Secretary of the Treasury has delegated the authority to place real property into official use to the Under Secretary (Enforcement). The Under Secretary (Enforcement) has delegated this authority to the Director of EOAF. Requests to place realproperty into official use must be submitted in writing to the Director of EOAF. Transfers of real property to other federal agencies may be considered if such transfers will serve a significant and continuing federal purpose.

Treasury Law Enforcement Official Use Policies

Each Treasury law enforcement organization shall establish internal guidelines consistent with this section governing the placement of property into official use.

All official use guidelines shall:

1. Prohibit the placement into official use of any seized property prior to the entry of a final determination of forfeiture and the appropriate approval of the request to place the property into official use;

2. require that a written justification be prepared in each instance detailing the reasons why the forfeited property should be placed into official use and that these documents be retained for three years;
3. require that a specific supervisory-level official be responsible and accountable for the decision to place each item of forfeited property into official use and for ensuring appropriate official use of such property following its transfer;
4. require that property placed into official use be identified and tracked in an accountable property system; and
5. state that the property may not be retained if it is primarily for purposes of exchange/sale or other uses not expressly authorized for property acquired through the expenditure of appropriated funds. There must be an intent to use the property for official purposes for at least one year.

Requests for Property

When the head of a Treasury investigative agency, or designee, seeks to place forfeited property into official use and a federal, state, local agency or foreign country has filed a request for an equitable share of the property, the head of the investigative agency, or designee, shall consider the following factors in making a determination regarding the disposition of the property:

1. The relative need of the requesting agency and the investigative agency for the particular property;
2. the uniqueness of the property and the likelihood of securing similar property through seizure and forfeiture in the near future;
3. the relative percentage of the requesting agency's participation in the case;
4. the likelihood that the requesting agency will be eligible for an equitable share of property from additional seizures arising from the same investigation **or** from seizures in other cases in the near future;
5. the **impact** that a decision to place the property into official use might have on federal, state, local, or foreign relations; and
6. the number and value of past equitable sharings with the federal, state, local agency or foreign country.

If more than one Department component seeks to retain the same property for official use and the matter cannot be resolved by the agency heads, the Under Secretary (Enforcement), or designee, shall determine which agency may place the property into official use.

TRANSFER OF FORFEITED PROPERTY

(To Federal Agencies that did not Participate in the Acts that Led to Seizure)

Careful consideration shall be given to the value of the property requested, its potential benefit to the United States for law enforcement purposes, and its impact on the Fund.

The head of the seizing investigative agency, or designee, may transfer for official use personal property valued at \$25,000 or less to an agency that did not participate in the seizure or forfeiture. A decision to grant a request for any property valued at more than \$25,000 shall be approved in writing by the Director of EOAF. If the recipient agency is not a Treasury law enforcement agency, they shall pay costs incurred by the Fund in connection with the forfeiture and transfer of such property.

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TRANSFER OF REAL PROPERTY THROUGH THE WEED AND SEED PROGRAM

The sharing of federally forfeited real property is discouraged. However, where a requesting law enforcement agency substantially participated in the acts that led to the seizure or forfeiture of real property, and there is a compelling law enforcement need for the property, sharing of forfeited real property may be approved under the Weed and Seed Program.

The Weed and Seed is an initiative designed to reclaim and rejuvenate embattled neighborhoods and communities. Weed and Seed uses a neighborhood focused two-part strategy to control violent crime and to provide social and economic support to communities where high crime rates and social ills are prevalent. The initiative first removes or “weeds” violent criminals and drug dealers from the neighborhoods. Second, the initiative prevents a re-infestation of criminal activity by “seeding” the neighborhoods with public and private services, community-based policing, and incentives for new businesses.

Weed and Seed is founded on the premise that community organizations, social service providers, and criminal justice agencies must work together with community residents to regain control and revitalize crime-ridden and drug-plagued neighborhoods. Weed and Seed includes both specifically funded projects, as well as cooperative initiatives not receiving targeted federal funding.

To transfer forfeited real property in this way the following steps must be followed:

- **Asset Sharing Context** – A state or local law enforcement agency that contributed to the investigation leading to the forfeiture of the real property must request the real property as a Weed and Seed asset sharing, noting its intent to use the property for Seed purposes or to transfer it to a public or nonprofit recipient for these same Seed purposes.
- **Consent of other Involved Agencies** – The requesting state or local law enforcement agency must obtain and present the written agreement of all other law enforcement agencies participating in the investigation leading to forfeiture that they will waive their claims to sharing in the property or its proceeds in deference to the Weed and Seed request.
- **Appropriate Use** – The requestor must explain the anticipated use of the property and how it will help realize the Seed goals of the Weed and Seed initiative in a distressed or disadvantaged neighborhood. The property must be suited for the proposed use and the recipient must agree that the property will revert to the United States if it is not properly used for the stated purposes.

- ***Payment of Costs*** – The recipient or other agency shall pay all outstanding costs prior to the transfer of real property, including any mortgages, liens, and third-party interests against the property transferred. The recipient must pay all future liens, taxes, repairs, and maintenance. These costs may not be paid from the Fund.
- ***Approvals*** – Upon approval of the request for the transfer of forfeited real property by the head of the involved Treasury law enforcement bureau, the request will be forwarded for a final decision to the Director of EOAF. (See EOAF Directive 9, dated October 1, 1993).

ADOPTIONS OF STATE/LOCAL SEIZURES

Adoptive seizures are **only** those seizures where **100%** of the pre-seizure activity and related investigation are performed by the state or local seizing agency before a request is made for a Treasury adoption. There must be a state violation and a federal basis for forfeiture in order for the seizure to be a true adoption. The federal share in adoptive cases is generally 20% of net proceeds and the state or local share is 80%. **Joint investigations or task force cases are not adoptive seizures.**

See EOAF Directive **34**, dated January 17, 2001 and follow the procedures outlined in *Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies*, dated October 1, 1996.

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EQUITABLE SHARING OF FORFEITED PROPERTY WITH FEDERAL, STATE AND LOCAL AGENCIES

Treasury has the authority to transfer forfeited cash, property, and sales proceeds of forfeited property to federal, state and local law enforcement agencies that participated in a seizure and forfeiture action. Requests for equitable sharing shall be filed on a Treasury Form TDF 92-22.46 (Request for Transfer of Property Seized/Forfeited by a Treasury Agency).

Sharing in General

1. Forfeited cash, property, and proceeds from the sale of forfeited property may be equitably shared with state and local investigative or prosecutive agencies.
2. All property shared with a participating agency, and any income generated by this property shall be used for law enforcement purposes.
3. A state or local agency may file a request for an equitable share of cash or property where it can demonstrate that it participated directly in the law enforcement effort that resulted in the seizure and/or forfeiture.
4. No sharing request shall be considered unless it is submitted within 60 calendar days of the seizure or the federal adoption of a state or local seizure. The 60 day rule can be waived based upon a written request to the seizing Treasury agency, stating the reasons for the late submission of the equitable sharing request outlining extraordinary circumstances which may have precluded timely submission of the request, and/or providing justification for the waiver.
5. Forfeited cash and/or property shall be equitably shared with a state or local agency only when it will increase and not supplant existing law enforcement resources of the specific state or local agency that participated in the forfeiture.
6. Forfeited cash and the net proceeds of forfeited property may be shared with participating non-Treasury federal agencies if the agency is a member of the Justice Assets Forfeiture Fund, and is authorized to receive the funds.

Factors Governing the Amount of Equitable Sharing

All equitable sharing shall be based on net proceeds of the forfeiture. Payments shall not exceed the fair market value of the forfeited property at the time of disposition.

In determining the amount of the equitable share for each participating agency, the following factors shall be considered:

1. Whether the seizure was adopted or the result of a joint investigation.

2. The requesting agency's participation in the law enforcement effort that led to the forfeiture. This should take into account the total value of all property forfeited and total law enforcement effort, including any related criminal prosecution.
3. Whether the requesting agency originated the information that led to the seizure.
4. Whether the requesting agency provided unique or indispensable assistance.
5. Whether the requesting agency seized additional assets pursuant to its jurisdiction during the same investigation.
6. Whether the requesting agency could have achieved forfeiture under its jurisdiction but joined forces with a Treasury agency to make a more effective investigation.

Sharing Percentages

1. Sharing percentages will be determined by considering the factors delineated in the previous section. Normally, the sharing percentage is initially computed by comparing the number of hours worked by the requesting agencies. Appropriate adjustments are made to that percentage if other factors were present in the investigation. The hours worked include all hours worked through the perfection of the forfeiture and any related activities. The final determination of sharing percentages must not be done until after the property has been forfeited and the total contribution of all the participants has been determined.
2. In cases where property is forfeited and an agency requests an item in lieu of proceeds from the disposition of the property, the determining official shall ensure that costs are recovered and Treasury receives its equitable share. If the requesting agency is unable to pay the costs and Treasury's share, the property shall be sold and the proceeds distributed in accordance with these Guidelines. Exceptions to this requirement may be granted by the deciding official upon assurance that (1) the requesting agency lacks funds or authority to satisfy the costs and Treasury's share, and (2) the forfeited item will fill a demonstrable need of the requesting agency. Such exceptions shall be granted conservatively.

Task Force Agreements

1. No agreement that is inconsistent with Treasury sharing policy should be entered into. All such agreements should be in written form and signed by officials from the participating agencies. These agreements should be reviewed annually to ensure they are reflective of current situations and equitable in their treatment of all participants.
2. The lead agency should normally conduct the seizure/forfeiture and any Treasury agency contributing to the seizure efforts of a given task force must be entitled to a share of the forfeitures that is reflective of the assistance rendered by that agency.

3. Sharing percentages that are pre-determined are normally discouraged because those pre-determined percentages might not be consistent with the assistance rendered (i.e., in the case of a local department agreeing to receive 7% of all shares yet does not participate in a given case and/or contributes less than 7% of the work involved). However, for ease and simplicity of operation, pre-determined percentages within a task force may be agreed to if those percentages generally reflect the overall contributions of the involved agencies (i.e., in a 20 person Task Force, IRS assigns 2 members so IRS can agree to a pre-determined percentage of 10%). Lastly, it is acceptable if one of the federal agencies (whether Treasury or DOJ) – again, for ease of operation – agrees to execute all the forfeitures and receives a fair and appropriate percentage to cover that administrative burden. When an investigation becomes protracted, and the moment of sharing occurs long after an initial agreement has been generated, said agreement should be revisited to ensure that the interests of all parties are fairly addressed.
4. All Memoranda of Understanding (MOUs) should be reviewed annually to ensure that the provisions continue to be acceptable to ALL participating agencies. If any one of the participating agencies wishes to raise an issue, it should be able to do so without prejudice.

Deciding Officials

Decision-making authority shall be as follows:

1. Forfeited Assets Less Than \$1,000,000

The authority to approve equitable sharing of assets forfeited in a single forfeiture proceeding where the appraised value of the assets is less than \$1,000,000 has been delegated to the individual bureaus. Exceptions are those involving foreign sharing or real property, which requires approval from the Director of EOAF.

2. Forfeited Assets More Than \$1,000,000

Where the forfeited assets are valued at \$1,000,000 or more, and in all cases involving the transfer of real property, the Director of EOAF must approve the amount of the equitable share. Further, Treasury field offices' equitable sharing recommendations on judicial forfeitures shall be conveyed to the U.S. Attorney.

The recommendation of the U.S. Attorney is highly valued and shall be considered by the Treasury decision-making authority.

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EQUITABLE SHARING WITH FOREIGN COUNTRIES

The Secretary of the Treasury is authorized by statute to share any forfeited currency, the sale proceeds, or property with the foreign country that participated in the seizure or forfeiture, if such transfer:

1. Has been agreed to by the Department of Justice,
2. has been approved by the Secretary of State,
3. is authorized in an international agreement between the United States and the foreign country; and
4. is made to a country that, where applicable, has been certified under 481(h) of the Foreign Assistance Act of 1961.

Unless dictated otherwise by the provisions of a Mutual Legal Assistance Treaty (MLAT), equitable sharing requests from a foreign country shall be forwarded to the Director of EOAF with a recommendation from the seizing agency.

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REVERSE ASSET SHARING

Forfeited Property

Treasury investigative agencies may request their equitable share of forfeited property resulting from joint Treasury and Justice investigations in which a Justice agency handles the seizure, and forfeiture. Property received from a federal agency may be placed into service in accordance with the agency guidelines. **Federal agencies do not have the authority to accept equitable shares of property or tangible items from state, local or foreign agencies.** Such shares have to be treated as gifts to the Federal Government and permission to accept the gift must be sought from the Assistant Secretary (Management) of the Treasury prior to accepting any such property.

Cash and Proceeds of Forfeited Property

It is the responsibility of Treasury investigative agencies to file a request for an equitable share of forfeited cash and the proceeds of forfeited property resulting from investigations in which they participated with Department of Justice Assets Forfeiture Fund. Sharing requests should be submitted to the seizing agency within **60** calendar days of the seizure. The 60-day rule can be waived only upon a written request provided to the seizing DOJ agency, stating the reasons for the late submission of the request and/or providing justification for the waiver. In those circumstances where an agency's principal contribution occurs after the seizure, but during the period of time in which the forfeiture is being perfected, it would be appropriate to request a waiver to the 60-day rule or to amend a previous request. A copy of the DAG-71 or similar document must be sent to EOAF in accordance with bureau policy. These copies will be kept on file by EOAF and will be used to confirm the receipt of the equitable sharing payment.

Treasury agencies that are denied the ability to apply for equitable sharing by a DOJ agency, or fail to receive an equitable share in return for their participation are encouraged to attempt resolution at the principal field office level. If resolution cannot be achieved, the issue should be forwarded to EOAF (in accordance with bureau policy) for resolution at the Treasury/Justice level. **Reverse asset sharing monies must be forwarded immediately to EOAF in accordance with bureau policy.**

Use of Reverse Asset Sharings

The use of reverse asset sharing funds is limited to the authority of the Secretary of the Treasury under 31 U.S.C. § 9703(b)(5), which states "amounts transferred by the Attorney General..., or by the Postmaster General..., and deposited into the Fund...are available to the Secretary of the Treasury for federal law enforcement purposes of the Department of the Treasury law enforcement organizations."

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DISCONTINUANCE OF FEDERAL FORFEITURE PROCEEDINGS

Federal Judicial Forfeiture Proceedings

A decision to discontinue a federal judicial forfeiture proceeding against any seized asset in favor of a state or local forfeiture proceeding requires the personal approval of the United States Attorney after review of the evaluation and recommendation of the presenting investigative agency.

In making this decision, the United States Attorney should consider the impact of such a decision on the financial status of the Fund.

Decisions to discontinue judicial forfeitures in favor of state or local proceedings are to be documented.

Federal Administrative Forfeiture Proceedings

A decision to discontinue a federal administrative forfeiture proceeding against any seized asset in favor of a state or local forfeiture proceeding requires the approval of the head of the investigative agency, or designee.

In making this decision, the head of the investigative agency, or designee, should consider the impact of such a decision on the financial status of the Fund, and where appropriate, consult with the Director of EOAF.

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APPENDIX

<i>Directive Number</i>	<i>Directive Title</i>
Directive No. 4	Seized Cash Management Policy
Directive No. 9	Weed and Seed Initiative; Transfers of Real Property
Directive No. 14	Expeditious Payment of Liens, Mortgages and Taxes by the Department of the Treasury
Directive No. 18	Policy for Payment(s) to Local, County, and State Police Officers Participating with Treasury Law Enforcement Agencies
Directive No. 27	Processing Interlocutory Sales
Directive No. 33	Seizure of Motor Vehicles, Payment of Liens and Official Use Requirements
Directive No. 34	Adoptive Seizure Policies and Procedures

NOTE: If you require additional EOAF Directives or the attachments, please refer to the EOAF Directives Manual or you may contact EOAF at (202) 622-9600.

**DEPARTMENT OF THE TREASURY
EXECUTIVE OFFICE FOR ASSET FORFEITURE**

DIRECTIVE NUMBER: 4

REVISED DATE: June 19, 1996

SUBJECT: Seized Cash Management Policy

I. BACKGROUND

The security, budgetary, and accounting problems caused by retention of large amounts of cash has caused great concern within the Department and the Congress and raises both financial management and internal control issues.

The timely deposit of cash assets is important to the effective management of the Treasury Forfeiture Fund. This directive establishes Treasury policy on the management of seized cash. Treasury law enforcement agency management and supervisory personnel are responsible for ensuring compliance with this policy. While this directive will address the deposits as "cash", the term "cash" shall include currency, personal and commercial checks, cashiers checks, bank checks, travelers checks, money orders, etc.

Currency seized for Title 26 violations may not be deposited into the U.S. Customs Suspense Account or the Treasury Forfeiture Fund.

11. DISPOSITION OF CASH SEIZED FOR FORFEITURE

Cash seized for forfeiture, except where it is to be used as evidence, is to be deposited either within sixty (60) days after seizure or ten (10) days after indictment; or within five days after the seizing agency learns that the cash may be deposited, whichever occurs first, into the U.S. Customs Suspense Account pending forfeiture. The Director, Executive Office for Asset Forfeiture, may grant exceptions to this policy in extraordinary circumstances. Transfer of cash to the United States Customs Service Suspense Account shall be accomplished in accordance with these instructions.

- A. In some instances currency has a significant, independent, tangible, evidentiary purpose. This may be due to the presence of fingerprints, packaging in an incriminating fashion, or presence of notations or other writings. *In most cases, however, photographs or videotapes of the seized currency should be taken for later use in court as evidence.*

Where it is required that seized currency be held for evidentiary purposes, the following must be adhered to¹:

1. If the amount of seized cash to be retained for evidentiary purposes is less than \$5,000, written approval to retain the cash must be granted at a supervisory level within the appropriate U.S. Attorney's Office. Such approval must be presented to the Treasury law enforcement agency within 60 days of seizure or within 10 days of indictment whichever comes first.
2. If the amount of seized cash to be retained for evidentiary purposes is more than \$5,000, the Treasury law enforcement office shall obtain a copy of the required approval document issued by the Chief, Asset Forfeiture and Money Laundering Section, Criminal Division, Department of Justice, who has authority to approve exceptions to the DOJ Seized Cash Management Policy. *(This document is obtained by the AUSA.)* Treasury law enforcement field offices shall promptly submit a copy of the document to: Director, Executive Office for Asset Forfeiture, Suite 700, 740-15th Street, NW, Washington, D.C. 20220. FAX: (202) 622-9610.

If an approval document is not provided to the Treasury law enforcement agency within 60 days from the date of seizure or ten (10) days after indictment, whichever occurs first, the Treasury law enforcement agency should take those steps

¹See Department of Justice (DOJ) Seized Cash Policy 87-1, March 13, 1987, DOJ Seized Cash Management Policy 91-9, June 6, 1991; and DOJ Delegation of Authority Directive 91-166, December 13, 1991.

necessary to deposit the money into the U.S. Customs Suspense account immediately.

111. DEPOSITING SEIZED CASH TO THE U.S. CUSTOMS SUSPENSE ACCOUNT

The U.S. Customs Suspense Account is located at the Federal Reserve Bank of New York. There are several methods available to Treasury law enforcement agencies for the deposit of cash into the U.S. Customs Service Suspense account.

Processing Procedures

Cash seizures shall be expeditiously counted, processed and prepared for transfer to the U.S. Customs suspense account in accordance with each agency's procedures and the following two conditions.

The currency will be transported with appropriate security measures to ensure safe transportation to the physical site of the deposit. Agency personnel shall remain at the site until the currency is recounted if necessary, by the financial facility and a proper receipt is provided for the deposit.

Discrepancies shall be immediately resolved at the financial facility by the agency's representatives and the financial facility's representatives. Agency representatives will verify the count and retain a receipt for the deposit. All reports of shortages, overages, or counterfeit currency shall be appropriately resolved before agency representatives leave the facility.

A. U.S. Customs Service Seizures

- Customs personnel will follow Customs policies and procedures to make deposits into the Suspense Account, to transfer the seized cash to the Forfeiture Fund, or return the seized cash.

B. Seizures made by **IRS**, ATF, and USSS

Methods and Procedures for Depositing Seized Cash to the **U.S.** Customs Suspense Account

[Any of the four methods shown below may be used for making deposits into the Customs Suspense Account. However, the fourth alternative is the least acceptable. Therefore, seizing agency representatives will make every attempt to comply with one of the first three methods before using the 4th alternative.]

1. Direct Deposits at Federal Reserve Banks

Direct deposits of funds may be made at Federal Reserve Banks. Agencies will be required to have the following information to deposit monies into the Customs Suspense Account.

- a. Suspense Account Number - **20X6875(06)**
- b. Agency Locator Code - **20060094**
- c. Title of Account - **U.S. Customs Suspense Account**
- d. Your Agency Class Code -

Seized Currency	Cost Bond
IRS = 732	IRS = 736
USSS = 733	USSS = 737
ATF = 734	ATF = 738

- e. Amount - Must be punctuated with commas and decimal points (e.g., \$247,186.58). The dollar sign is optional.
- f. Narrative - The narrative must be used to further identify the deposit (e.g., seizure number, district, depositor's name and phone number, and other pertinent information).

2. Fed Wire (Wire Transfers) Deposits

Fed Wire or Electronic Funds Transfers (EFT) can be accomplished by the agency utilizing a commercial bank to forward funds to the Customs Suspense Account at the Federal Reserve Bank in New York.

A copy of the Deposit Ticket and a copy of the Deposit Information Form, Attachment 'A', shall be FAXED to the ASD Forfeiture Fund Team the same day the EFT is executed.

There is no standardized format or form in the banking industry for the processing of wire transfers. Each bank is able to design a system that suits the bank's needs while effecting the business of wire transfers.

Most banks require the agency to have an account with the bank from which wire transfers will be drawn. Banks also charge a "fee" for the wire transfer which currently averages about \$12.00 per transfer. The agency cannot have this fee amount deducted from the monetary amount being transferred. Each agency shall implement procedures to provide for the payment of the fee as incurred. Some banks may allow the wire transfer of funds without the sender having an account with the bank. Treasury law enforcement agencies may wish to negotiate an agreement to have such a bank process the wire transfer without establishing an account with the bank when this is the process of choice.

Since there is latitude on the part of commercial banks in their handling of wire transfers, it will be necessary for agency personnel to develop a business relationship with a bank in their geographical area and process wire transfers in accordance with their protocols and requirements.

Most banks have specific wire transfer forms that must be completed by the sender (Treasury law enforcement agency), prior to the acceptance of the wire transfer order. Some banks don't require such a form, but do require information that is input into a data system that prints out a form. The following information is generally required to send wire transfers to the U.S. Customs Suspense Account.

- a. ABA Number of Bank Receiving Funds - **021030004**
- b. Name of Bank - **FEDERAL RESERVE BANK NEW YORK**
- c. Bank Address - **New York, New York**
- d. Amount of Transfer - **\$000,000.00**
- e. Title of Account Receiving Funds - **U.S. Customs Suspense Account**
- f. Account Number - **20X6875 (06)**
- g. Special Instructions/Remarks: **Include Seizure Number, Agency Class Code [See References in 1 .D. above.] If not a seizure, provide other identifying information the agency feels is pertinent.**
- h. Account Number from which funds are being drawn on (If Applicable)
- i. Account Name (**Your Agency Account Name**) - If Applicable
- j. Name, Address, Telephone Number of Sender
- k. A copy of the Wire Transfer Form shall be FAXED to the ASD, Forfeiture Fund Team, with the Deposit Information Form, Attachment A.

3. OPAC Deposits/Transfers

OPAC is Online Payments and Collections. It is an electronic transfer program that utilizes the GOALS (Government On-line Accounting Link System) system to transfer monies inter-agency. It requires that monies be placed in an agency suspense account in order to be able to transfer the monies to the U.S. Customs Service Suspense Account.

GOALS is utilized by the Fiscal Management Offices within your agency. This office requires specific information to complete the GOALS form and transfer the monies. Agency representatives will need to furnish the following information to effect a transfer.

- a. Agency Locator Code - **20060094**
- b. Agency Class Codes - **(See 1.d. above.)**
- c. Remarks Section of the GOALS transaction form will require a statement regarding the transaction (e.g., "This transfer to the USCS Suspense Account is for monies seized under seizure number **1234567** by IRS, ACC 732, North Central Region.") .

4. Delivery of Monies to Treasury - EOAF

If the methods noted in 1,2,3 above cannot be accomplished by the agency, the agency may deliver cash, in the form of a cashier's check or other negotiable instrument made payable to the Department of the Treasury or the U.S. Customs Service to the Executive Office for Asset Forfeiture for deposit into the U.S. Customs Suspense Account.

The monies can be delivered in person or mailed to the:

Executive Office for Asset Forfeiture
740-15th Street, N.W.
Suite 700
Washington, D.C. 20220
Attn: Revenue Desk

Specific documentation to identify the check or other negotiable instrument must accompany the submission. Such documentation must include a seizure number, Agency Class Code, an indication whether the cash represents a seizure or a cost bond, a contact person and phone number of submitting office. The Deposit Information form, Attachment A, should accompany the transmission of the monies.

I'7 DEPOSIT NG REQUIREMENTS

Except for the U.S. Customs Service, whenever a deposit is made to the Customs Suspense Account by the other Treasury law enforcement agencies, a report of the deposit along with a copy of the Deposit Information Form, attachment A, must be FAXED to the ASD *within 48 hours of the deposit*. The purpose of this form is to ensure timely notice to the Customs Accounting Services Division (ASD) of the transmission of monies into the Suspense Account.

This process will enhance the ability of the Treasury Forfeiture Fund to maintain more effective and timely control of deposits to the Suspense Account.

- A. ~~The~~ Treasury law enforcement agency shall FAX to the **Accounting Services Division** (formally the **NFC**) Forfeiture Fund Team, the *Deposit Information* form as provided in Attachment A to this Directive.
- B. This form is not to be used in reporting cash and net proceeds of forfeited property received by Treasury agencies as their share from non-Treasury agencies. These funds, also known as Reverse Asset Sharing, shall continue to be forwarded to the Executive Office

for Asset Forfeiture, Attn: Revenue Desk, in accordance with VIII. B., page 16, of the Secretary of the Treasury's Guidelines for Seized and Forfeited Property, 10/1/93.

V. **DISPOSITION INSTRUCTIONS FOR SEIZED, FORFEITED CURRENCY AND COST BONDS IN THE CUSTOMS SUSPENSE ACCOUNT OR TREASURY FORFEITURE FUND**

All Treasury law enforcement agencies will implement the following procedures to ensure the uniformity of procedures within the administration of the Treasury Forfeiture Fund. Three forms have been developed to implement these procedures in providing disposition instructions for monies held in the U.S. Customs Service Suspense Account and/or the Treasury Forfeiture Fund. These forms are generic in substance, but agency specific by name. Their purpose is to allow the Treasury Forfeiture Fund to more efficiently and effectively control the disposition of funds on deposit in the Customs Suspense Account and/or the Treasury Forfeiture Fund.

These forms are entitled:

"Disposition Instructions for Currency Held in Customs Suspense Accounts"

[Attachment B]

NOTE: USCS SHALL NOT PREPARE ATTACHMENT B UNLESS THERE ARE ASSET SHARING REQUESTS PENDING AND/OR THERE IS A DISTRIBUTION OF FUNDS IN WHOLE OR IN PART OTHER THAN TO THE FORFEITURE FUND.

"Cost Bond Disposition Instructions"

[Attachment C]

"Request for Post Forfeiture Refund"

[Attachment D]

PROCEDURES

These forms have been developed to serve as the standard documents to effect the Disposition of Currency Held in Customs Suspense Accounts; Cost Bond Disposition Instructions; and Requests for Post Forfeiture Refunds. These forms will serve as authorizing and control documents to effect the action required. No other documentation will generally be required by EOAF or the Accounting Services Division.

1. Except for those portions of the form notated for EOAF use, the submitting agency should ensure that all applicable portions of the form are legibly completed, and the form is signed by the authorizing officer.
2. Completed forms should be submitted to or FAXED to:

Disposition Desk
Executive Office for Asset Forfeiture
740 15th Street, N.W.
Suite 700
Washington, D.C. 20220
FAX: (202) 622-9610

3. Each agency is responsible to maintain the operative documents, as established by agency policy, that direct the required dispositions.

**DEPARTMENT OF THE TREASURY
EXECUTIVE OFFICE FOR ASSET FORFEITURE**

DIRECTIVE NUMBER: 9

DATE: October 1, 1993

SUBJECT: Weed and Seed Initiative; Transfers of Real Property

EXECUTIVE SUMMARY

This directive describes the Weed and Seed Initiative and explains how federally forfeited real properties may be transferred to State and local public agencies and private non-profit organizations for use in support of the Weed and Seed Initiative. Importantly, this directive sets forth additional guidance to permit the expanded use of federally forfeited real property to support Weed and Seed programs.

The directive reviews the legal authority for this change in the sharing program. It then describes the procedure by which Weed and Seed transfers are to be accomplished. In summary, the process parallels the current sharing procedure, including use of TD F 92-22.46, consultation among Federal, State, and local law enforcement authorities, and final approval of real property transfers by the Secretary of the Treasury. Where there is a legal impediment to a Weed and Seed transfer through the participating State or local law enforcement agency, the transfer can still be accomplished through the U.S. Department of Housing and Urban Development (HUD). HUD will also play a consultant role in transfers made through State and local law enforcement agencies.

Generally, recipients will be expected to pay, prior to transfer, any mortgages and qualified third party interests against the real property transferred. Other costs will be paid from the Treasury Forfeiture Fund. No transfer will be made over the objection of a State or local law enforcement agency which is entitled to an equitable share of the net proceeds from the sale of the property to be transferred.

BACKGROUND

Weed and Seed is an initiative designed to reclaim and rejuvenate embattled neighborhoods and communities. Weed and Seed uses a neighborhood focused, two-part strategy to control violent crime and to provide social and economic support to communities where high crime rates and social ills are prevalent. The initiative first removes or "weeds" violent criminals and drug dealers from the neighborhoods. Second, the initiative prevents a reinfestation of criminal activity by "seeding" the neighborhoods with public and private-services, community-based policing, and incentives for new businesses. Weed and Seed is founded on the premise that community organizations, social service providers, and criminal justice agencies must work together with community residents to regain control and revitalize crime-ridden and drug-plagued neighborhoods. Weed and Seed includes both specifically funded projects, as well as cooperative initiatives not receiving targeted federal funding.

This directive establishes guidelines and authorizes the transfer of seized and forfeited real property, in appropriate cases, to States, political subdivisions and private non-profit organizations in support of the Weed and Seed Initiative.

A. General Authorization

1. **18 U.S.C. § 981(e)(2)** and **31 U.S.C. § 9703(n)** authorize the Secretary of the Treasury to transfer forfeited property to any federal agency, or to any State or local law enforcement agency that participated in the seizure or forfeiture of property.
2. Transfers made pursuant to **18 U.S.C. § 981(e)(2)** must serve to encourage cooperation between the recipient State or local agency and federal enforcement agencies. Limitations and conditions respecting permissible uses of transferred property are set forth in The Secretary of the Treasury Guidelines on Seized and Forfeited Property.

B. Identification and Use of Forfeited Real Property

1. Investigative agencies, in conjunction with local United States Attorneys, are authorized to identify

seized or forfeited properties for potential transfer in support of the Weed and Seed initiative. Where appropriate, they shall consult with the U.S. Department of Housing and Urban Development. As properties are forfeited, appropriate Weed and Seed transfers will be made pursuant to the policies and procedures set out herein.

2. The proposed uses of any property to be so transferred must be in accordance with the Weed and Seed initiative, focusing on support of community-based drug abuse treatment, prevention, education, housing, job skills and other activities that will substantially further Weed and Seed goals. United States Attorneys are encouraged to consult with the Executive Office for Asset Forfeiture for guidance in particular cases. The property must also be suited to the proposed use and the use must be consistent with all applicable Federal, State and local laws and ordinances.
3. Any proposed transfer must have the potential for significant benefits to a particular community and these benefits must outweigh any financial loss or adverse effects to the Treasury Forfeiture Fund.

C. Transfer of Forfeited Real Property Pursuant to Weed and Seed Initiative

1. Sharing Requests

All requests for sharing of real property pursuant to the Weed and Seed Initiative shall be on a TD F 92-22.46 and must follow the established sharing ~~procedures~~ as outlined in the Secretary of the Treasury's Guidelines on Seized and Forfeited Property. The appropriate official of the seizing investigative agency must recommend the transfer. Approval by the office of the Secretary of the Treasury is required for transfers of forfeited real property.

2. Transfers to State and Local Agencies

The participating State or local law enforcement agency, or other governmental entity permitted by applicable laws to hold property for the benefit of the law enforcement agency, will receive the initial transfer of the real property. The State or local agency will then, pursuant to prior agreement, transfer the property to the appropriate public or private non-profit organization for use in support of one of the programs described above.

The authority of the participating State or local investigative agency to transfer forfeited real property to other State or local public agencies may vary from jurisdiction to jurisdiction. In each case, the issue must be addressed in the submitted TD F 92-22.46 prior to the sharing transfer to the State or local agency. See section 3 below for cases where there is an impediment to a transfer under this section.

3. U.S. Department of Housing and Urban Development Transfers

Transfer of forfeited real property under the Weed and Seed Initiative may, alternatively, be accomplished through the U.S. Department of Housing and Urban Development (HUD). In this regard, the Department of Treasury has statutory authority to transfer forfeited property to another federal agency. Under this option, after a property is identified as a suitable Weed and Seed transfer and is forfeited, title to the property will be transferred to HUD.

After the initial transfer, HUD will then retransfer the property to the preselected recipient, consistent with understandings reached in consultation with Federal, State and local agencies and the pertinent United States Attorney's Office.

D. Mortgages and Ownership Interests in Weed and Seed Transferred Real Property

1. Mortgages

Mortgages on real property transferred pursuant to the Weed and Seed initiative are not payable from the Treasury Forfeiture Fund. Liens and mortgages shall be the responsibility of the recipient State or local community-based organization.

2. Qualified Third Party Interests

Any secured debts or other qualified interests owed to creditors are not payable from the Treasury Forfeiture Fund. The payments of these interests are the responsibility of the recipient State or local agency or non-profit organization.

E. Asset Seizure, Management and Case-Related Expenses

Expenses incurred in connection with the seizure, appraisal, or security of the property are payable from the Treasury Forfeiture Fund. Case-related expenses incurred in connection with normal proceedings undertaken to protect the United States' interest in seized property through forfeiture, are also payable from the Treasury Forfeiture Fund.

F. Law Enforcement Concurrence

Any State or local law enforcement agency that would otherwise receive an equitable share of proceeds from the sale of a forfeited property must voluntarily agree to forego its share before a Weed and Seed transfer will be authorized.

G. Contact Point

Questions regarding this policy and procedure may be directed to the Executive Office for Asset Forfeiture, (202) 622-9600.

**DEPARTMENT OF THE TREASURY
EXECUTIVE OFFICE FOR ASSET FORFEITURE**

DIRECTIVE NUMBER: 14

REVISED DATE: October 1, 1995

**SUBJECT: Expeditious Payment of Liens, Mortgages and Taxes by
The Department of the Treasury**

BACKGROUND

This Treasury policy governs the settlement and payment of perfected liens, taxes, and mortgages. The lien or mortgage is "perfected" when a security interest in property, as determined by the laws of the state where the property is located, is filed with and accepted by the court.

This revised policy, in effect, shall treat the payment of perfected liens, taxes, and mortgages in an expeditious manner for all property subject to a judicial "final judgement" or "final order of forfeiture"; or a "summary judgement" in an administrative forfeiture proceeding.

For the purposes of this policy "final judgement", "final order of forfeiture", and a "summary judgement" shall mean a judgement or order that vests all rights, title, and interest in the forfeited property in the United States, and as to which all appeals are exhausted and conclusive upon the matter.

This policy shall enhance the Department's ability to ensure a timely closing on property, particularly real property, and ensure a clear title for the transfer of the property.

PROCEDURES

1. For judicial forfeitures involving real property, it is the responsibility of the seizing agency to know that the final order of forfeiture is filed with the appropriate county or municipal officials prior to issuing instructions for the disposition of the property.

The recording of the final order and the lifting of the *lis pendens* is the responsibility of the Office of the U.S.

Attorney.² The seizing agency shall advise the U.S. Customs Service Seized Property Specialist/ Seized Property Custodian (SPC/SPS), in writing, of the date the documents were filed when disposition instructions are provided the SPC/SPS.

It is in the best interests of the Department to ensure that all final orders are timely filed or recorded. In those judicial districts where the AUSA is unable to timely provide this function of his/her office, the Treasury law enforcement agency may file and record documents as required.

2. Seizing agency personnel shall ensure that a copy of the judgement or order of forfeiture and disposition instructions are presented to the SPC/SPS for disposition within ten (10) days of their learning that the final order has been recorded with the appropriate county or municipal office(s) .

In addition, if the forfeiture is a judicial forfeiture, the seizing agency shall forward a copy of the final judgement or the final order of forfeiture to their agency headquarters office as required.

3. The SPC/SPS shall ensure that the Disposition Order, copies of court documents, and the agency's instructions are provided to the national seized property contractor within three (3) business days of the receipt of the documents from the seizing agency.
4. The national seized property contractor will verify lien, mortgage, and tax information, conduct appropriate title and appraisal actions; and advise the seizing agency of any discrepancies that may require resolution by the seizing agency.
5. If the national seized property contractor does not find any discrepancy that could delay the sale and closing of the property, the contractor will send a letter to the

² See page 06, No. 2, Chapter 4, Department of Justice, Asset Forfeiture Manual, Volume 1. Law and Practice.

seizing agency requesting concurrence for payment of liabilities and the initiation of sale.

6. The seizing agency will return the letter of concurrence to the national seized property contractor within **10** calendar days. If objections or concerns about the letter occur, the seizing agency shall contact the national seized property contractor's district office to resolve the issues.
7. If the national seized property contractor receives no objections to the letter of concurrence the contractor shall send copies of the signed concurrence document, as well as final tax and lien payoff information to EOAF for review and funding approval.
8. EOAF affixes the appropriate accounting strip data to the paperwork, and approves the funding for these obligations. The EOAF provides the package to the Accounting Services Division, formerly the National Finance Center, within five working days of receipt.
9. The Accounting Services Division (ASD) shall ensure that approved payments are distributed within fourteen (14) calendar days from receipt of the payment approvals from EOAF. The ASD shall notify the national seized property contractor when tax and lien payments are made.
10. Upon sale and subsequent closing of real property, the national seized property contractor shall ensure that the gross proceeds of the sale are provided to the ASD within five days of the date the funds are received from the closing agent.

POLICY GOES.

1. Liens, mortgages, taxes and other liabilities are paid as soon after forfeiture as practical.
2. Property taxes shall be paid only to the date of forfeiture, unless statements to the contrary are contained in the court order.

3. Sales of real property should occur within three months of the date that all liens and taxes are satisfied.
4. Closing should occur within 45 days of the date of sale.
5. Gross revenues from the closing of the property should be provided the **ASD** within 5 days of the date the national seized property contractor receives the funds from the escrow agent.

**DEPARTMENT OF THE TREASURY
EXECUTIVE OFFICE FOR ASSET FORFEITURE**

DIRECTIVE NUMBER: 18

REVISED DATE: October 3, 1995

**SUBJECT: Policy for Payment(s) to Local, County, and State
Police Officers Participating with Treasury Law
Enforcement Agencies**

BACKGROUND

Money from the Treasury Forfeiture Fund (TFF) may be used to pay reimbursable costs incurred by local, county, and state police law enforcement agencies when their members participate in joint operations with Treasury law enforcement agencies. Overtime salaries, travel, fuel, training, equipment, and other similar costs of local, county and/or state law enforcement officers that are incurred in a joint law enforcement operation with a Treasury law enforcement agency participating in the TFF will be authorized for payment. The following general guidelines are applicable to this policy.

1. The costs to be funded must be costs of a local, county or state law enforcement officer. This authority *does not* include costs of federal personnel, private parties, administrative personnel, or other local, county or state officials who are not classified as "law enforcement officers." It will, however, include permissible costs incurred by local or state prosecutors.
2. The local, county or state law enforcement officer(s) must be involved in a joint law enforcement operation with the Federal Government. Not all joint activity is a "joint operation". A more detailed definition of "joint" operation is presented below. All costs to be funded must be directly related to the joint law enforcement operation.
3. The joint law enforcement operation must be with a Treasury law enforcement agency participating in the TFF. At this time, this policy covers joint operations, including OCDEF cases, where the Treasury law enforcement agency is the

lead or sole federal agency. The Treasury law enforcement agencies are:

- a. Bureau of Alcohol, Tobacco and Firearms;
- b. Internal Revenue Service, Criminal Investigation Division;
- c. United States Customs Service; and
- d. United States Secret Service.

The Department of Justice has similar authority with respect to joint operations with Department of Justice law enforcement agencies.

4. Payments can only be used for those expenses that are authorized by statute. It is clear that the statute does not authorize the payment of direct salaries of local, county or state officers, either directly or indirectly.
5. Joint Law Enforcement Operation

We interpret a "joint law enforcement operation" as meaning a law enforcement effort which:

- a. Is designed to disrupt crime through the arrest of criminal offenders and the seizure of tainted assets, using accepted methods of investigation such as intelligence gathering and sharing, evidence gathering, informant debriefing, witness interviews, crime scene and forensic analysis, electronic monitoring, data analysis, etc.;
- b. Is conducted using authorized methods of investigation in order that the arrests and seizures become effective prosecutions and forfeitures before the courts of the United States or of the state in which ~~the~~ ^{it} operation exists; and
- c. Involves direct participation of a least one agent of a federal agency participating in the TFF in other than an oversight or coordination capacity; that is, in an operational capacity.
- d. The phrase "direct involvement" is defined as significant sustained participation in investigations, arrests, prosecutions, and related activities.

Federal agency resources need not be actively engaged in the operation at all times; nonetheless, they should be committed when the joint law enforcement operation is active. During periods when the joint operation is inactive, no local, county or state costs can qualify for funding. Agent participation is essential to, but not the only measure of, federal participation in a joint operation. The federal participation can be bolstered through the provision of intelligence data, informants, administrative support, and federally-owned equipment and/or space. The operational activities of the joint operation must represent a significant and official part of the duties of the agents assigned to the operation. This entails work beyond that of an advisory nature, and also beyond emergency or circumstantial operational assistance.

In situations where there is insufficient federal, state or local participation to stage a formal joint operation, the same analysis can be conducted on a case-by-case basis. Of course, the costs eligible for reimbursement are also limited to a case-by-case analysis. While this complicates record-keeping to pass audit, it will permit some local, county or state costs to be eligible for funding.

- e. Monies funded for a particular joint law enforcement operation may only be used for that operation. These funds are not a grant to the local, county or state law enforcement agency.
- f. It is the responsibility of the involved Treasury law enforcement agency to ensure that the local, county or state costs are permissible costs under the statute and are costs directly related to the joint law enforcement operation.

I. GENERAL POLICY

- A. Payments may be made to the extent they are included in the Treasury law enforcement agency's Fiscal Year Plan, and the monies are available within the fund to satisfy the request.

- B. As a general rule, the reimbursable payment of overtime costs incurred by local, county or state law enforcement agencies participating in a Treasury law enforcement agency investigation shall be limited to **\$13,000.00** per fiscal year, per officer.
- C. Examples of Permissible Use of Reimbursement Costs
 - 1. Overtime for local, county state law enforcement personnel, travel, and training for the same, surveillance equipment to be used in the operation, cellular telephone costs, payments to confidential informant purchase of stolen property as evidence, and space/automobile rental.³
 - 2. Remote body-worn transceivers for undercover work, purchase or lease of unmarked vehicles, and training for officers assigned to the joint operation.
 - 3. Rental of off-site locations for electronic monitoring, rental of an off-site command post, and costs of translation of evidentiary tapes.
 - 4. Leasing of copying or facsimile machines only if the machines are used solely for the joint operation.

II. PROCEDURES

A. AGREEMENT

- 1. If Treasury law enforcement agencies desire to pay costs of overtime they shall enter into an agreement with local, county and state law enforcement agencies whose officers are assigned to investigative task forces where a Treasury law enforcement agency is serving as the lead investigative agency.

³Monies may never be utilized to cover the costs of salaries or benefits. Investigative expenses do not cover public education, violent crime and rape assistance programs, and similar outreach efforts.

A sample of the agreement is included as Attachment A. This agreement is provided as a guideline and may be modified to meet local requirements.

B. LOCAL/COUNTY/STATE REQUIREMENTS

1. Each participating local, county or state law enforcement agency shall maintain sufficient, accurate records to support any claims for reimbursement of expenses. These records may contain, but are not limited to:
 - a. Records required by federal, state and local taxing authorities,
 - b. Records required by the labor departments,
 - c. Records required by state/local law **or** policy.
 - d. Original invoices for services, equipment, travel, etc.
2. Each participating local, county or state law enforcement agency shall submit on agency letterhead "certified as accurate" copies of payroll records, or statements **of** overtime costs incurred, to support the request for reimbursement to the lead Treasury **law** enforcement agency for review and authorization for payment.

Each of these requests shall contain at a minimum:

- a. Name(s) of officer(s)
- b. Social Security Number
- c. Title of Officer

- d. Dates and Times Officer(s) was/were engaged in overtime activity in support of the task force investigation.
 - e. Cost per overtime hour for each officer
 - f. Total costs being requested for each officer
 - g. A statement that the documentation is "certified as accurate" by a principal officer of the local, county or state law enforcement agency.
3. Local, county and/or state law enforcement agencies shall submit requests for reimbursement of expenses, applicable to this policy, on official agency letterhead and include "certified as true" copies of original invoices, statements, bills, etc. to fully document and support the request.

C. PROGRAM AUDIT

This program is subject to audit by the Treasury Law Enforcement Agency, the Department of the Treasury Inspector General, the Government Accounting Office and any other government designated auditing organization.

These audits may include reviews of any and all records, documents, reports, accounts, invoices, receipts or expenditures relating to this program; as well as the interview of any and all personnel involved in this program.

~~Both~~ Both the Treasury law enforcement agency and the local/county/state law enforcement agency shall maintain all records relating to these transactions for three years; and in the event of an on-going audit, until the audit is completed.

D. TREASURY LAW ENFORCEMENT AGENCIES

- 1. Treasury law enforcement agencies shall ensure that a completed agreement is on file for each

local, county or state law enforcement agency requesting reimbursement of overtime costs.

2. Treasury law enforcement agencies shall have the form entitled "REQUEST TO ESTABLISH REIMBURSEMENT FOR JOINT OPERATION" completed and forwarded to the address shown below to establish an obligation to pay these overtime costs. (The form is provided as Attachment B to this Directive)

Joint Operations Desk
Executive Office for Asset Forfeiture
Suite: 700
740 15th Street, N.W.
Washington, D.C. 20220
FAX: (202) 622-9610

3. Upon receipt of the document, the Fund will establish an obligation to pay subsequent claims for overtime reimbursement.
4. When the Treasury law enforcement agency receives the invoice for overtime costs, they shall review and verify the participation of the agency in the investigation, the number of officers and the number of hours being requested for reimbursement. The package shall then be forwarded to the address shown in "2" above.
5. This same form shall be used to obligate all fiscal requirements for joint operations with local, county or state law enforcement entities consistent with the appropriate provisions of 31 U.S.C. 9703, as provided for in The Secretary of the Treasury's Guidelines for Seized and Forfeited Property, October 1, 1993.

E. EXECUTIVE OFFICE FOR ASSET FORFEITURE

1. If the request cannot be processed for payment, the agency liaison will be requested to resolve outstanding issues.

2. If the request is processed for payment, the request will be forwarded to the National Finance Center (NFC) for payment to the appropriate local, county or state law enforcement agency.

**DEPARTMENT OF THE TREASURY
EXECUTIVE OFFICE FOR ASSET FORFEITURE**

DIRECTIVE NUMBER: 27

DATE: October 1, 1995

SUBJECT: Processing Interlocutory Sales

BACKGROUND

The administrators of the Treasury Forfeiture Fund are responsible for the disposition of seized and forfeited property. The national seized property contractor routinely sells properties that have been forfeited. In some instances, the court orders that seized property be sold prior to forfeiture and that the net monies received from that sale be considered substitute res for the seized property. This is accomplished by an Interlocutory Sale order from the court.

This Directive provides policy guidance to Treasury law enforcement agencies, and the national seized property contractor.

PROCEDURES

A. Treasury Law Enforcement Agencies

1. The seizing agency shall ensure that all lien, mortgage, and 3rd party claims are presented to the Assistant United States Attorney (AUSA); and that the distribution(s) which are lawfully due from, or as a result of, the sale of the property are clearly spelled out in the court order.
2. Upon receipt of an Interlocutory Sale order from the AUSA, the seizing agency's representative will promptly arrange for a Disposition Order for the sale of the subject property(ies). The Disposition Order along with a copy of the Interlocutory Sale order will be provided to the national seized property contractor, through the United States Customs Service Seized Property Custodian/Seized Property Specialist. A copy of the Interlocutory Sale order and the

Disposition Order should also be sent to the Executive Office for Asset Forfeiture by the seizing agency..

3. After the completion of the interlocutory sale, the Treasury law enforcement agency shall update its internal property tracking system to reflect the amount of the substitute res as the amount representing the seized and/or forfeitable value of the seizure.

B. National Seized Property Contractor

1. The national seized property contractor shall arrange for the sale of the property in accordance with the Statement of Work and the Interlocutory Sale order.
2. If there is a deposit posted for the subject property, the national seized property contractor shall transmit the deposit to the U.S. Customs Accounting Services Division (ASD), formally the NFC, in accordance with established procedures. The transmittal will clearly identify the deposit as an amount from an Interlocutory Sale and instruct the ASD to deposit it in the suspense account.
3. At the closing, the closing agent will accept the full payment for the property, deducting any payments for approved liens, taxes, mortgages, costs and legal fees associated with the closing, in accordance with the Interlocutory Sale order, and provide the national seized property contractor with the *net* balance to be forwarded to the ASD.
4. The total dollar amount of the deposit plus the net amount derived from the sale shall be identified as the substitute res for the subject seizure.
5. The national seized property contractor, upon receipt of the total *net* balance of the sale, shall notify the appropriate seizing agency office of the total *net* amount, now identifiable as the substitute res, in order that the Treasury law enforcement agency can update their internal seized property tracking system.

**DEPARTMENT OF THE TREASURY
EXECUTIVE OFFICE FOR ASSET FORFEITURE**

DIRECTIVE NUMBER: 33

DATE: June 7, 1999

**SUBJECT: Seizure of Motor Vehicles, Payment of Liens and
Official Use Requirements**

I. Summary of the Directive's Intent

The purpose of this directive is to update the policies for seizing, forfeiting and retaining motor vehicles for official use found in the Department's Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies (dated October 1, 1996), and EOAF Directives 20 and 22. Highlights of the directive are as follows: 1.) establishment of a \$5,000 minimum net equity requirement for retention of motor vehicles for official use; 2.) elimination of the \$25,000 ceiling for payments of liens to retain vehicles for official use; 3.) establishment of a uniform motor vehicle appraisal methodology using the N.A.D.A. Blue Book "low retail value."

11. Pre-Seizure Evaluation

A. Criteria for Seizure

Prior to the seizure of any vehicle for forfeiture, the seizing officer should ensure that the subject vehicle meets either the criteria for seizure or one of the exceptions to those criteria outlined in EOAF Directive 20, dated September 23, 1994 (copy attached). To the greatest extent possible, Treasury agencies should refrain from seizing leased vehicles for forfeiture. In the event that it is necessary to seize a leased vehicle, the seizing agency should remit the vehicle to the lessor as soon as practicable after seizure. No liens will be paid for leased vehicles.

B. Consideration of Expedited Dispositions of Vehicles Valued Less Than \$2,500

If a Treasury agency decides to seize for forfeiture a vehicle with an appraised value of less than \$2,500.00, the seizing agency should consider an expedited disposition, either sale or destruction, to avoid incurring unrecoverable property storage and management costs. Expedited dispositions are provided for in 19 U.S.C. 1612 (otherwise known as the 'Junker Provision'). The use of the expedited disposition provisions applies to Treasury agency administrative forfeitures pursued under the authority of 19 U.S.C. 1607.

To establish a uniform appraisal methodology and a standard source for the appraised value of seized vehicles, the N.A.D.A. Blue Book "low retail value" is to be used by the seizing agencies and the national seized property contractor for assigning "appraised" or "fair market" values.

111. Post-Seizure Administrative Processing

A. Written Notice of Seizure to Lienholders

All notices of seizure sent to lienholders must inform them of their right to petition for relief and advise them of the types of relief available. The types of relief available to lienholders are as follows:

1. Pre-forfeiture release upon submission of an Agreement for Posting of an Equity Bond and deposit of an equity bond as prescribed under EOAF Directive 22.
2. Post-forfeiture release of a seized vehicle upon payment of the difference between the appraised value and the lienholder's net investment or equity in the vehicle, or payment of the total seizure costs, whichever is the higher amount (revised Treasury Rules for Remission of Vehicle Forfeitures dated December 13, 1971).

3. Post-forfeiture payment of the lesser amount of the appraised value or unpaid principal balance owed on an installment agreement to retain a vehicle for official use. The lienholder should be advised that Treasury will not pay unearned interest and that the "Rule of 78's" will be applied by EOAF to determine the amount of the unearned interest and the unpaid principal balance.
4. Post-forfeiture payment of a lien from the 'net' proceeds of sale. The net proceeds are calculated by subtracting all seizure costs from the gross proceeds of sale.

The seizure notices should state that Treasury will not make payments which exceed the unpaid principal balance, net proceeds of sale, or the appraised value at the time of seizure, whichever is the lower amount. Lienholders must provide documentation to support the amount of unpaid principal claimed in the petitions.

B. Determining Suitability for Official Use

The seizing or requesting Treasury agency is responsible for determining whether a seized vehicle is suitable for retention for official use based on the internal guidelines for that agency. A request to pay a lien to retain a forfeited vehicle for official use should include an approved agency retention request, signed by the responsible agency official (ex. fleet manager), which certifies that the subject vehicle is suitable for official use.

IV. Post-Forfeiture Processing

A. Net Equity Requirements to Retain Forfeited Vehicles for Official Use

Prior to requesting payment of a lien to retain a forfeited vehicle for official use, the seizing agency should ensure that there is at least \$5,000 in net equity in the vehicle. The Director, EOAF, will not authorize payment of liens to retain vehicles for

official use when there is less than \$5,000 in net equity. The Director, EOAF may approve limited exceptions to these dollar limits if the exceptions are determined to be in the best interests of the government.

B. Dollar Limits for Satisfying Liens to Retain Vehicles for Official Use

Requests to pay liens to retain forfeited vehicles for official use, regardless of the dollar amount, will be entertained by EOAF as long as the net equity requirements are satisfied. However, a detailed memorandum that articulates a justification for the request must accompany any request for payment of a lien in excess of \$25,000. The maximum amount to be paid will be the lesser of the appraised value or the unpaid loan principal.

C. Requesting EOAF Approval of Lien Payoffs to Retain a Vehicle for Official Use

Once a vehicle desired for official use is forfeited, the seizing agency must obtain a written agreement from the lienholder to accept payment of the lesser amount of the unpaid principal balance or the appraised value prior to submitting a request for payment of the lien to EOAF. If the lienholder refuses to provide such an agreement, they should be notified that the vehicle will be sold at auction and that the lien will be satisfied from the net proceeds of sale. If the lienholder agrees to accept payment of the lesser of the unpaid principal balance or appraised value to satisfy the lien, then, the seizing agency should forward that agreement along with the required documentation and information specified on the attached **Lien Payment Checklist** to EOAF for review. The request should specify to whom to make the check or Electronic Funds Transfer (EFT) payable, and to what address or account the payment is to be sent. ACH Vendor/Miscellaneous Payment Enrollment Forms should be provided to any lienholder to facilitate EFT payments. All lien payment requests should be routed through a designated Treasury agency headquarters office prior to being forwarded to EOAF for approval.

D. Requesting Payment of a Vehicle Lien from the Net Proceeds of Sale

Once a forfeited vehicle is sold, the seizing agency must forward to EOAF with its cover memorandum a copy of the validated, accomplished disposition form, which states the gross sales proceeds, a statement indicating the appraised value at the time of seizure, and any other required information and documentation specified on the **Lien Payment Checklist**.

E. Payment of Liens Related to "Task Force" Seizures

Payment of liens related to "task force" seizures from the TFF may only occur when a Treasury agency is the affiant on a seizure warrant, is identified as the seizing agency, or maintains a vehicle pending forfeiture.

F. EOAF Review

The lien payment requests and supporting documentation should be sent to the Director, EOAF, Attention: Seized Property Team, 740 15th Street, NW, Suite 700, Washington, DC 20220. Upon receipt of the request, EOAF will review the information and decide whether or not to approve the request. EOAF will apply the Rule of 78's to determine the unearned interest and the amount of the unpaid principal. If additional information or documentation is needed to complete the review, EOAF will contact the requesting agency liaison to obtain the necessary information or documentation. Once the requests are approved, EOAF will forward them to the Customs Accounting Services Division (ASD) for payment processing.

It is the responsibility of the requesting office to notify EOAF when expedited action is required to comply with the terms of a court order. The seizing agency must communicate to the involved AUSA the need to include reasonable time limits for the accomplishment of lien payments in court orders. A 90 day time period from the date of issuance of a forfeiture order or from the date of sale is the recommended standard.

V. Treasury Agency and EOAF Responsibilities

It is the responsibility of the seizing Treasury agency to ensure that lien payment requests are approved prior to retaining or transferring forfeited vehicles for official use. Additionally, the seizing Treasury agency must ensure that requests for payment of liens do not occur until the subject vehicles are forfeited, and that the amounts of the payment requests do not exceed the lesser of the appraised value, net proceeds of sale or the unpaid loan principal balance. EOAF will be responsible for expeditiously approving all properly documented lien payment requests, and ensuring that the approved requests are forwarded timely to the ASD for payment processing. EOAF will convene quarterly meetings of the Treasury agency liaison officers to discuss available forfeited vehicles not desired for official use by the forfeiting agency.

Attachment

Lien Payment Checklist

Necessary Information

Seizing Agency: _____ Seizure Number: _____

Seizure Date: _____ Forfeiture Date: _____

Vehicle Year/Make/Model: _____

N.A.D.A. Low Retail Value: _____ Vehicle Mileage: _____

Gross Sale Proceeds (if applicable): _____

Total Contractor Costs: _____

Total Agency Costs (advertising, awards, etc.): _____

Lien Payment Amount Requested by Lienholder: _____

Name of Lienholder/Payee: _____

Address of Lienholder/Payee: _____

EFT Nine Digit Routing Transit Number: _____

Account Number: _____

Required Supporting Documentation

A. Documents required in every case

- Cover memorandum addressed to the Director, EOAF requesting payment of a lien
- Legible copy of the original loan installment agreement
- Lien Payoff Statement indicating the number of payments made and those remaining
- Administrative Declaration or Judicial Decree of Forfeiture
- Contractor costs statement

B. Additional documents required for vehicles desired for official use

- Lienholder agreement to accept payment of the lesser of the unpaid principal or the appraised value
- Approved retention request
- Vehicle Condition and Inventory Form

C. Additional documents required for payment from proceeds of sale

- Copy of the validated, accomplished disposition form which verifies that the vehicle was **sold** and indicates the gross proceeds of sale

**DEPARTMENT OF THE TREASURY
EXECUTIVE OFFICE FOR ASSET FORFEITURE**

DIRECTIVE NUMBER: 34

DATE: January 17, 2000

SUBJECT: Adoptive Seizure Policies and Procedures

BACKGROUND

The Department of the Treasury approach to adoptions was established in **1992**, at a time when the majority of states did not have statutory authority to seize and forfeit. That process was created to provide a mechanism allowing Treasury law enforcement bureaus to assist: (1) states not possessing the requisite authority to forfeit criminally obtained property, and (2) in cases where the scope of the investigation (multi-state violators or international) warranted federal investigation.

Since that time, the majority of states have obtained statutory seizure/forfeiture authority, thereby significantly decreasing the need for adoptions. The purpose of this directive is to clarify the circumstances under which adoptions are appropriate.

The policies and procedures set forth by this directive are intended to ensure consistent review and handling of state and local seizures presented to a Treasury law enforcement agency for adoption. In all cases, state and local law enforcement agencies should be encouraged to pursue forfeiture under state laws whenever possible. However, a Treasury law enforcement agency may offer assistance through adoption consistent with these policies and procedures.

GENERAL INFORMATION POLICY

Basis for an Adoption

The acceptance of state and local seizures for adoption by Treasury agencies must be made in a manner consistent with the Treasury Forfeiture Fund program goals of:

1. Deterring illegal activity by forfeiting assets acquired through or involved in illegal activity.

2. Ensuring and protecting the due process rights of affected persons.

This must be carried out in a standardized manner that ensures a review process by Treasury bureaus prior to the adoption. The purpose of the review is to ensure that the adoptive seizures are requested timely, and that they are not being requested as a means of circumventing a state forfeiture. At a minimum, there must be a state violation and probable cause to forfeit under a federal statute.

Definition of an Adoption

Adoptive seizures are **only** those seizures where **100%** of the pre-seizure activity and related investigation are performed by the state or local seizing agency before a request is made for a Treasury adoption. There must be a state violation and a federal basis for forfeiture in order for the seizure to be a true adoption. The federal share in adoptive cases is generally 20% of net proceeds and the state or local share is 80%. *Joint operations or task force cases are not adoptive seizures.*

Circumstances for Considering Adopting a Seizure

As a general rule, if a state or local agency has seized property as part of an ongoing state criminal investigation and the criminal defendants are being prosecuted in state court, the forfeiture action should also be pursued in state court.

Treasury personnel in the field should consider adopting a state or local seizure only in circumstances that may make a federal forfeiture appropriate. This does not preclude standard pre-seizure consideration of the asset presented for adoption, nor does it relieve adopting officials of the duty to verify that seized property presented for adoption is forfeitable under federal law and that its seizure was based upon probable cause.

Circumstances that may make federal forfeiture appropriate include, but are not limited to the following:

1. The pertinent state or local prosecuting official has reviewed the case and has declined to initiate forfeiture proceedings.

2. State and local law enforcement officials request federal assistance and state a belief that:
 - A forfeiture action could not be maintained under state law.
 - The seized asset poses unique management or disposition problems.
 - State laws or procedures will delay the forfeiture and adversely affect the rights of the parties that have an interest in the property, or cause significant diminution in the value of the asset.
 - Federal adoption will enhance the scope and objective of the overall criminal investigation.

Requirements for an Adoption

The following requirements should be met before a Treasury agency agrees to adopt a state or local seizure:

1. The state or local agency must conduct all of the pre-seizure and underlying investigative activity before requesting a Treasury adoption of the seizure.
2. There must be a violation of state law and a basis for forfeiture under federal law.
3. The state prosecutor must have declined to take the seizure to forfeiture.
4. A turnover order must be obtained if required by state law.

Federal Judicial Review/Pre-Seizure Analysis

Prior to presentation for federal judicial review, a full pre-seizure analysis should be performed by the Treasury agency.

GENERAL ADOPTION PROCEDURES

Federal Adoption Form

All requests for adoption must be reported on a form entitled "Request for Adoption of State or Local Seizure." The requesting state or local agency should complete the form, but

federal personnel may at their discretion complete the form for the requesting state or local agency.

The state or local agency must also complete the Treasury Equitable Sharing Request Form (TDF-92.22.46) within 60 days of the federal adoption of a state or local seizure. All information provided must be complete and accurate. An estimate of fair market value must be provided for each item of seized property presented for adoption and any liens and lienholders must be identified. Copies of any investigative reports and of any affidavits in support of warrants pertinent to the seizure should be attached.

Federal Investigative Agency Review and Approval

The adopting federal agency must review and accept or decline adoption requests promptly. Absent exceptional circumstances, the request for adoption must be accepted prior to the transfer of the property to federal custody.

The adoption must be approved by the principal Treasury field officer (e.g., SAIC [Special Agent in Charge] or District Chief [Criminal Investigation]). The principal Treasury field officer shall ensure that the basis for said approval is consistent with the requirements of this Directive.

Time Period to Request an Adoption

State and local agencies have 30 calendar days from the date of seizure to request a federal adoption. The 30-day rule can be waived based upon written request to the adopting Treasury agency stating the reason for the late submission and describing the circumstances that caused the delay. The adopting Treasury agency should support a waiver request only when unique circumstances are presented as the basis for non-compliance with the 30-day requirement.

Notice Requirements

Prior to approval of an adoption, the state or local agency must not state or imply that a federal agency is the seizing agency or has any law enforcement interest in the property. Once adoption is approved, then notice to all interested parties will be executed by the adopting federal investigative agency pursuant to federal law and policy.

Retention of Custody by State or Local Agency

A state or local agency that presents conveyances for a Treasury adoption may be asked to serve as substitute custodians of the property pending forfeiture if it appears that the conveyances will be requested through equitable sharing. Any use of such conveyances, including official use, by state or local law enforcement officials or others is prohibited until such time as the forfeiture is completed and the equitable transfer is made. Adopted cash and real property must, however, be turned over to the custody of the Treasury agency adopting the seizure.

TAB NO. 7

County of Anywhere
Prosecutor's Office
Law Enforcement Trust Funds

Audit Program

	Seized	Law			
	Asset	Enforcement	Asset	Federal	Federal
	Trust	Trust	Maintenance	Justice	Treasury
	<u>Account</u>	<u>Account</u>	<u>Account</u>	<u>Account</u>	<u>Account</u>
Abstract Cash Receipts					
Abstract Cash Disbursements					
Cash Reconciliation:					
a. Obtain copies of client prepared fiscal year ending bank reconciliation:					
- Schedule Interest Income					
- Trace Deposits in Transit to subsequent month noting date of deposit					
- Trace clearing of outstanding checks to bank statements of subsequent months					
b. Prepare proof of cash					
c. Prepare and mail bank confirmations					
Analyze Seized Asset Trust Account/Unclaimed Property					
Trace Amount of "Distribution of Forfeited Funds" on Quarterly Reports (Part III 9) to internal records					
List Expenditures paid in the Asset Maintenance Account and trace to Quarterly Reports (Part II 8)					
Determine if Asset Maintenance Expenditures are Proper					
Prepare Trial Balance					
Select Law Enforcement Agencies Receiving and Expending Forfeited Funds					
a. Obtain from county prosecutor copies of Form C Quarterly Reports that are sent to the State					
b. Prepare and mail Form C confirmations to local law enforcement agencies					
c. List expenditures made during the year and trace to Quarterly Reports:					

County of Anywhere
Prosecutor's Office
Law Enforcement Trust Funds

Audit Program

- Verify that expenditures are law enforcement related					
- Test and review State contracts					
- Test and review quotations					
d. Obtain copy of resolution regarding revenues received and dedicated under the Provisions of NJSA 40A:4-39.					
- Test for approval for expenditures exceeding \$5,000					
Count Cash on Hand - Undeposited receipts held by the Prosecutor's Office					
Take Inventory of all Seized Property, excluding money for the audit period and verify the status					
a. Take a physical count of the inventory					
Select an agency which still has "Other Property" seized for the year under audit and do a physical count					
b. Confirm seized property located at other sites (local law enforcement agencies)					
Test vehicles seized during the audit period and verify the status - such as inventory, distribution to law enforcement agencies, return to defendants or claimants					
Test other property seized during the audit period and verify the status - such as inventory, distribution to law enforcement agencies, return to defendants or claimants					
Review the sale of seized vehicles and other property:					
a. Verify deposit of sale to treasury records					
b. Review records on sale, agrees to description and amount					
Trace receipts from the cash book to the County Law Enforcement Trust Fund report - select adequate sample					
From the County Law Enforcement Trust Fund report select a sample of money returned to defendant and perform the following:					
a. Note the amount of money involved with the case and determine whether the amount returned to the defendant agrees to the amount per Court Order					

County of Anywhere
Prosecutor's Office
Law Enforcement Trust Funds

Audit Program

b. Verify that check has been cashed or included in unclaimed property					
From the Municipal Forfeiture Program Reports of the Other Law Enforcement Agencies selected in the above, schedule the expenditures reported for the audit period					
Select a sample of receipts from the cash book and trace to the bank statement. Note whether the receipts were deposited within 72 hours.					
- Select an adequate sample					
Verify that a notation as to the specific forfeiture case was sent with distribution checks to the law enforcement agencies selected above					
Verify that Community based expenditures were authorized by the Division of Criminal Justice					
Examine all TDF 92-22.46 and DAG-71's issued in year of audit					
Identify intended use of funds:					
- US Department Of the Treasury					
- US Department of Justice					
Test whether a current Federal Equitable Sharing Agreement is on file for the law enforcement agencies					

TAB NO. 8

County of Anywhere

LAW ENFORCEMENT TRUST **FUNDS**
COMPARATIVE BALANCE SHEETS
DECEMBER 31, 200Y
(With Comparative Totals December 31, 200X)

		Seized	Law				Total (Memorandum Only)	
		Asset	Enforcement	Asset	Federal	Federal		
		Trust	Trust	Maintenance	Justice	Treasury		
<u>ASSETS</u>	<u>Ref.</u>	<u>Account</u>	<u>Account</u>	<u>Account</u>	<u>Account</u>	<u>Account</u>	<u>200Y</u>	
Cash		XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX	XXXXXX.XX	XXXXXX.XX
Investments		XXXX.XX	XXXX.XX				XXXXXX.XX	XXXXXX.XX
Accounts Receivable		XXXX.XX	XXXX.XX		XXXX.XX	XXXX.XX	XXXXXX.XX	XXXXXX.XX
Vehicles and Property		XXXX.XX	XXXX.XX				XXXXXX.XX	XXXXXX.XX
Total Assets		XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX
<u>LIABILITIES AND NET ASSETS</u>								
Due to Anywhere County		XXXX.XX	XXXX.XX				XXXXXX.XX	XXXXXX.XX
Accounts Payable		XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX	XXXXXX.XX	XXXXXX.XX
Unclaimed Property								
Cash		XXXX.XX					XXXXXX.XX	XXXXXX.XX
Other than cash		XXXX.XX					XXXXXX.XX	XXXXXX.XX
Reserve for Encumbrances		XXXX.XX	XXXX.XX				XXXXXX.XX	XXXXXX.XX
Reserve for Assets in Custodianship of the Prosecutor		XXXX.XX	XXXX.XX				XXXXXX.XX	XXXXXX.XX
Fund Balance		XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX
Total Liabilities and Net Assets		XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX

See accompanying notes to financial statements

TAB NO. 9

County of Anywhere

LAW ENFORCEMENT TRUST FUNDS
COMPARATIVE STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN FUND NET ASSETS
DECEMBER 31, 200Y
(With Comparative Totals December 31, 200X)

	Seized	Law				Total (Memorandum Only)	
	Asset	Enforcement	Asset	Federal	Federal		
	Trust	Trust	Maintenance	Justice	Treasury		
<u>REVENUE</u>	<u>Account</u>	<u>Account</u>	<u>Account</u>	<u>Account</u>	<u>Account</u>	<u>200Y</u>	
Seized Funds	XXXX.XX					XXXX.XX	XXXX.XX
Proceeds from Sale at Auction	XXXX.XX					XXXX.XX	XXXX.XX
Received from Department of Treasury	XXXX.XX	XXXX.XX		XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX
Interest on Investments	XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX
Transferred from Seized Asset Trust Account		XXXX.XX	XXXX.XX			XXXX.XX	XXXX.XX
Transferred from Asset Maintenance Account - Reclassification of Prior Year Revenue							XXXX.XX
Forfeited Directly from Defendants		XXXX.X				XXXX.XX	XXXX.XX
Cancellation of Prior Year Encumbrances		XXXX.X				XXXX.XX	XXXX.XX
Reimbursed Expenditures from Grant Funds							XXXXXX.XX
	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX
<u>EXPENDITURES AND OTHER CHARGES</u>							
Forfeited to County Law Enforcement Trust Account	XXXX.XX					XXXX.XX	XXXX.XX
Transfer to Asset Maintenance Account	XXXX.XX					XXXX.XX	XXXX.XX
Transfer to Seized Asset Trust Fund - Reclassification of Prior Year Revenue							XXXX.XX
Refunds of Seized Funds	XXXX.XX	XXXX.XX				XXXX.XX	XXXX.XX
Payment to State Treasurer - Unclaimed Property	XXXX.XX					XXXX.XX	XXXX.XX
Municipal and Other Law Enforcement Agency Distributions	XXXX.XX					XXXX.XX	XXXX.XX
Asset Maintenance and Forfeiture Costs			XXXX.XX			XXXX.XX	XXXX.XX
Law Enforcement Expenditures:							XXXX.XX
Disbursed		XXXX.XX				XXXX.XX	XXXX.XX
Paid by County		XXXX.XX				XXXX.XX	
Encumbrances		XXXX.XX				XXXX.XX	
Total Expenditures	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX
Excess (Deficit) of Revenues Over Expenditures	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	(XXXXXX.XX)
Fund Balance Jan. 1, xxxx	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX
Fund Balance Dec. 31, xxxx	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX

The accompanying Notes to Financial Statements are an integral part of this statement.

TAB NO. 10

County of Anywhere

LAW ENFORCEMENT TRUST FUNDS
STATEMENT OF CASH FLOWS
For the Year Ended DECEMBER 31, 200Y (With Comparative Totals December 31, 200X)

	Seized	Law				Total	
	Asset	Enforcement	Asset	Federal	Federal	(Memorandum Only)	
	Trust	Trust	Maintenance	Justice	Treasury		
	Account	Account	Account	Account	Account	200Y	200X
CASH FLOWS FROM OPERATING ACTIVITIES							
Seized Funds	XXXX.XX			XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX
Investment Income	XXXX.XX	XXXX.XX	XXXX.XX			XXXX.XX	XXXX.XX
Proceeds from Sale at Auction		XXXX.XX				XXXX.XX	XXXX.XX
Received from U.S. Department of Treasury				XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX
Transfer between Accounts	XXXX.XX	XXXX.XX		XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX
Forfeited Directly from Defendants		XXXX.XX				XXXX.XX	XXXX.XX
Cancellation of Outstanding Checks	XXXX.XX					XXXX.XX	XXXX.XX
Refund of Prior Year Disbursements	XXXX.XX					XXXX.XX	XXXX.XX
Due from Bank							XXXX.XX
Cash Provided from Operating Activities	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX
Cash Flows from Investing Activities:							
Redemption (Purchase) of Investments	XXXXXXXX.XX					XXXXXX.XX	XXXXXX.XX
Cash Paid to State Treasurer - Unclaimed Property	XXXX.XX					XXXXXX.XX	XXXXXX.XX
Cash Paid to County Prosecutor's Law Enforcement Trust Account	XXXX.XX					XXXXXX.XX	XXXXXX.XX
Cash Paid to Asset Maintenance and Forfeiture Costs			XXXX.XX	XXXX.XX	XXXX.XX	XXXXXX.XX	XXXXXX.XX
Cash Paid for Refunds of Seized Funds	XXXX.XX	XXXX.XX				XXXXXX.XX	XXXXXX.XX
Cash Paid for Asset Maintenance Account	XXXX.XX					XXXXXX.XX	XXXXXX.XX
Cash Paid for Local Agency Distributions	XXXX.XX					XXXXXX.XX	XXXXXX.XX
Cash Paid for Bank Charge	XXXX.XX	XXXX.XX	XXXX.XX			XXXXXX.XX	XXXXXX.XX
Cash Paid to County	XXXX.XX						XXXXXX.XX
Cash Paid for Operating Expenditures		XXXX.XX		XXXX.XX	XXXX.XX	XXXXXX.XX	XXXXXX.XX
Cash Paid from Operating Activities	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX
Net Increase (Decrease) in Cash	XXXXXX.XX	(XXXXXX.XX)	(XXXXXX.XX)	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	(XXXXXX.XX)
Cash Balance Jan. 1, xxxx	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX
Cash Balance Dec. 31, xxxx	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX

See accompanying notes to financial statements

TAB NO. 11

COUNTY OF ANYWHERE

LAW ENFORCEMENT TRUST FUNDS
SCHEDULE OF DISTRIBUTION TO LAW ENFORCEMENT AGENCIES
For the Year Ended December 31, 200Y

Local Law Enforcement Agencies	Distribution
Town #1	XXXXX.XX
Town #2	XXXXX.XX
Town #5	XXXXX.XX
Town #6	XXXXX.XX
Town #7	XXXXX.XX
Town #8	0.00
Town #9	XXXXX.XX
Town #10	XXXXX.XX
Sheriffs Office	XXXXX.XX
County Police	XXXXX.XX
Bridge Police	XXXXX.XX
Park Police	0.00
College Police	<u>XXXXX.XX</u>
Total Law Enforcement Distribution	<u>XXXXXXXX.XX</u>

TAB NO. 12

COUNTY OF ANYWHERE

LAW ENFORCEMENT TRUST FUNDS
SCHEDULE OF LAW ENFORCEMENT TRUST FUND EXPENDITURES

For the Year Ended December 31, 200Y

<u>Description</u>	<u>Law Enforcement Trust Account</u>	<u>Asset Maintenance Account</u>	<u>Federal Justice Account</u>	<u>Federal Treasury Account</u>
Accounting Services	XXXXX.XX		XXXXX.XX	XXXXX.XX
Air Conditioning and Heating Equipment				
Builder's Supplies	XXXX.XX			
Communication and Media Services	XXXX.XX			
Computer Equipment and Accessories	XXXX.XX		XXXX.XX	XXXX.XX
Court Filing Fees		XXXX.XX		
Educational Services	XXXX.XX			
Electrical Equipment and Supplies	XXXX.XX			
Electrical Wire and Cable	XXXX.XX			
Employee Reimbursements	XXXX.XX		XXXX.XX	XXXX.XX
Equipment Maintenance and Repair Services		XXXX.XX		
First Aid and Safety Equipment	XXXX.XX		XXXX.XX	XXXX.XX
Legal Services		XXXX.XX		
Machinery	XXXX.XX		XXXX.XX	XXXX.XX
Medical Examiner	XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX
Miscellaneous Services	XXXX.XX	XXXX.XX	XXXX.XX	XXXX.XX
Office Machines and Accessories	XXXX.XX		XXXX.XX	XXXX.XX
Office Supplies	XXXX.XX		XXXX.XX	XXXX.XX
Photographic Equipment and Supplies	XXXX.XX		XXXX.XX	XXXX.XX
Police Equipment and Supplies	XXXX.XX		XXXX.XX	XXXX.XX
Professional Organization	XXXX.XX			
Professional Services	XXXX.XX		XXXX.XX	XXXX.XX
Prosecutors	XXXX.XX		XXXX.XX	XXXX.XX
Publication and Audiovisual	XXXX.XX		XXXX.XX	XXXX.XX
Radio and Telecommunication	XXXX.XX		XXXX.XX	XXXX.XX
Sound System and Accessories	XXXX.XX		XXXX.XX	XXXX.XX
Vehicle Accessories	XXXX.XX		XXXX.XX	XXXX.XX
Vehicle Maintenance Services		XXXX.XX	XXXX.XX	XXXX.XX
Vehicle Storage.		XXXX.XX		
Total Expenditures	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX	XXXXXX.XX

TAB NO. 13

County of Anywhere

LAW ENFORCEMENT TRUST FUNDS
STATEMENT OF VEHICLES AND PROPERTY - SEIZED AND FORFEITED
DECEMBER 31, XXXX

	Case Number	Date of Seizure	Value on Seizure Date	Seized Asset Trust Account	Law Enforcement Trust Account	Asset Maintenance Account
PROPERTY						
Vehicles - Balance December 31, 200X						
Vehicle 1	XXXX	xx/xx/xxxx	xxxx.xx	xxxx.xx		
Vehicle 2	XXXX	xx/xx/xxxx	xxxx.xx	xxxx.xx		
Vehicle 3	XXXX	xx/xx/xxxx	xxxx.xx	xxxx.xx		xxxx.xx
Vehicle X - Forfeited xx/xx/xxxx	XXXX	xx/xx/xxxx	xxxx.xx	(xxxx.xx)	xxxx.xx	
Vehicle Y - Returned xx/xx/xxxx	XXXX	xx/xx/xxxx	xxxx.xx	(xxxx.xx)		
Vehicle Z - Forfeited xx/xx/xxxx	XXXX				xxxx.xx	
Balance				xxxx.xx	xxxx.xx	xxxx.xx
Property other than Vehicles - Balance December 31, 200X						
Computer 1	XXXX	xx/xx/xxxx	xxxx.xx	xxxx.xx		
Computer 2	XXXX	xx/xx/xxxx	xxxx.xx	xxxx.xx		
Computer Accessories	XXXX	xx/xx/xxxx	xxxx.xx	xxxx.xx		
Office Equipment	XXXX	xx/xx/xxxx	xxxx.xx	xxxx.xx		
Machinery	XXXX	xx/xx/xxxx	xxxx.xx	xxxx.xx		xxxx.xx
Computer X - Forfeited xx/xx/xxxx	XXXX	xx/xx/xxxx	xxxx.xx	(xxxx.xx)	xxxx.xx	
Machinery X - Returned xx/xx/xxxx	XXXX	xx/xx/xxxx	xxxx.xx	(xxxx.xx)		
Office Equipment Z - Forfeited xx/xx/xxxx	XXXX				xxxx.xx	
Balance				xxxx.xx	xxxx.xx	xxxx.xx
Balance December 31, 2002				xxxxx.xx	xxxxx.xx	xxxxx.xx

The accompanying Notes to Financial Statements are an integral part of this statement.

TAB NO. 14

INDEPENDENT AUDITOR'S REPORT

John Smith, County Prosecutor
County of Anywhere
Anywhere, New Jersey

We have audited the accompanying financial statements of the Anywhere County Prosecutor's Law Enforcement Trust Fund as of and for the year ended December 31, 200X as listed in the table of contents. These financial statements are the responsibility of the Anywhere County Prosecutor's Office. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, **Government Auditing Standards**, issued by the Controller General of the United States and audit requirements issued by the Attorney General of the State of New Jersey and the Department of the Treasury and by the Division of Local Government Services, Department of Community Affairs, State of New Jersey. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. An audit **includes** examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

These financial statements have been prepared in conformity with accounting practices as prescribed by the Attorney General of the State of New Jersey and the Department of the Treasury and the Division of Local Government Services, Department of community Affairs, State of New Jersey. These practices differ in certain respects, which in some instances may be material, from generally accepted accounting principles applicable to local government units. The more significant of these practices are described in Note 1 to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the Anywhere County Prosecutor's Office Law Enforcement Trust Funds at December 31, 200X, and the changes in financial position and cash flows in accordance with accounting principles and practices prescribed by the Attorney General of the State of New Jersey and the Department of the Treasury and by the Division of Local Government Services, Department of Community Affairs, State of New Jersey as described in Note 1 to the financial statements. The financial statements, therefore, are presented in accordance with a comprehensive basis of accounting other than generally accepted accounting principles, applied on a basis consistent with that of the preceding year.

In accordance with **Government Auditing Standards**, we have also issued report dated XX-XX-XX on our consideration of the Anywhere County Prosecutor's Office Law Enforcement Trust Fund's internal control structure over financial reporting and our test of its compliance with certain provisions of the laws and regulations. That report is an integral part of an audit performed in accordance with **Government Auditing Standards** and should be read in conjunction with this report in considering the results of our audit.

Our audit was made for the purpose of forming an opinion on the financial statements taken as a whole. The accompanying supplementary schedules and information presented in the supplementary sections are not necessary for a fair presentation of the financial statements taken as a whole, but are presented as additional analytical data. This information has been subjected to the tests and other auditing procedures applied in the audit of the financial statements mentioned above and, in our opinion, is fairly stated in all material respects in relation to the financial statements taken as a whole.

TAB NO. 15

**REPORT ON COMPLIANCE AND ON INTERNAL CONTROL OVER FINANCIAL
REPORTING BASED ON AN AUDIT OF STATUTORY BASIS FINANCIAL STATEMENTS
PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***
(reportable instances of noncompliance and reportable conditions but no material weaknesses, and
reportable conditions with material weakness) .

John Smith, County Prosecutor
County of Anywhere
Anywhere, New Jersey

We have audited the financial statements of the Anywhere County Prosecutor's Law Enforcement Trust Funds as of and for the year ended December **31, 200X** , and have issued our report thereon dated XX-XX-XX. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and by audit requirements issued by the Attorney General of the State of New Jersey and the Department of the Treasury and by the Division of Local Government Services, Department of Community Affairs, State of New Jersey.

Compliance

As part of obtaining reasonable assurance about whether the Office of the County Prosecutor's Law Enforcement's Trust Funds financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance that are required to be reported under *Government Auditing Standards* and which are described in the accompanying schedule of findings and questioned costs as items **(X1 - 1, X1 - 2)**. (However, we noted certain immaterial instances of noncompliance, which we have reported to the Prosecutor of Anywhere County as described in Part II of the accompanying report.)

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the County of Anywhere Law Enforcement Trust Fund's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the Office of the County Prosecutor's Law Enforcement Trust Fund ability to record, process, summarize and report financial data consistent with the assertions of management in the financial statements. Reportable conditions are described in the accompanying schedule of findings and questioned costs as items (list finding reference numbers, e.g. **X1-3, x1-4**).

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe that none of the reportable conditions described above is a material weakness. (We also noted other matter involving the internal control over financial reporting, which we have reported to the Prosecutor of the County of Anywhere as described to Part II of the accompanying report).

This report is intended for the information of the Prosecutor of Anywhere County and the New Jersey Department of Law and Public Safety, Division of Criminal Justice and is not intended to be and should not be used by anyone other than the specified parties.

TAB NO. 16

COUNTY OF ANYWHERE
OFFICE OF THE COUNTY PROSECUTOR
LAW ENFORCEMENT TRUST FUNDS
December 31, 200Y

SCHEDULE OF FINDINGS AND RECOMMENDATIONS

Finding #1:

Recommendation:

TAB NO. 17

COUNTY OF ANYWHERE
OFFICE OF THE COUNTY PROSECUTOR
LAW ENFORCEMENT TRUST FUNDS

SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS
YEAR ENDED DECEMBER **31**, XXXX

Finding X2-1

Recommendation:

Current Status: