

**TREASURY  
FORFEITURE  
FUND**

*ANNUAL REPORT  
FISCAL YEAR 2002*

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**DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C.**

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## Message from the Director

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I am pleased to present this Accountability Report for fiscal year (FY) 2002. While highlighting the Fund's financial and operational performance over the past year, this report also focuses on some of the significant achievements and accomplishments made by our Treasury law enforcement bureaus.

Although FY 2002 was a more modest year for the Treasury Forfeiture Fund in terms of forfeiture revenue deposits, Treasury law enforcement bureaus were successful and actively focused on activities related to homeland security and terrorist financing. Numerous seizures were made in this regard that may ultimately be deposited into the Fund in future years. Despite the lowered revenue, our bureaus continued to emphasize major case initiatives as evidenced by the near-target achievement of 73 percent high-impact cases, just shy of the 75 percent target for the year. With all of the challenges faced by Treasury law enforcement during FY 2002, these achievements are notable.

In other areas, the Fund and its participating law enforcement bureaus were highly active and successful during FY 2002. During the year, the Fund deployed the Forfeited Asset and Seized Property Tracking System (FASTRAK) to two Treasury law enforcement bureaus, a change designed to save significant amounts of money and provide more reliable inventory data over the system previously in use. FY 2002 marks the first year that FASTRAK will be used to support the inventory reporting for these two bureaus and indications are that we have a successful deployment of FASTRAK.

The events of September 11, 2001 had a profound effect upon the United States and the world at large. The mission and major focus for many Federal law enforcement organizations shifted with the events of that day, and now anti-terrorism and terrorist financing investigations are a national priority. With the passage of the USA PATRIOT ACT in 2001, law enforcement agencies now have greater ability to investigate potential money laundering and terrorist financing operations.

As we enter fiscal year 2003, the Fund is focused on continued support for money laundering and terrorist financing investigations. The Fund will also continue to support the development and implementation of the High Intensity Financial Crimes Area Task Forces (HIFCAs) which are an integral part of *The 2002 National Money Laundering Strategy* and a priority of Treasury's Office of Enforcement. In addition, we plan to continue our investment in technologies and data collection; encourage our law enforcement bureaus to continue to pursue truly major cases and establish financial plans that reflect such priorities; and further develop and modify forfeiture training that is responsive to today's needs and are designed to foster the understanding and application of asset forfeiture.

Eric E. Hampl, Acting Director  
Executive Office for Asset Forfeiture

## Table of Contents

### Section I: Overview

Profile of the Treasury Forfeiture Fund .....	1
Strategic Mission and Vision .....	1
Case Highlights .....	2
Program Performance .....	15
Financial Highlights .....	17

### Section II: Financial Statements

Independent Auditor's Report on Financial Statements .....	21
Financial Statements:	
Balance Sheets .....	23
Statements of Net Cost .....	24
Statements of Changes in Net Position .....	25
Statements of Budgetary Resources .....	26
Statements of Financing .....	27
Notes to Financial Statements .....	28

### Section III: Other Reports

Independent Auditor's Report on Internal Control .....	43
Independent Auditor's Report on Compliance with Laws and Regulations .....	45
<b>Exhibit I</b>	
Reportable Condition .....	47
<b>Exhibit II</b>	
Status of Prior Year Findings .....	49

### Section IV:

Required Supplemental Information .....	51
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### Section V:

Other Accompanying Information .....	53
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## OVERVIEW

### **Profile of the Treasury Forfeiture Fund**

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The Treasury Forfeiture Fund (the Fund) is the receipt account for the deposit of non-tax forfeitures made pursuant to laws enforced or administered by Treasury law enforcement agencies and the United States Coast Guard. It was established in October of 1992 as the successor to the Forfeiture Fund of the United States Customs Service. When the enabling legislation for the Fund was enacted, it brought together all of Treasury law enforcement under a single forfeiture program. The member law enforcement bureaus of the Treasury Forfeiture Fund are the U.S. Customs Service (Customs), the U.S. Secret Service (Secret Service), the Bureau of Alcohol, Tobacco and Firearms (ATF), and the Internal Revenue Service's Criminal Investigation (IRS-CI). These Treasury bureaus are joined by the U.S. Coast Guard of the Department of Transportation, a member of the Fund as the result of a long-standing close law enforcement relationship with Customs.

The Fund's enabling legislation was first published in Public Law 102-393, enacted October 6, 1992, and is codified under Title 31 of the United States Code, Section 9703. The Fund is a "special receipt account." This means the Fund can provide money to other Federal entities toward the accomplishment of a specific objective for which the recipient bureaus are authorized to spend money.

The Executive Office for Asset Forfeiture (EOAF), which provides management oversight of the Fund, falls under the auspices of the Under Secretary for Enforcement, U.S. Department of the Treasury. EOAF's organizational structure includes the Fund Director, Legal Counsel, Assistant Director/Policy and Operations, and Assistant Director/Financial Management and Chief Financial Officer. Functional responsibilities are delegated to various team leaders. EOAF is located in Washington, D.C. and currently has 20 full time equivalent positions.

### **Strategic Mission**

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.

### **Strategic Vision**

Fund management works to focus the asset forfeiture program on strategic cases and investigations that result in high-impact seizures. Management believes this approach affects the greatest damage to criminal organizations while accomplishing the ultimate objective – to disrupt and dismantle criminal enterprises.

## Case Highlights

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The following case highlights are intended to give the reader an idea of the types of investigative cases worked by Treasury law enforcement bureaus during FY 2002 that led to the seizure and forfeiture of assets. Such cases as those profiled below are consistent with the Strategic Mission and Vision of the Treasury Forfeiture Program, and that is to use asset forfeiture in high-impact cases to disrupt and dismantle criminal enterprises.

### *U.S. Customs Service*

#### Operation Oasis

In an effort to maximize Customs enforcement operations in identifying, detecting, and halting the illegal exportation of unreported currency to terrorist entities, the U.S. Customs Service (Customs) coordinated a national outbound enforcement operation, dubbed Operation Oasis. The operation commenced on October 10, 2001 and continues. The Office of Investigations conducted this “pulse and surge” operation in concert with the Office of Field Operations. The targeted areas covered during the operation have been express consignment courier hubs and airports that pose an outbound currency threat. Since the inception of the operation, there have been over 378 seizures netting over \$15.6 million in seized currency and/or property.

#### Operation Wave Runner

Operation Wave Runner is a San Juan High-Intensity Financial Crimes Area (HIFCA) enforcement initiative geared toward disrupting and dismantling international money laundering organizations utilizing Puerto Rico to illegally transship and/or export the proceeds from drug distribution. Multi-disciplined law enforcement expertise is constructively applied in furtherance of the HIFCA’s investigative and enforcement related success. The effective counter-drug technique employed by this initiative is the use of intelligence provided by confidential sources that is ultimately developed into independent investigative leads through corroboration and surveillance. The leads have resulted in the identification of drug organizations members, bank accounts, stash houses, drug distribution points, and organization *modus operandi*. Subsequent follow up investigations resulted in the discovery and seizure of drug proceeds, illegal drugs, and firearms that have led to arrests.

During FY 2002, Operation Wave Runner resulted in the arrest of 36 individuals and the seizure of nearly \$4 million in U.S. Currency, 131 kilograms of cocaine, 3 kilograms of heroin, 10 vehicles and 5 firearms. Several drug trafficking organizations have been identified as a direct result of these enforcement activities. This operation is an example of effective interagency coordination and has been instrumental in every facet of this initiative’s counter-drug effort.

#### Operation Buccaneer

In December 2001, Customs agents, in coordination with foreign law enforcement, simultaneously executed numerous search warrants as part of an ongoing investigation into a global network of cyberspace gangs responsible for pirating billions of dollars in computer software. Agents seized more than 140 computers in Operation Buccaneer, a 15-month undercover investigation into software piracy over the Internet. The investigation began through the auspices of the “Drink or Die” Internet pirating group, which lead to the identification of a larger network known as the WAREZ community. Agents alleged that members of “Drink or Die” illegally copied and distributed all types of computer media including expensive business software applications, digital music and movies, and computer games over the Internet. Agents estimated there were over 1500 members

worldwide. The computers and hard drives used were seized from software companies, private residences, and major universities such as Duke, MIT, Purdue, and Oregon. Investigators were quick to note that these legitimate establishments were merely victims of students or employees with access to their vast institutional computer networks. These enforcement actions represent law enforcement efforts to dismantle and disrupt illegal organizations attempting to undermine the stability of the e-commerce industry.

### Operation Wirecutter

Customs and Colombian law enforcement efforts resulted in the arrest of 37 people, the seizure of approximately \$8 million and hundreds of pounds of narcotics. The undercover investigation began in 1999 when members of the Customs Eldorado Task Force identified Colombian money brokers allegedly involved in illegal money laundering activities through a “system” known as the Black Market Peso Exchange (BMPE). The BMPE has a negative effect on the international economy through the conversion of illicit U.S. drug proceeds into legitimate pesos. The combined enforcement efforts of the United States and Colombian governments serve as an example of the successful infiltration of an international criminal network.

### Operation Green Quest

Created by the Treasury Department on Oct. 25, 2001, Operation Green Quest is a multi-agency financial enforcement initiative intended to augment existing counter-terrorist efforts by bringing the full scope of the government's financial expertise to bear against systems, individuals, and organizations that serve as sources of terrorist funding. The initiative is designed to harness the formidable financial expertise and authority of the Treasury Department to freeze accounts, seize assets, and, where appropriate, bring criminal actions against individuals and organizations that finance terrorist groups.

Operation Green Quest is led by the U.S. Customs Service and includes agents and analysts from the Internal Revenue Service (IRS), the Secret Service, the Bureau of Alcohol, Tobacco and Firearms (ATF), the Federal Bureau of Investigation (FBI), the Office of Foreign Assets Control (OFAC), the Financial Crimes Enforcement Network (FinCEN), the U.S. Postal Inspection Service, and the Naval Criminal Investigative Service. Federal prosecutors from the Justice Department's Criminal Division also form an integral part of Operation Green Quest. Since it's creation, Operation Green Quest has seized over \$14 million in smuggled U.S. currency, executed 73 search warrants, made 29 arrests, and obtained 26 indictments. Currently, Operation Green Quest has more than 300 ongoing investigations into terrorist finances.

### *Internal Revenue Service*

#### Checkered Past Adds to Northwoods Golf Club's Allure

As reported by the *Green Bay Press Gazette* and the *Milwaukee Journal Sentinel*:

“For Auction: Nine-hole golf course with shady past; nearly 200 acres overlooking scenic Menominee River. Previous owners got it as a steal.... To bid, prospective buyers must have \$75,000 up front and should expect scrutiny into their background....

The government reserves the right to reject any bid.”

The Chicago mobsters who ran the Four Seasons Golf Club have gone, but they left behind more than just divots. They left a restaurant-clubhouse renovated with money defrauded from Cicero, Illinois taxpayers and added a new chapter to the rakish history of a backwoods retreat that has been a

popular destination for the wealthy since the days of Al Capone. The club was seized as part of a Federal racketeering case and was auctioned October 23, 2002. The site of the club is about 80 miles north of Green Bay.

A group including Cicero officials siphoned more than \$10 million from an employee insurance program to buy the club and other properties. The Cicero group put more than \$4 million into renovating the Four Seasons in 1994 and 1995 and had hoped to turn it into a gambling casino. A man waiting to play in a club event reported that the now-notorious owners had done little things that were out of the ordinary for “up here in mosquitoland.” When they put water on the course for golfers, there would be lemons in the jugs, for example. He said there was the usual small town talk about the people who were running the Four Seasons.

They drove big black cars, not in keeping with the local style, and...

The Four Seasons paid cash for most purchases....

There apparently was not huge shock among the locals

When the Federal government said

“ahem”

and put its official kibosh on the operation...

The property is entirely on Miscauno Island in the middle of the Menominee River separating Wisconsin and upper Michigan. The par 34 golf course is on 69 acres, with another 127 acres available for development. The 27,000-square foot facility has two dining rooms, three bars, a pro shop and locker rooms. The auction notice didn't mention one other nice touch, the signs posted along each fairway offering bits of literary massage for golfers, mostly quotes about nature from Henry David Thoreau, Robert Frost and others, including one from Robert E. Lee:

“You may take with you the satisfaction that proceeds  
the consciousness of duty faithfully performed....”

The golf course was designed by W.D. Mann in 1905; an old, narrow railroad trestle still serves as the road connection to the island. The Four Seasons was popular in the Roaring 20's when the railroad brought people from Chicago, Minneapolis and Milwaukee. The Four Seasons sent people in Model A Fords to bring them to the clubhouse. The place was known during Prohibition as a gambling hall and speakeasy. An old roulette wheel was found in the clubhouse attic.

### Ghostly Presence?

What's more, the clubhouse may even come with its own ghost. Or at least ghost stories. “It's supposed to be haunted,” says a former waitress who bused tables there in high school nearly 20 years ago. She said she once found her cart moved into a position blocking a doorway when a human was nowhere near. Guests once complained of unexplained noises coming from the attic. “There are stories the place is haunted by a bride who was stood up at the altar,” said the long-ago waitress.

The property was auctioned by the government on October 23, 2002 for \$1.6 million--ghost and all.

### Robert R. Hibbs and George Kline

During March and April 2002, the Internal Revenue Service (IRS) Minneapolis Field Office forfeited assets totaling over \$7 million. These forfeitures were pursuant to an investigation of Robert R.

Hibbs and George Kline, key figures in an extensive insider trading and securities fraud conspiracy. This investigation resulted in a 58-count indictment that charged Messrs. Hibbs and Kline of conspiring to make stock trades based on non-public information that they obtained as board members of several local companies, tax evasion and money laundering.

In 1990, Mr. Hibbs joined Hidden Creek Industries, Minneapolis, a private industrial management company. In his career at Hidden Creek, he became an officer or director of Dura Automotive Systems, Inc. (Dura) and Tower Automotive, Inc. (Tower). As an officer and director of those companies, Mr. Hibbs had access to material, non-public information about those companies. Mr. Hibbs admitted that from 1997 through 1999 he unlawfully traded in the stocks of Dura and Tower, and also in the stocks of companies acquired by Dura and Tower. Mr. Hibbs admitted that he traded in the stock of these companies in his own accounts, his parents' accounts, and his in-laws' accounts.

Mr. Hibbs admitted that he knowingly and willfully conspired with Messrs. George Kline and Erich Kline to commit securities and mail fraud through the exchange of inside information. Mr. Hibbs admitted that on multiple occasions during that time period, he provided Mr. George Kline with material, non-public information obtained by him from Tower and Dura, in knowing breach of both securities laws and his fiduciary duties to the companies. In particular, Mr. Hibbs admitted that he provided Mr. George Kline with inside information prior to Dura's April 1998 acquisition of Trident, Tower's September 1998 pre-announcement of favorable earnings, and Dura's January 1999 acquisition of Excel. Mr. Hibbs admitted that on numerous occasions during the same time period, Mr. Erich Kline provided him with material non-public information regarding CyberOptics Corporation that Mr. Hibbs then used to purchase and sell CyberOptics to obtain illegal stock profits. Mr. Hibbs admitted that he believed Mr. George Kline to be the source of the information provided through Mr. Erich Kline.

Pursuant to a plea agreement, Mr. Hibbs pled guilty to one count of conspiracy to commit fraud, four counts of insider trading and three counts of evading taxes by intentionally misreporting profits from stock sales. The plea also called for a \$250,000 fine and required Mr. Hibbs to forfeit \$1.2 million in cash proceeds from the sale of his personal residence to the United States as well as a total of 139,600 shares of Rimage Corporation stock. For his role in these crimes, Mr. Hibbs was sentenced to four years in prison and two years of supervised release for tax evasion, conspiracy to commit securities and mail fraud, and insider trading.

Mr. George Kline admitted that he was the central figure in a six-year conspiracy that ran from October 1995 through 2001. As a board member of many Minnesota-based publicly traded companies, Mr. George Kline had access to material non-public information regarding these companies. He admitted that, at various times, he used nominee entities to trade in the securities of companies in order to avoid SEC reporting requirements, and in knowing violation of securities laws and in breach of his fiduciary duties to the companies. Mr. George Kline also admitted that he regularly passed this material non-public information to, among others, his two sons, Erich and Christian, and Mr. Robert Hibbs, the former Hidden Creek Industries partner, knowing that they would trade based on the inside information. Mr. George Kline admitted that he also received material, non-public information from Mr. Hibbs regarding companies that he knew Mr. Hibbs was involved with either as an officer or director. Mr. George Kline traded in the stocks of those companies, reaping substantial profits. He additionally passed on these tips to his son, Erich.

Mr. George Kline pled guilty to one count of conspiracy to commit securities and mail fraud, two counts of securities fraud, two counts of mail fraud, one count of engaging in prohibited short sales of securities, and one count of money laundering.

Mr. Erich Kline, age 33, from Dayton, Minnesota, was sentenced to 24 months in prison, three years supervised release, 100 hours of community service, and was fined \$250,000.

Mr. Christian Kline, age 39, from Eden Prairie, Minnesota, was sentenced to four years probation, 100 hours of community service, and was ordered to pay a \$50,000 fine.

In addition to the terms of imprisonment and fines imposed, under terms of their Plea Agreements, Messrs. George Kline, Erich Kline, and Christian Kline also forfeited a total of \$625,000 in cash; 411,827 shares of Rimage Corporation common stock; and two condominiums. Mr. George Kline also consented to entry of a \$425,000 personal money judgment. Based on the current market value of the Rimage stock, the financial sanctions impact on the three Kline defendants exceeds \$5.75 million. All three defendants pled guilty in July 2001.

The case is the result of a joint investigation by the Internal Revenue Service - Criminal Investigation, the Federal Bureau of Investigation, and the U.S. Postal Inspection Service.

### **Darin D. Asay and Wendy Almanza**

In May 1993, Mr. Darin D. Asay and Ms. Wendy Almanza created a pharmaceutical wholesale distribution company called Intermountain Distributors, Incorporated (IMD). Mr. Asay and Ms. Almanza recruited people to open "closed door" pharmacies, which provide prescription drugs solely to patients in institutional settings such as nursing homes. It is common for "closed door" pharmacies to join "buying groups" in order to obtain prescription drugs at discounted prices. In order to obtain the discounted prices, pharmacies have to agree that the product that they purchase will only be used for their institutional customers and not be resold in the open market.

At the direction of defendant Asay, the owners/operators of these pharmacies falsely represented that they provided prescriptions to nursing homes. Mr. Asay instructed the pharmacies as to what drugs to order and provided the funds for their purchase. The drugs were purchased at the discounted contract prices, and then resold to other wholesalers at market value. In all, the defendants operated 10 sham pharmacies in five states, including Colorado.

Mr. Asay was indicted by a Federal grand jury on February 12, 1998, along with codefendants Ms. Wendy Almanza, Mr. Nigel Jones, and Ms. Renee Wier Jones. Mr. Nigel Jones was sentenced to 3 years probation and 100 hours of community service for illegally importing drugs; Ms. Renee Wier Jones to 5 years probation and ordered to pay \$434,693.42 restitution for wire fraud; and Ms. Wendy Almanza to thirty-seven months imprisonment. Lastly, Mr. Darin D. Asay, of Evergreen, Colorado was sentenced to 78 months in Federal prison and ordered to pay restitution in excess of \$4 million for using the U.S. Mail to fraudulently sell pharmaceuticals. The sentence in this matter includes one of the largest restitution orders ever in Colorado.

Commenting on the case, United States Attorney Thomas Strickland said, "This case shut down a major national pharmaceutical diversion scheme. We have and will continue to prosecute diverters, not only because of the fraud they perpetrate on the pharmaceutical industry, but also because diversion threatens the integrity of the nation's prescription drugs."

The case was investigated by the U.S. Food and Drug Administration, Office of Criminal Investigation; the Internal Revenue Service, Criminal Investigation and the Federal Bureau of Investigation.

### **Robert J. Ball**

From 1994 through April 2000, Mr. Robert J. Ball operated a *Ponzi Scheme* through RJB Sales, Inc., his Hoboken, New Jersey-based corporation. Mr. Ball admitted telling potential investors that RJB bought and sold merchandise that had been ordered and rejected by the J.C. Penny & Co. department store chain. Mr. Ball represented that J.C. Penny would tell him to buy the rejected merchandise and that J.C. Penny would then buy the merchandise from RJB. Mr. Ball said he told potential investors he needed money from them to finance the purchases of rejected merchandise and that he would split the profits from the sales of the merchandise with them. Mr. Ball promised profits at an annualized rate of approximately 40 percent.

Mr. Ball received approximately \$224 million in the bogus investment scheme and returned approximately \$201 million, with a resulting loss to investors of more than \$23 million. Mr. Ball converted approximately \$11.3 million of this money to his own use by buying, among other things, the 92-foot luxury sport boat, "One More Time." The vessel was rarely used by Mr. Ball, but instead used by friends, investors and chartered for fishing and cruising on the eastern seaboard and the Caribbean.

On January 9, 2002, Mr. Ball pled guilty to one count each of wire fraud and tax evasion for the 1995 tax year. Mr. Ball forfeited his entire interest in the residence and real property located in Brielle, New Jersey and in the luxury sport boat, "One More Time."

### *U.S. Secret Service*

#### Cleveland Food Stamp Fraud

This investigation involved the trafficking of more than \$15,000,000 in illegally-redeemed food stamp and Women and Infant Children (WIC) Program coupons through five grocery stores located on the east side of Cleveland. Between 1994 and 2001, the defendants, acting as proprietors of grocery stores, purchased the WIC and food stamp coupons from recipients at less than face value, then redeemed the coupons at full face value, realizing a significant profit. Also, the defendants allowed the WIC and food stamp coupon recipients to purchase ineligible items, such as alcohol and cigarettes, albeit at inflated prices. Five persons were indicted, although two are believed to have fled to the Middle East.

The defendants deposited their illegal proceeds into numerous business and personal bank accounts and transferred the funds to other accounts in an attempt to conceal the true source of the funds. Some of the illegal proceeds were also used to facilitate the ongoing fraud at the grocery stores. The task force traced nearly \$600,000 in wire transfers to accounts in the Middle East, but were unable to track the funds beyond that point. In addition to these foreign accounts, agents seized documents during a search of the defendants' homes during 2001 that revealed the existence of additional bank accounts worth several million U.S. dollars located in Jordan in the name of one of the defendants.

The three defendants subjected to prosecution accepted Plea Agreements. The defendants were originally charged with conspiracy to commit fraud against the food stamp and WIC programs, theft of government funds, mail and wire fraud, making materially false statements, as well as 19 counts of transactional money laundering.

The terms of the Plea Agreements stipulated that two of the defendants be sentenced to a term of incarceration of 42 months. During March 2002, as part of their plea agreements, the two also forfeited to the government several bank accounts valued at just under \$700,000, and cash valued at almost \$500,000. The third defendant, the wife of one of the defendants sentenced to 42 months, pled guilty to a misdemeanor and was sentenced to probation. Two remaining defendants remain at large.

## **Operation Ice Pick**

In January 2002, the U.S. Secret Service Minneapolis Financial Crimes Task Force executed 14 Federal search warrants, one local search warrant, and arrested ten federally indicted persons for violating Federal conspiracy, identity theft, access device fraud, and bank fraud statutes. This enforcement action, dubbed "Operation Ice Pick," was an extensive long-term investigation into multiple bank fraud schemes that resulted in a loss of approximately \$1.5 million over three years.

The suspects utilized fictitious business documents, and false or counterfeit identification, securities and checks, to execute a variety of well-coordinated fraud schemes. For example, the suspects used counterfeit identification documents and checks to establish, fraudulently, various bank accounts, whereupon they would deposit counterfeit checks and make cash withdrawals, usually via ATM.

In one instance, the perpetrators gained the confidence of a bank employee to obtain customer information for use in account takeovers, where the perpetrators transferred funds from the compromised victim account(s) to new fraudulently opened accounts, which were subsequently drained through ATM withdrawals.

The fraudulent activities of the perpetrators included various credit card frauds such as the use of stolen identities to establish lines of credit. They also used credit card courtesy checks to inflate the credit limits of fraudulently established credit card accounts allowing for additional purchases and cash advances, and they were known to have filed false insurance claims.

Approximately 100 Federal, state, and local law enforcement personnel and support staff participated in the arrests and in the execution of search warrants. Seizure warrants were executed on late model luxury sedans and nearly \$50,000 in cash.

## **Bank Fraud**

The South Florida Organized Fraud Task Force (task force) was contacted by the Miami Dade Police Department on September 20, 2001, regarding the investigation of a possible fraud at a Bank of America branch in Miami. The task force is comprised of members of the U.S. Secret Service and Miami area local law enforcement agencies. Members of the task force responded to a Bank of America branch located in Miami and found a male subject in custody for possession of a counterfeit Florida driver's license. The subject was using the alias "Trevor Porter," and had attempted to negotiate a \$9,600 check drawn on the account of the NNPC (Nigerian National Petroleum Corporation) Petroleum Product Sales, Inc. Investigation disclosed that the NNPC Petroleum Product Sales, Inc. corporate account "Porter" had opened earlier at the Bank of America had received a wire transfer in the amount of \$4,350,314.63 from the Isle of Man on the day before his "Porter's" arrest.

Investigative efforts by the task force at the scene revealed the true identity of "Porter," and that he was employed by a Florida hotel. Discovered in his car, via consent search, were shipping papers related to the Nigerian National Petroleum Corporation and evidence of wire transfers of \$3.8 million and \$7 million. Subsequent to investigators learning the true identity of "Porter," he implicated his wife and a foreign national, and agreed to cooperate.

Task force investigators determined that "Porter's" wife was friendly with a Nigerian known to her as "Ben." Ben, who was actually residing in Nigeria, provided advice and direction to the couple in order to lay the groundwork for the fraud. Several months earlier, Ben requested that they open the NNPC corporate account at the Bank of America. At the behest of Ben, a counterfeit Florida driver's

license and a counterfeit Social Security Card, both in the name of “Trevor Porter,” were obtained in Florida, subsequent to which NNPC was incorporated in the State of Florida, with a Federal Tax ID number. Ben provided the couple with backup documentation indicating that the \$4,350,214.63 wire transfer was from the sale of crude oil. Ben also advised that he was expecting two additional wire transfers, into the Bank of America NNPC corporate account, of \$3.8 and \$7 million.

In an effort to cooperate, both defendants, the husband and wife, agreed to place telephone calls to Ben in Nigeria. Ben was advised that his presence was needed in Florida to facilitate withdrawals and wire transfers of the \$4,350,214.63 located in the Bank of America NNPC corporate account. Ben agreed to travel to Florida, however, he requested \$9,600 from the couple to pay for his travel.

Funding was obtained from local police authorities and \$9,600 was wired via Western Union to Ben in Nigeria. Ben was subject to surveillance upon his arrival in Florida and promptly arrested by the task force when he arrived at the Bank of America.

A Federal seizure warrant was obtained and served on the Bank of America NNPC account and its contents, which amounted to \$4,350,214.63. Task force investigators determined that the \$4,350,214.63 were the proceeds of embezzlement from the NNPC by a collusive NNPC employee who remains an un-indicted co-conspirator. Prosecution of the offenders is ongoing, while efforts are continuing to identify and locate additional proceeds of this fraud.

### *Bureau of Alcohol, Tobacco and Firearms*

#### **Hezbollah Cigarette Smuggling Case**

On June 21, 2002, Mohamad Hammoud and his brother Chawki Hammoud, were found guilty of various charges in U.S. District Court, Western North Carolina, following a five week trial. They were convicted on cigarette smuggling, money laundering, RICO, immigration violations, conspiracy and providing material support to a designated foreign terrorist organization. The convictions culminated a six-year investigation into a Lebanese cigarette smuggling operation, which smuggled over \$7 million of cigarettes from North Carolina to Detroit, Michigan.

The group used two tobacco shops as “fronts” to conduct their cigarette smuggling operation and sent a portion of the proceeds from their cigarette smuggling to Hezbollah. They also used the proceeds to purchase “dual use” equipment, which are items sold to civilians that have a military application, such as Global Positioning System (GPS) equipment, night vision goggles, computer hardware and software. The dual use equipment was sent to Lebanon through Vancouver, Canada.

A total of 25 individuals were indicted during this investigation. Eighteen individuals have pled guilty, while five individuals are international fugitives.

Assets currently seized and pending forfeiture or that have been forfeited include: over \$200,000 in U.S. currency; bank accounts containing approximately \$114,000; 4,500 cartons of cigarettes; \$20,000 in telephone calling cards; a late model luxury sport utility vehicle; \$98,000 in proceeds from the sale of a BP gas station; and one residence with an estimated value of over \$100,000. Additional potential forfeitures are under review.

#### **Operation Stamp Out**

This investigation resulted in the largest seizure of counterfeit tax stamped cigarettes in U.S. history. ATF served a total of 30 Federal search warrants that recovered 1,217 cases (60,872 cartons) of contraband cigarettes with a retail value of over \$2.1 million. The California State Board of

Equalization estimates that a loss of over \$3 million in state tax revenue from cigarettes purchased in Virginia can be attributed to this organization over a nine-month period.

The above resulted from eleven months of investigation, with ATF as the lead agency, with the assistance of the Board of Equalization and the Internal Revenue Service.

The agents utilized a variety of investigative techniques to include, over 45 undercover purchases of cigarettes with counterfeit tax stamps. The San Jose Field Office coordinated 168 law enforcement personnel to assist in the service of the 30 Federal search warrants.

Two individuals pled guilty in U.S. District Court to trafficking in contraband cigarettes, income tax evasion, and making false statements. Assets currently seized and pending forfeiture or that have been forfeited include: 1,217 cases of contraband cigarettes, over \$300,000 in currency, and 148,070 counterfeit tax stamps. Upon forfeiture of the cigarettes, the sale revenue generated from the sale of the cigarettes was just under \$800,000. Additional seizures are pending.

### **Operation BearTrap/Dragonfire**

As the result of a recent increase in the trafficking of contraband cigarettes, the ATF Roanoke Field Office created a joint Federal, state and local task force identifying criminal diversion trends that target the diversion of cigarettes from the State of Virginia to other states. As a result of this initiative, the task force has seized more than \$1 million in U.S. currency, more than 500 cases of cigarettes with a retail street value of \$1.2 million, a tractor-trailer truck and one automobile, more than 100,000 counterfeit tax stamps (which would have resulted in a tax loss of approximately \$87,000), and a small quantity of counterfeit tobacco products.

To date, the investigation has identified organized crime members directing some of the diversion schemes. The investigation is ongoing in attempts to identify further assets and individuals. Additionally, the task force has identified an additional \$3 million in assets that may be subject to seizure in this case.

### **Operation Lightning Strike**

This is a joint ATF investigation with the Virginia ABC into the illegal manufacture of liquor of the Helms Farmer Exchange, which had been in business for approximately 20 years. This investigation involves a criminal organization of approximately 32 individuals. These individuals purchased the raw materials, such as sugar and plastic gallon jugs, for making illegal liquor in bulk. Additionally, with the proceeds of their illegal activity, the defendants purchased real estate and vehicles to facilitate their illegal activities and to conceal their illegal proceeds. As the result of this investigation, over \$200,000 in U.S. currency, ten real properties valued at \$1.2 million, and vehicles valued at over \$200,000 have been seized and forfeited during this fiscal year. Also, as the result of violations of liquor manufacturing and other Federal charges, several defendants have received prison sentences ranging up to 78 months. This investigation resulted in the conviction of approximately 32 persons for money laundering, non-tax-paid liquor, perjury and other offenses.

## **Program and Fund Highlights**

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The Treasury Forfeiture Fund is a “special receipt account.” Such accounts represent Federal fund collections earmarked by law for a specific purpose. The enabling legislation for the Treasury Forfeiture Fund (31 U.S.C. § 9703) defines those purposes for which Treasury forfeiture revenue may be used.

Once property or cash is seized, there is a forfeiture process. Upon forfeiture, seized currency, initially deposited into a suspense, or holding account, is transferred to the Fund as forfeited revenue. Once forfeited, physical properties are sold, and the proceeds are deposited into the Fund as forfeited revenue. It is this forfeiture revenue that comprises the budget authority for meeting expenses of running Treasury’s forfeiture program.

Expenses of the Fund are set in a relative priority so that unavoidable, or “mandatory” costs are met first. Expenses may not exceed revenue in the Fund. The Fund has several different spending authorities. Each of them is described below.

### ***Mandatory Authority***

The mandatory authority items are generally used to meet “business expenses” of the Fund, including expenses of storing and maintaining seized and forfeited assets; valid liens and mortgages; investigative expenses incurred in pursuing a seizure; information and inventory systems; and certain costs of local police agencies incurred in joint law enforcement operations. Following seizure, equitable shares are paid to state and local law enforcement agencies that contributed to the seizure activity at a level proportionate to their involvement.

It is a strategic goal of the Fund to emphasize and monitor high impact forfeitures. To make significant forfeitures requires longer, more in-depth investigations. To this end, Fund management emphasizes the use of mandatory funding authorities that fuel large case initiatives including Purchase of Evidence and Information, expenses associated with Joint Operations, Investigative Expenses Leading to Seizure, and Asset Identification and Removal Groups.

### **Asset Identification and Removal Groups**

Asset Identification and Removal Groups (AIRGs) help ensure that seizure operations are conducted in the right way, with maximum precision and efficiency. In FY 2002, the Fund contributed \$4.1 million in mandatory funding to the efforts of Customs AIRGs. The groups are comprised of special agents, auditors, accountants and contract data analysts who are specially trained to identify assets of criminal

organizations. Today, there are 21 AIRGs located within Customs' field offices throughout the United States. The personnel assigned to the groups receive special training at Treasury's Federal Law Enforcement Training Center to prepare them in the areas of asset identification, removal and forfeiture. The AIRGs are particularly valuable in international investigations, where criminal proceeds can be moved rapidly around the world. Their expertise in identifying and tracking these assets is critical to an effective seizure and forfeiture program. These groups assist their agencies in meeting their mandates. The results that they attain can be used as a tool to assist managers in assessing the strength and depth of criminal organizations and gauge their success in disrupting crime.

### **Treasury Computer Investigative Specialist Program**

An increasing number of investigations conducted by the Treasury's law enforcement bureaus are in an electronic environment or contain electronic evidence. A key component of the bureaus' ability to perform their investigative mission in today's high-tech and rapidly changing environment is the Treasury Computer Investigative Specialist (CIS) Program. This joint initiative began in 1997 as a means of coordinating Treasury resources and leveraging assets. Since that time, it has developed into one of the premier computer forensics programs in the world, with over 400 Treasury special agents deployed throughout the United States and abroad. Some of the primary features of the program are:

- All computer forensic examiners are experienced criminal investigators (as opposed to other programs that have technicians conducting exams);
- Uniform basic and advanced computer forensic training (planned and delivered jointly by the four bureaus) that allows the bureaus to share CISs and technical resources on large cases;
- Each bureau's CISs are provided the same state-of-the-art equipment; and
- Continuous in-service training and equipment upgrades for CIS agents in the field maintains high skill-levels for all Treasury Department CISs.

In FY 2002, EOAF provided just over \$5.5 million to the CIS program. The majority of the funding went for basic and advanced training and specialized equipment. Two basic classes were held in which 48 Treasury agents were given instruction in computer forensics. In addition to the basic training, 72 Treasury agents were given advanced training in the area of computer networks and network intrusions. Other agents received specialized training in online investigations and other computer platforms (Macintosh, Linux, Unix, etc.). It should be noted that the majority of the FY 2002 training was conducted by senior CIS agents from the four Treasury bureaus. In addition to contributing to the criminal investigations conducted by all four Treasury bureaus, during FY 2002 CISs and the Electronic Crimes Programs of

all four bureaus provided significant assistance to other law enforcement agencies and the intelligence community in terrorism investigations. CISs from all four bureaus worked together as part of the Treasury Department's "Operation Greenquest" investigation into terrorist financing operations.

### ***Secretary's Enforcement Fund***

The Secretary's Enforcement Fund (SEF) is derived from equitable shares received from the Justice Department's forfeiture fund for work done by Treasury law enforcement bureaus leading to Justice forfeitures. SEF revenue is available for Federal law enforcement purposes of any Treasury law enforcement organization. In FY 2002, the Fund allocated \$1.606 (revised as needed) million in SEF spending to the law enforcement agencies.

### ***Super Surplus***

Super Surplus represents the remaining unobligated balance after an amount is reserved for Fund operations in the next fiscal year. Super Surplus can be used for any Federal law enforcement purpose. The Fund declared a Super Surplus for FY 2002 in the amount of \$35.198 million, the majority of which was spent on major case funding, database development, and computer forensic efforts

### **Computer Forensics**

A growing percentage of the investigations that our agencies handle now center on computer evidence. It is critical for the law enforcement bureaus to protect the integrity of original computer evidence and be able to authenticate any evidence originating from an electronic source. Each of the four law enforcement bureaus has a computer laboratory devoted to assessing the impact of technological change on methods for obtaining digital evidence, developing forensics procedures and standards, and providing technical assistance to the computer forensics examiners in the field. The funding provided for these initiatives has allowed the agencies to maintain or build laboratories and sustain their computer forensics programs. These forensic programs involve a significant amount of research and development that cannot be funded through the mandatory authority. In FY 2002, \$3.25 million was provided to the bureaus to support computer forensic initiatives.

In FY 2001, EOAF funded the purchase by the IRS Electronic Crimes Program of the rights to the "Ilook Examiner," a set of advanced forensics utilities for examining data from seized computers. In the past year, "Ilook" has been adopted by most Federal law enforcement agencies and by many state and local police forces. A portion of the FY 2002 funding for computer forensics was devoted to the further

development and maintenance of this important tool that has become so useful to law enforcement computer forensic examiners.

## **Program Performance**

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### ***Strategic View***

Over the next several years, the Fund will continue to focus on strategic cases and investigations that result in high-impact forfeitures. We believe this approach will affect the greatest damage to criminal organizations while accomplishing the ultimate objective – to disrupt and dismantle criminal activity. To make significant forfeitures requires longer, more in-depth investigations. To this end, Fund management emphasizes the use of mandatory funding authorities that fuel large case initiatives including Purchase of Evidence and Information, expenses associated with Joint Operations, Investigative Expenses Leading to Seizure, and Asset Identification and Removal teams. In addition, the Fund will support and carry out the goals of the National Money Laundering Strategy as well as the High Intensity Financial Crime Areas (HIFCAs); support Treasury's efforts to attack terrorist financial infrastructures; and continue to improve our ability to measure, assess and adapt our performance.

### ***Strategic Mission and Goal***

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. The goal of the Treasury Forfeiture Fund is to support the Department of the Treasury's national asset forfeiture program in a manner that results in Federal law enforcement's continued and effective use of asset forfeiture as a high-impact law enforcement sanction to disrupt and dismantle criminal activity. To achieve our mission and goal, 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.

### ***Performance Measure***

In FY 2002, the Fund measured performance through the use of the following performance measure: Percent of forfeited cash proceeds resulting from high-impact cases. This measures the percentage of forfeited cash proceeds resulting from high-impact cases (those with currency seizures in excess of \$100,000). Focusing on strategic cases and investigations which result in high-impact seizures will effect the greatest damage to criminal organizations while accomplishing the ultimate objective – to disrupt and dismantle criminal activity.

## Results

Fund performance measures and associated results for FY 2002 are as follows:

Performance Measure	FY 2001 Actual	FY 2002 Target	FY 2002 Actual
Percent of forfeited cash proceeds resulting from high-impact cases	79%	75%	73%

A target of 75 percent high-impact cases was set for FY 2002. The final percentage for FY 2002 was 73 percent, two percentage points under the target. This achievement is excellent given the significant diversion of Treasury law enforcement personnel to other than routine law enforcement matters after the events of September 11, 2001. Despite the lowered forfeiture revenue in FY 2002, the bureaus continued to work major cases as evidenced by the performance percentage. This measure was not put into effect until FY 2001.

This measure is calculated by dividing the total amount of forfeited cash proceeds from cases greater than \$100,000 by the total amount of forfeited cash proceeds for all cases.

## Financial Highlights

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The following provides a brief explanation for each major section of the audited financial statements accompanying this report for the fiscal year ended September 30, 2002.

These statements have been prepared to disclose the financial position, results of operations and changes in net position pursuant to the requirements of the *Chief Financial Officers Act of 1990* and the *Government Management Reform Act of 1994 (GMRA)*. While the financial statements have been prepared from the books and records of the Fund in accordance with the formats prescribed by the Office of Management and Budget, the statements are different from the financial reports used to monitor and control budgetary resources that are prepared from the same books and records and are subsequently presented in federal budget documents. Therefore, it should be noted that direct comparisons are not possible between figures found in this report and similar financial figures found in the FY 2002 and FY 2001 *Appendix, Budget of the United States Government*. Further, the notes to the financial

statements and the independent auditor's opinion and report on internal controls are also integral components to understanding fully the financial highlights of Fund operations described in this chapter.

### **Statement: Changes in Net Position**

Follows are brief highlights from the Statement of Changes in Net Position for FY 2002 and 2001.

**Cost of Operations.** For FY 2002, the Cost of Operations totaled \$116.4 million, up from \$107.6 million in FY 2001.

**Investment Interest Income.** The Fund is authorized to invest cash balances in Treasury securities. During FY 2002, the Fund earned interest totaling \$6.1 million, as compared to \$15.5 million during FY 2001. The difference reflects the contraction in interest rates paid on government securities.

**Forfeitures and Shares from Participation with Other Federal Agencies.** For FY 2002, forfeiture revenue and shares from participating with other federal agencies totaled nearly \$38 million, slightly above the FY 2001 level of \$33.8 million.

**Net Results of Operations.** The Fund closed FY 2002 showing a negative Results of Operations of \$64.3 million versus a positive figure of \$7.5 million for FY 2001. This reflects the expensing of prior year obligations during FY 2002 which were paid from retained earnings.

**Net Position.** The Fund closed FY 2002 with sufficient retained earnings to fully fund the annual carryforward to begin the next year's business and to declare a Super Surplus of about \$10 million which can be allocated to Federal law enforcement agencies for law enforcement purposes.

FY 2002 represents another successful year in high-impact cash forfeiture cases, with 73 percent of all cash forfeitures stemming from cases with a value of \$100,000 or more. While the performance against this measure was short of the 75 percent target for FY 2002, it is still excellent given the demands placed on federal law enforcement in the aftermath of September 11.

### **Statement: Net Cost**

**Costs of the Forfeiture Program – Intragovernmental.** After revenue is applied toward policy mandates such as equitable sharing, shown in the Statement of

Changes in Net Position as negative revenue or applied non-exchange revenue, the remaining financing supports the law enforcement activities of the Fund and pays for the storage of seized and forfeited property and sales associated with the disposition of forfeited property.

On the Statement of Net Cost, the Net Cost of Operations increased to \$116.4 million in FY 2002, up from \$107.6 million in FY 2001, largely attributable to additional spending from surplus authorities and the payment of equitable shares to participating local law enforcement agencies.

**Intra-governmental Costs.** These represent the amounts incurred by participating bureaus in running their respective forfeiture programs. Intra-government costs for FY 2002 increased to \$73.8 million, up from \$66.9 million in FY 2001, largely attributable to Super Surplus allocations expensed during FY 2002.

**National Seized Property Contract.** The largest single program cost of the Fund is the storage, maintenance and disposal of real and personal property. This function is performed by EG&G Dynatrend, a private firm under contract to the U.S. Customs Service. In FY 2002, EG&G expenses were approximately \$33.3 million, up from a total of about \$31.8 million in FY 2001. This increase likely reflects the increased stored property inventory during FY 2002, which increased from \$27.1 million in forfeited property at the end of FY 2001 to \$34.8 million at the end of FY 2002. Seized property also increased from \$220.5 million at the end of FY 2001 to \$237.9 million at the end of FY 2002.

## **Statement: Balance Sheet**

### **Assets, Liabilities and Net Position**

Total assets of the Fund increased in FY 2002 to \$644 million, up from \$597.6 million in FY 2001, an increase in asset value of nearly 8 percent. At the same time, during FY 2002, total liabilities of the Fund increased to \$471 million in FY 2002, up from \$360.2 million in FY 2001, an increase of nearly 31 percent in overall liabilities pending at the end of the fiscal year. The increase in liabilities is largely attributable to the significant increase in seized currency on deposit at the end of FY 2002, versus FY 2001, increasing from \$278.9 million to \$379 million, an increase of more than 35 percent.

As the result of lowered revenue for FY 2002, the Cumulative Results of Operations, i.e., retained earnings, decreased at the end of FY 2002 to a total of \$173 million, down \$64.3 million from \$237.3 million at the end of FY 2001.

### ***Summary of Financial Highlights***

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**Net Position.** To summarize, Fund management concluded FY 2002 “in the black,” with the necessary resources to commence the business of the asset forfeiture program for FY 2003. Fund management declared a \$10 million Super Surplus from FY 2002 operations which will be used for law enforcement needs of Department of Treasury bureaus.

**FY 2002 Audit.** The Fund’s independent auditors have given the FY 2002 financial statements an unqualified opinion and again identified no material weaknesses in internal controls. The only reportable condition that remains is with regard to the recording of indirect overhead expenses of the national seized property contractor to the line item level. Progress is being made to allocate contract costs to specific assets and Management is confident that this issue can be resolved during FY 2003. Fund management is pleased to report this status.

## **Program Performance**

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**Financial and Program Performance -What is needed and planned.** OMB Bulletin No. 01-09, *Form and Content of Agency Financial Statements*, requires that agencies include an explanation of what needs to be done and what is planned to be done to improve financial or program performance. In that regard, Fund management provides the following information with regard to the remaining reportable condition identified by auditors during the FY 2002 financial statement audit.

**Reportable Condition:** In fiscal year 2002, the auditors of the Fund's financial statements reported one remaining reportable condition associated with the Fund's internal controls: indirect overhead expenses of the national seized property contractor are not recorded and accounted for at the line item level.

**Asset Specific Expenses:** Fund Management will continue to work toward the capture of indirect overhead expenses of the national seized property contractor. Although the accounting system of the Real Property Contractor is capable of capturing and reporting both direct and indirect costs, a methodology for determining and distributing the indirect costs at the asset level has not been developed. Management will ensure this is taken care of this year.

The award of the new general property contract has been delayed. When it is awarded, the general property contract will require that the contractor is capable of capturing and reporting both direct and indirect costs to the line item level.

**Look Forward.** Fund management is pleased with the resolution of nearly all findings associated with Fund operations as of FY 2002. Efforts will continue to ensure this progress is sustained.

**Limitations of the Financial Statements.** As required by OMB Bulletin 01-09, *Form and Content of Agency Financial Statements*, Fund management makes the following statements regarding the limitations of the financial statements:

- The financial statements have been prepared to report the financial position and results of operations of the entity, pursuant to the requirements of 31 USC § 3515(b).

- While the statements have been prepared from the books and records of the entity in accordance with the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records.
- The statement should be read with the realization that they are for a component of the U.S. government, a sovereign entity. One implication of this is that liabilities cannot be liquidated without legislation that provides resources to do so.

### **Independent Auditor's Report on Financial Statements**

Office of Inspector General  
United States Department of the Treasury  
Washington, D.C.

We have audited the Principal Statements (balance sheets and the related statements of net cost, changes in net position, budgetary resources and financing, hereinafter referred to as “financial statements”) of the Department of the Treasury Forfeiture Fund (the Fund) as of and for the years ended September 30, 2002 and 2001. These financial statements are the responsibility of Fund Management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. 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 Fund Management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Fund as of September 30, 2002 and 2001, and its net costs, changes in net position, budgetary resources, and the reconciliation of net costs to budgetary obligations, for the years then ended, in

conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued a report dated November 1, 2002, on our consideration of the Fund's internal control structure and a report dated November 1, 2002, on its compliance with laws and regulations.

**Our audits were conducted for the purpose of forming an opinion on the financial statements referred to in the first paragraph of this report as a whole. The information presented in Fund Management's Overview of the Fund and Other Accompanying Information sections is not a required part of the financial statements but is supplementary information required by OMB Bulletin No. 01-09, *Form and Content of Agency Financial Statements*, or the *Treasury Forfeiture Fund Act of 1992*. Although we have read the information presented, such information has not been subjected to the auditing procedures applied in the audits of the financial statements and, accordingly, we express no opinion on it.**

This report is intended for the information and use of the Management of the Fund, the U.S. Department of the Treasury, OMB, the U.S. Congress and, the Office of Inspector General. However, this report is a matter of public record and its distribution is not limited.

November 1, 2002

## **Note 1: Reporting Entity**

The Department of the Treasury Forfeiture Fund (Treasury Forfeiture Fund or the Fund) was established by the Treasury Forfeiture Fund Act of 1992, Public Law 102-393 (the TFF Act), and is codified at 31 U.S.C. 9703. The Fund was created to consolidate all Treasury law enforcement bureaus under a single forfeiture fund program administered by the Department of the Treasury (Treasury). Treasury law enforcement bureaus fully participating in the Fund are the U.S. Customs Service (Customs); the Internal Revenue Service (IRS); the United States Secret Service (Secret Service); the Bureau of Alcohol, Tobacco and Firearms (ATF); the Financial Crimes Enforcement Network (FinCEN); and the Federal Law Enforcement Training Center (FLETC). FinCEN and FLETC contribute no revenue to the Fund and receive relatively few distributions from the Fund. The U.S. Coast Guard, part of the Department of Transportation, also participates in the Fund. However, all Coast Guard seizures are treated as Customs seizures because the Coast Guard lacks seizure authority.

**Prior to the establishment of the Fund, ATF, IRS, and Secret Service participated in the Assets Forfeiture Fund of the Department of Justice. Customs had its own forfeiture fund into which deposits of all Customs and Coast Guard forfeitures were made. The Fund basically transformed the Customs Forfeiture Fund into a Departmental fund serving the needs of all Treasury law enforcement bureaus. FinCEN and FLETC did not previously participate in any forfeiture fund. Prior to Fiscal Year (FY) 1994, only Customs and Coast Guard participated in the Fund.**

**The Fund is a special fund that is accounted for under Treasury symbol number 20X5697. From this no-year account, expenses may be incurred consistent with 31 U.S.C. 9703, as amended. A portion of these expenses, referred to as discretionary expenses, are subject to annual appropriation limitations. Others, referred to as non-discretionary (mandatory) expenses, are limited only by the availability of resources in the Fund. Both expense categories are limited in total by the amount of revenue in the Fund. The Fund is managed by the Treasury's Executive Office for Asset Forfeiture (EOAF).**

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. The goal of the Treasury Forfeiture Fund is to support the Department of the Treasury's national asset forfeiture program in a manner that results in Federal law enforcement's continued and effective use of asset forfeiture as a high-impact law enforcement sanction to disrupt and dismantle criminal activity.

Under a Memorandum of Understanding (MOU) with Treasury, Customs acts as the executive agent for certain operations of the Fund. Pursuant to that executive agency role, the Customs National Finance Center (NFC) is responsible for accounting and financial reporting for the Fund, including timely and accurate reporting and compliance with Treasury, the Comptroller General and the Office of Management and Budget (OMB) regulations and reporting requirements.

## **Note 2: Summary of Significant Accounting Policies**

### ***Basis of Accounting***

**The Fund began preparing audited financial statements in Fiscal Year 1993 as required by the Fund's enabling legislation 31 U.S.C. 9703(f)(2)(H), and the Chief Financial Officers Act of 1990. Beginning with the Fiscal Year 1996 report, the Government Management Reform Act of 1994 (GMRA) requires executive agencies, including the Treasury, to produce audited consolidated annual reports and related footnotes for all activities and funds.**

The Fund's financial statements are presented in accordance with OMB Bulletin 01-09, *Form and Content of Agency Financial Statements*.

The Fund's financial statements with respect to the balance sheet, the statement of net cost, and the statement of changes in net position are reported using the accrual basis of accounting. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred without regard to receipt or payment of cash. The Fund's statement of budgetary resources is reported using the budgetary basis of accounting. Budgetary accounting facilitates compliance with legal constraints and controls over the use of Federal funds. The Fund's statement of financing is reported on both an accrual (authorization) and budgetary basis of accounting (obligations and unfilled customer orders) as a means to facilitate an understanding of the differences between these bases of accounting.

### ***Financial Statements Presented***

These financial statements are provided to meet the requirements of the Chief Financial Officers Act of 1990, and the Government Management Reform Act of 1994. They consist of the balance sheet, the statement of net cost, the statement of changes in net position, the statement of budgetary resources, and the statement of financing, all of which are prescribed by OMB Bulletin 01-09.

Comparative financial statements are presented in order to provide a better understanding of, and identifying trends in the financial position and results of operations of the Fund.

### ***Allowable Fund Expenses***

The majority of the revenue recorded by the Fund is utilized for operating expenses or distributed to state and local law enforcement agencies, other Federal agencies, and foreign governments, in accordance with the various laws and regulations governing the operations and activities of the Fund. Under the TFF Act, the Fund is authorized to pay certain discretionary and non-discretionary expenses.

Discretionary expenses include purchases of evidence and information related to smuggling of controlled substances; purchases of equipment such as vessels, vehicles, or aircraft to assist in

law enforcement activities; reimbursement of private persons for expenses incurred while cooperating with a Treasury law enforcement organization in investigations; and publication of the availability of awards. Discretionary expenses are subject to an annual, definite Congressional appropriation from revenue in the Fund.

**Non-discretionary expenses include all proper expenses of the seizure (including investigative costs and purchases of evidence and information leading to seizure, holding cost, security costs, etc.), awards of compensation to informers, satisfaction of liens against the forfeited property, and claims of parties with interest in forfeited property. Expenses incurred by state and local law enforcement agencies in joint law enforcement operations with Treasury law enforcement agencies are also recognized as non-discretionary expenses. Under the Act, non-discretionary expenses are subject to a permanent indefinite Congressional appropriation, and financed through the revenue generated from forfeiture activities without congressional limitation.**

The Fund's expenses are either paid on a reimbursement basis or paid directly on behalf of a participating bureau. Reimbursable expenses are incurred by the respective bureaus participating in the Fund against their appropriation and then submitted to the Fund for reimbursement. The bureaus are reimbursed through Inter-Agency Transfers (SF-1081) or Online Payments and Collections (OPAC). Certain expenses such as equitable sharing, liens, claims and state and local joint operations costs are paid directly from the Fund.

Further, the Fund is a component unit of the Treasury and as such, employees of the Treasury perform certain operational and administrative tasks related to the Fund. Payroll costs of employees directly involved in the security and maintenance of forfeited property are also recorded as expenses in the financial statements of the Fund (included in the line item "seizure investigative costs and asset management" in the statement of net cost.)

### ***Revenue and Expense Recognition***

Revenue from the forfeiture of property is deferred until the property is sold or transferred to a state, local or federal agency. Revenue is not recorded if the forfeited property is ultimately destroyed or cannot be legally sold.

Revenue from currency is recognized upon forfeiture. Payments in lieu of forfeiture (mitigated seizures) are recognized as revenue when the payment is received. Revenue received from participating with certain other Federal agencies is recognized when the payment is received. Operating costs are recorded as expenses and related liabilities when goods are received or services are performed. Beginning Fiscal Year 1999 certain probable equitable sharing liabilities existing at yearend are accrued based on estimates.

As provided for in the TFF Act, the Fund invests seized and forfeited currency that is not needed for current operations. Treasury's Bureau of Public Debt invests the funds in obligations of, or guaranteed by, the United States Government. Interest is reported to the Fund and recorded monthly as revenue in the general ledger.

### ***Equitable Sharing (Assets Distributed)***

Forfeited property, currency, or proceeds from the sales of forfeited property may be shared with Federal, state and local law enforcement agencies or foreign governments, which provided direct or indirect assistance in the related seizure. In addition, the Fund may transfer forfeited property to other Federal agencies, which would benefit from the use of the item. A new class of asset distribution was established for victim restitution in 1995. These distributions include property and cash returned to victims of fraud and other illegal activity. Upon approval by Fund management to share or transfer the assets, both revenue from distributed forfeited assets and distributions are recognized for the net realizable value of the asset to be shared or transferred, thereby resulting in no gain or loss recognized. Revenue and or expenses are recognized for property and currency, which are distributed to or shared with non-Federal agencies, per SFFAS No. 7, *Accounting for Revenue and Other Financing Sources*.

### ***Entity Assets***

Entity assets are used to conduct the operations and activities of the Fund. Entity assets comprise intragovernmental and non-intragovernmental assets. Intragovernmental balances arise from transactions among Federal agencies. These assets are claims of a Federal entity against another Federal entity. Entity assets consist of cash or other assets, which could be converted into cash to meet the Fund's current or future operational needs. Such other assets include investments of forfeited balances, accrued interest on seized balances, receivables, and forfeited property, which are held for sale or to be distributed.

- **Fund Balance with Treasury** – This represents amounts on deposit with Treasury.
- **Investments and Related Interest Receivable** – This includes forfeited cash held by the Fund and seized currency held in the Customs Suspense Account that had been invested in short term U.S. Government Securities.
- **Receivables** – Intragovernmental receivables principally represent monies due from the law enforcement agencies participating in the Fund. The values reported for other receivables are primarily funds due from the national seized property contractor for properties sold; the proceeds of which have not yet been deposited into the Fund.
- **Advances** – This primarily represents cash transfers to Treasury or law enforcement bureaus participating in the Fund for orders to be delivered.
- **Cash and Other Monetary Assets** – This includes forfeited currency on hand not yet deposited, and forfeited currency held as evidence.
- **Forfeited Property and Currency** – Forfeited property and currency is recorded in the respective seized property and forfeited asset tracking systems at the estimated fair value at the time of seizure. However, based on historical sales experiences for the year, properties are adjusted to reflect the market value at the end of the fiscal year for financial statement reporting purposes. Direct and indirect holding costs are not capitalized for individual

forfeited assets. Forfeited currency not deposited into the Fund is included as part of Entity Assets - Cash and Other Monetary Assets.

Further, mortgages and claims on forfeited assets are recognized as a valuation allowance and a reduction of deferred revenue from forfeited assets when the asset is forfeited. The allowance includes mortgages and claims on forfeited property held for sale and a minimal amount of claims on forfeited property previously sold. Mortgages and claims expenses are recognized when the related asset is sold and is reflected as a reduction of sales of forfeited property.

Additionally, SFFAS No. 3, *Accounting for Inventory and Related Property*, requires certain additional disclosures in the notes to the financial statements, including an analysis of changes in forfeited property and currency, for both carrying value and quantities, from that on hand at the beginning of the year to that on hand at the end of the year. These analyses are disclosed in Notes 8 and 9.

### ***Non-entity Assets***

Non-entity assets held by the Fund are not available for use by the Fund. Non-entity assets comprise intragovernmental and other assets. Intragovernmental balances arise from transactions among Federal agencies. These assets are claims of a Federal entity against another Federal entity. Non-entity assets are not considered as financing sources (revenue) available to offset operating expenses, therefore, a corresponding liability is recorded and presented as governmental liabilities in the balance sheet to reflect the custodial/fiduciary nature of these activities.

- **Seized Currency and Property** – Seized Currency is defined as cash or monetary instruments that are readily convertible to cash on a dollar for dollar basis. OMB issued SFFAS No. 3 which requires that seized monetary instruments (cash and cash equivalents) be recognized as an asset in the financial statements and a liability be established in an amount equal to the seized asset value due to: (i) the fungible nature of monetary instruments, and (ii) the high level of control that is necessary over these assets; and (iii) the possibility that these monies may be returned to their owner in lieu of forfeiture.

**Seized property is recorded at its appraised value at the time of seizure. The value is determined by the seizing entity and is usually based on a market analysis such as a third party appraisal, standard property value publications or bank statements. Seized property is not recognized as an asset in the financial statements, as transfer of ownership to the government has not occurred as of September 30. Accordingly, seized property other than monetary instruments are disclosed in the footnotes in accordance with SFFAS No. 3.**

- **Investments** – This balance includes seized cash on deposit in the Fund's suspense account held by Treasury which has been invested in short term U.S. Government Securities.
- **Cash and Other Monetary Assets** – This balance represents the aggregate amount of the Fund's seized currency on deposit in the Fund's suspense account held by Treasury, seized

cash on deposit held with other financial institutions, and, cash on hand in vaults held at field office locations.

The following schedule presents the intragovernmental and other non-entity assets as of September 30, 2002 and 2001, respectively, (dollars in thousands):

	<u>2002</u>	<u>2001</u>
<b>Intragovernmental Assets:</b>		
Seized currency:		
Investments (Note 3)	\$ 265,893	\$ 213,181
<b>Seized currency:</b>		
Cash and other monetary assets	113,072	
65,745		
Proceeds from interlocutory sales	_____	
<b>Total Non-Entity Assets</b>	378,965	278,926
<b>Total Entity Assets</b>	<u>265,028</u>	
<u>318,626</u>		
<b>Total Assets</b>	<u>\$ 643,993</u>	<u>\$ 597,552</u>

***Liabilities Covered by Budgetary Resources***

Liabilities covered by budgetary resources represent liabilities incurred, which are covered by available budgetary resources. The components of such liabilities for the Fund are as follows:

- **Distributions Payable** – Distributions payable to Federal and non-Federal agencies is primarily related to equitable sharing payments and payments to be made by the Fund to the victims of fraud.
- **Accounts Payable** – Amounts reported in this category include accrued expenses authorized by the TFF Act (See "Allowable Fund Expenses") for which payment was pending at year end.
- **Seized Currency** – Amounts reported in this category represent the value of seized currency that is held by the Fund which equals the amount of seized currency reported as an asset.
- **Deferred Revenue from Forfeited Assets** – At year end, the Fund held forfeited assets, which had not yet been converted into cash through a sale. The amount reported here represents the value of these assets, net of mortgages and claims.

***Liabilities Not Covered by Budgetary Resources***

The Fund does not currently have liabilities not covered by available budgetary resources.

## ***Net Position***

The components of net position are classified as follows:

- **Retained Capital** – There is no cap on amounts that the Fund can carry forward into Fiscal Year 2003. The cap was removed by the Fiscal Year 1997 Omnibus Appropriations Act (PL 104-208).
- **Unliquidated Obligations** – This category represents the amount of undelivered purchase orders, contracts and equitable sharing requests which have been obligated with current budget resources or delivered purchase orders and contracts that have not been invoiced. An expense and liability are recognized and the corresponding obligations are reduced as goods are received or services are performed. In Fiscal Year 1999, Fund management decided to recognize as liabilities, a portion of the equitable sharing requests that were in final stages of approval subsequent to year-end. Prior experience with the nature of this account indicated that a substantial portion of these requests were certain liabilities at year-end. Prior to Fiscal Year 1999, expenses and liabilities were recognized and the corresponding obligations reduced when final management approval for an equitable sharing request was given (See also Distributions Payable at Note 11).
- **Results of Operations** – This category represents the net difference, for the activity during the year, between: (i) financing sources including transfers, revenues, and gains; and (ii) expenses and losses.

### **Note 3: Investments and Related Interest**

All investments are intragovernmental short-term (35 days or less) non-marketable par value Federal debt securities issued by, and purchased through, Treasury's Bureau of the Public Debt. Investments are always purchased at a discount and are reported at acquisition cost (market value), net of discount. The discount is amortized into interest income over the term of the investment. The investments are always held to maturity. They are made from cash in the Fund and from seized currency held in the Customs Suspense Account. The Customs Suspense Account became the depository for seized cash for the Fund following enactment of the TFF Act. The investment, net, represents the required market value.

The following schedule presents the investments on hand as of September 30, 2002 and 2001, respectively (dollars in thousands):

## Entity Assets

### September 30, 2002:

Treasury Forfeiture Fund - 28 days 1.605% U.S. Treasury Bills	\$131,964	\$(165)	\$131,799
On non-entity Investments			65 <u>130</u>
Interest Receivable			<u>\$131,994</u>

### September 30, 2001:

Treasury Forfeiture Fund - 10 days 1.970% U.S. Treasury Bills	\$175,326	\$(269)	\$175,057
On entity investments			96
On non-entity investments			<u>117</u>
Interest Receivable			<u>\$175,270</u>

## Non-entity Assets

### September 30, 2002:

Treasury Forfeiture Fund – Seized Currency Suspense Account 28 days 1.605% U.S. Treasury Bills	\$266,225	\$(332)	<u>\$265,893</u>
---	-----------	---------	------------------

### September 30, 2001:

Treasury Forfeiture Fund – Seized Currency  
Suspense Account

10 days 1.970%			
U.S. Treasury Bills	\$213,508	\$(327)	<u>\$213,181</u>

**Note 4: Accounts Receivable**

No allowance has been made for uncollectible amounts as the accounts recorded as a receivable at year end were considered to be fully collectible.

**Note 5: Advances**

Advances amounted to \$0.2 million and \$0.1 million in fiscal year 2002 and 2001, respectively.

**Note 6: Cash and Other Monetary Assets**

**Entity Assets**

Cash and Other Monetary Assets held on hand included forfeited currency not yet deposited, as well as forfeited currency held as evidence, amounting to \$9.9 million and \$9.1 million in fiscal year 2002 and 2001, respectively.

**Non-Entity Assets**

Cash and Other Monetary Assets included seized currency not yet deposited, as well as deposited seized currency which is not invested in order to pay remissions, amounting to \$113.1 million and \$65.8 million in fiscal year 2002 and 2001, respectively.

**Note 7: Forfeited Property**

The following summarizes the components of forfeited property (net), as of September 30, 2002 and 2001, respectively, (dollars in thousands):

	<u>2002</u>	<u>2001</u>
Held for Sale	\$34,699	\$27,128
To be shared with Federal, state or local, or foreign government	<u>107</u>	<u>15</u>
Total forfeited property (Note 8)	34,806	27,143
Less: Allowance for mortgages and claims	<u>(1,712)</u>	<u>(1,275)</u>
Total forfeited property, net	<u>\$33,094</u>	<u>\$25,868</u>

Forfeited property held for sale, net of allowance for mortgages and claims as of September 30, 2002 and 2001 was \$33.0 million and \$25.9 million respectively, and is presented in the Balance Sheet.

# INSERT

# NOTES 8

# AND 9

**Note 10: Capitalized software**

Capitalized software amounted to \$4.6 million and \$2.4 million in fiscal year 2002 and 2001, respectively. During fiscal year 2002, the Fund spent \$2.2 million developing the FASTRAK seized property and forfeited asset system used to record seized and forfeited property relating to the Secret Service and Alcohol, Tobacco, and Firearms. Prior to fiscal year 2002 both bureaus used a Department of Justice record keeping system.

**Note 11: Distributions Payable (state and local agencies and foreign governments)**

Distributions Payable (state and local agencies and foreign governments) amounted to 28.6 million and \$22.4 million in fiscal year 2002 and 2001, respectively. Fund management recognizes as a liability a portion of the equitable sharing requests (based on the average of historical pay-out percentage), that were approved or in final stages of approval on September 30, 2002 and 2001, respectively. Prior experience with the nature of this account indicated that a substantial portion of these requests were certain to be paid out by the Fund during the following fiscal year.

**Note 12: Net Position**

*Cumulative Results*

The following summarizes components of cumulative results for the years ended September 30, 2002 and 2001, respectively, (dollars in thousands):

	<u>2002</u>	<u>2001</u>
Retained Capital	\$134,200	\$19,072
Unliquidated Obligations	103,140	210,670

Results of Operations	<u>(64,311)</u>	<u>7,598</u>
	<u>\$ 173,029</u>	<u>\$237,340</u>

***Unliquidated Obligations***

The following summarizes the components of unliquidated obligations as of September 30, 2002 and 2001, respectively, (dollars in thousands):

	<u>2002</u>	<u>2001</u>
Discretionary	\$ --	\$ --
Equitable Sharing	17,176	61,618
Non-discretionary	<u>85,964</u>	<u>149,052</u>
	<u>\$103,140</u>	<u>\$210,670</u>

**Note 13: Related Party Transactions**

The Fund reimbursed agencies for the purchase of certain capital assets. These assets are reported by the participating agencies in their financial statements.

**Note 14: Super Surplus**

31 U.S.C. 9703 (g)(4)(B) allows for the expenditure, without fiscal year limitation, after the reservation of amounts needed to continue operations of the Fund. This “Super Surplus” balance may be used for law enforcement activities of any Federal agency.

Amounts distributed to other Federal agencies for law enforcement activities under “Super Surplus” requirements amounts to \$54.0 million and \$65.8 million in fiscal year 2002 and 2001, respectively.

**Note 15: Secretary’s Enforcement Fund**

31 U.S.C. 9703 (b)(5) is another category of permanent indefinite authority. These funds are available to the Secretary, without further action by Congress and without fiscal year limitation, for Federal law enforcement purposes of Treasury law enforcement organizations. The Source of Section 9703(b)(5) funds is equitable sharing payments received from the Department of Justice and the U.S. Postal Service (USPS) representing Treasury's share of forfeiture proceeds from Justice and USPS cases.

Amounts distributed for Federal law enforcement purposes of Treasury law enforcement organizations amounted to \$15.4 million and \$13.3 million in fiscal year 2002 and 2001, respectively.

**Note 16: Commitments and Contingencies**

Beginning in fiscal year 1999, Fund management decided to recognize the liability for equitable sharing requests that were approved or in final stages of approval subsequent to September 30 (See also Note 11, Distributions Payable).

In addition to the amounts estimated above, there are additional amounts, which may ultimately be shared, which are not identified at this time.

Possible claims of potential significance include the following:

1. In recent decisions, the United States Court of Appeals for the Ninth Circuit ruled that it is unconstitutional to forfeit currency based upon a violation of a Federal currency reporting statute. Accordingly, the court has ruled that in returning currency, the government must return the benefit that is received from holding the currency.

The interest to be returned will be payable out of the income of the Fund, and, at present, represents a possible claim of potential significance.

2. In a recent decision, the Supreme Court has ruled that the government must return forfeited currency in those cases of individuals convicted for currency reporting violations who have had currency forfeited due to the violation. The amount of the currency that might be refunded will be payable from the Fund, and, at present, represents a possible claim of potential significance.

At present, it is not possible to determine the likelihood that the above claims will arise. Similarly, it is not possible to determine the value of such potential claims against the Fund.

Judgements and settlements of \$2,500 or greater, resulting from litigation and claims against the Fund are satisfied from various claims and judgement funds maintained by Treasury.

**Note 17: Disclosures Related to the Statements of Net Cost**

Gross costs and earned revenue related to Law Enforcement Programs administered by the Fund are presented in Treasury's budget functional classification (in thousands) as set out below:

Earned Revenues \_\_\_\_\_ --      \_\_\_\_\_ --

Net Costs

\$116,389      \$107,563

The Fund falls under the Treasury's budget functional classification related to Administration of Justice.

**Note 18: Disclosures Related to the Statements of Budgetary Resources**

The Fund's net amount of budgetary resources obligated for undelivered orders at the end of fiscal year 2002 and 2001 are \$46.9 million and \$210.7 million, respectively. This amount is fully covered by cash on hand in the Fund and Entity Investments. The Fund does not have borrowing or contract authority and, therefore, has no repayment requirements, financing sources for repayment, or other terms of borrowing authority. No adjustments were required during the reporting period to budgetary resources available at the beginning of the year. There are no legal arrangements, outside of normal government wide restrictions, specifically affecting the Fund's use of unobligated balances of budget authority.

Adjustments to budgetary resources available at the beginning of fiscal year 2002 and 2001 consist of the following (in thousands):

	<u>2002</u>	<u>2001</u>
Recoveries of Prior Year Obligations	\$19,749	\$9,198
Spending Authority from Offsetting Collections	<u>282</u>	<u>124</u>
Total	<u>\$20,031</u>	<u>\$9,322</u>

**Note 19: Dedicated Collections**

The Fund is classified as a special fund. All its activities are reported as dedicated collections held for later use.

**SECTION III  
OTHER REPORTS**

## **Independent Auditor's Report on Internal Control**

Office of Inspector General  
United States Department of the Treasury  
Washington, D.C.

We have audited the Principal Statements (balance sheets and the related statements of net cost, changes in net position, budgetary resources and financing, hereinafter referred to as "financial statements") of the Department of the Treasury Forfeiture Fund (the Fund) as of and for the years ended September 30, 2002 and 2001, and have issued our report thereon dated November 1, 2002. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*.

In planning and performing our audits, we considered the Fund's internal control over financial reporting by obtaining an understanding of the Fund's internal control, determined whether these internal controls had been placed in operation, assessed control risk, and performed tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 01-02. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982, such as those controls relevant to ensuring efficient operations. The objective of our audits was not to provide assurance on internal control. Consequently, we do not provide an opinion on internal control.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of the internal control that, in our judgment, could adversely affect the Fund's ability to record, process, summarize, and report financial data consistent with the assertions by Fund Management in the financial statements.

Material weaknesses are reportable conditions 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. Because of inherent limitations in internal controls, misstatements, losses, or noncompliance may nevertheless occur and not be detected. However, we noted certain matters discussed in the following paragraphs involving the internal control and its operation that we consider to be a reportable condition. However, this reportable condition is not believed to be a material weakness.

The identified reportable condition, as defined above, is summarized below with further explanations and Fund Management's responses in **Exhibit I** of this report.

The reportable condition identified below was reported in prior years and is of continuing significance.

**Indirect Overhead Expenses of the National Seized Property Contractor are not Recorded and Accounted for by the Fund to the Line Item Level.**

Indirect overhead expenses of the national seized property contractor are not recorded and accounted for by the Fund to the line item level. The Fund's Property Custodian incurs costs on behalf of the Fund from the time of seizure until the asset is ultimately disposed. Currently, only holding costs and direct selling costs related to real property and vehicles are captured in the Seized Assets and Case Tracking System (SEACATS) at the line item level.

Because this condition can impact equitable sharing expenses of the Fund, this condition should be remedied.

Finally, with respect to internal control related to performance measures reported in Section 1, "Program Performance and Financial Highlights," we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions, as required by OMB Bulletin No. 01-02. Our procedures were not designed to provide assurance on internal control over reported performance measures, and, accordingly, we do not provide an opinion on such controls.

This report is intended for the information and use of the Management of the Fund, the U.S. Department of the Treasury, OMB, the U.S. Congress and, the Office of Inspector General. However, this report is a matter of public record and its distribution is not limited.

November 1, 2002

## **Independent Auditor's Report on Compliance with Laws and Regulations**

Office of Inspector General  
United States Department of the Treasury  
Washington, D.C.

We have audited the Principal Statements (balance sheets and the related statements of net cost, changes in net position, budgetary resources and financing, hereinafter referred to as “financial statements”) of the Department of the Treasury Forfeiture Fund (the Fund) as of and for the years ended September 30, 2002 and 2001, and have issued our report thereon dated November 1, 2002. Our responsibility is to report on the Fund’s compliance with laws and regulations based on our audits. Under the Federal Financial Management Improvement Act of 1996 (FFMIA), we are required to report whether the Fund’s financial management systems substantially comply with the Federal financial management systems requirements, Federal accounting standards, and the United States Standard General Ledger at the transaction level. The U.S. Customs Service (Customs) provides cross servicing of the accounting for the Fund. We are not the auditors of Customs and, consequently, we did not perform tests of Customs’ compliance with Federal financial management systems requirements using the implementation guidance for FFMIA included in Appendix D of the Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*. Those tests were performed by other auditors whose report has been furnished to us. Our report, insofar as it relates to compliance with Federal financial management systems requirements, is based solely on the report of the other auditors. We conducted our audits in accordance with: auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and, OMB Bulletin No. 01-02.

The management of the Fund is responsible for complying with laws and regulations applicable to the Fund. As part of obtaining reasonable assurance about whether the Fund’s 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, and certain other laws and regulations specified in OMB Bulletin No. 01-02, including the requirements referred to in FFMIA. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to the Fund.

The results of our tests of compliance disclosed no instances of noncompliance with laws and regulations discussed in the preceding paragraph exclusive of FFMIA, that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 01-02.

The report of the other auditors on the substantial compliance of Customs, as it relates to the Fund, with the requirements of Federal Financial Management Systems Requirements (FFMSR) disclosed no instances where Customs' financial management systems, as they relate to the Fund, did not substantially comply with FFMSR. Our audit tests disclosed no instances in which the Fund did not substantially comply with Federal accounting standards and the U.S. Government Standard General Ledger requirements.

Providing an opinion on compliance with certain provisions of laws and regulations was not an objective of our audits and, accordingly, we do not express such an opinion.

This report is intended for the information and use of the Management of the Fund, the U.S. Department of the Treasury, OMB, the U.S. Congress and, the Office of Inspector General. However, this report is a matter of public record and its distribution is not limited.

November 1, 2002

#### SECTION IV

#### **REQUIRED SUPPLEMENTAL INFORMATION**



Intragovernmental Amounts – Assets (Dollars in thousands)

	<u>2002</u>		<u>2001</u>	
<u>Fund</u>	<u>Accounts</u>			
<u>Balance with</u>	<u>Receivable/</u>	<u>Investments</u>		
<u>Treasury</u>	<u>Advances</u>			
	\$10			
	--			
	--	\$388,451		
	\$10	\$388,451		

Intragovernmental Amounts – Liabilities (Dollars in thousands)

	<u>2002</u>	<u>2001</u>
<u>Partner Agency</u>	<u>Accounts Payable</u>	<u>Accounts Payable</u>
Department of Justice	\$--	\$112
Departmental Offices	78	1,240
Federal Law Enforcement Training Center	41	186
U.S. Customs Service	11,100	9,738
Internal Revenue Service	6,033	9,641
Alcohol, Tobacco and Firearms	8,445	1,359
U.S. Secret Service	1,009	195
Financial Crimes Enforcement Network	--	--
Totals	<u>\$26,706</u>	<u>\$22,471</u>

Intra-Governmental Amounts – Revenues and Costs (Dollars in thousands)

	<u>2002</u>		<u>2001</u>	
<u>Budget Functions</u>	<u>Cost to Generate Exchange Intragovernmental Revenue</u>	<u>Costs to Generate Non-Exchange Intragovernmental Revenue</u>	<u>Cost to Generate Exchange Intragovernmental Revenue</u>	<u>Costs to Generate Non-Exchange Intragovernmental Revenue</u>
Administration of Justice	\$ --	\$ 73,840	\$ --	\$ 66,888

Intragovernmental Amounts – Non-exchange Revenue (Dollars in thousands)

<u>Partner Agency</u>	<u>2002</u>		<u>2001</u>	
	<u>In</u>	<u>Out</u>	<u>In</u>	<u>Out</u>

**REQUIRED SUPPLEMENTAL INFORMATION**

Department of Agriculture	\$	--	--	\$	--	\$	--
Department of Justice		--	--		--		--
Department of Health and Human Services		--	--		--		--
Department of Treasury		--	--		--		--
Internal Revenue Service		--	11,248		--		9,400
Alcohol, Tobacco and Firearms		--	23,930		--		1,856
U.S. Customs Service		--	10,434		--		36,430
Financial Crimes Enforcement Network		--	1,115		--		1,781
Federal Law Enforcement Training Center		--	180		--		472
Secret Service		--	<u>5,683</u>		--		<u>28,020</u>
Totals	\$	<u>--</u>	<u>\$52,590</u>	\$	<u>--</u>	\$	<u>\$77,959</u>

**SECTION V**

**OTHER ACCOMPANYING INFORMATION**

**(Unaudited)**

**TREASURY FORFEITURE FUND**  
**Equitable Sharing Summarized by State and U.S. Territories**  
**For the Year Ended September 30, 2002**  
**(Dollars in Thousands)**  
**(Unaudited)**

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Alabama	84	185
Alaska	3	-
Arizona	4	55
Arkansas	561	44
California	4,056	517
Colorado	46	2
Connecticut	85	-
D.C. Washington	68	2
Delaware	-	-
Florida	14,170	180
Georgia	3,342	22
Guam	-	-
Hawaii	10	65
Idaho	2	-
Illinois	1,295	27
Indiana	235	-
Iowa	4	-
Kansas	12	-
Kentucky	348	7
Louisiana	4,434	79
Maryland	-	8
Massachusetts	234	-
Michigan	1,032	28
Minnesota	-	2
Mississippi	166	60
Missouri	195	24
Montana	18	9
Nebraska	-	-
Nevada	85	2
New Jersey	172	-
New Hampshire	854	-
New Mexico	101	7
New York	7,570	857
North Carolina	1,389	243
North Dakota	-	-
Ohio	248	6
Oklahoma	8	-
Oregon	651	175
Pennsylvania	483	104
Puerto Rico	2,272	42
Rhode Island	45	-
South Carolina	179	-
South Dakota	-	-

Tennessee	1,185	124
Texas	2,062	222
Utah	38	-
Vermont	-	-
Subtotal carried forward	<u>47,746</u>	<u>3,098</u>

**TREASURY FORFEITURE FUND**  
**Equitable Sharing Summarized by State and U.S. Territories**  
**For the Year Ended September 30, 2002**  
**(Dollars in Thousands)**  
**(Unaudited)**

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	<u>Currency Value</u>	<u>Property Value</u>
Subtotal brought forward	47,746	3,098
Virgin Islands	-	-
Virginia	450	73
Washington	627	118
West Virginia	7	-
Wisconsin	821	-
Wyoming	<u>228</u>	<u>-</u>
Totals	<u>49,879</u>	<u>3,289</u>

Summarized above are the currency and property values of assets forfeited and shared with state and local agencies and U.S. Territories participating in the seizure. This supplemental schedule is not a required part of the financial statement of the Department of the Treasury Forfeiture Fund. Information presented on this schedule represents assets physically transferred during the year and, therefore, does not agree with total assets shared with state and local agencies in the financial statements. In addition, the above numbers do not include the adjustment to present property distributed at net realizable value.

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**TREASURY FORFEITURE FUND**  
**Uncontested Seizures of Currency and Monetary Instruments Valued Over**  
**\$100,000, Taking More Than 120 Days from Seizure to Deposit in Fund**  
**For the Year Ended September 30, 2002**  
**(Dollars in Thousands)**

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**31 U.S.C. 9703(f)(2)(E) requires the Secretary of the Treasury to report annually to Congress uncontested seizures of currency or proceeds of monetary instruments over \$100,000, which were not deposited in the Department of the Treasury Forfeiture Fund within 120 days of the seizure date. There were no administrative seizures over \$100,000 over 120 days old for all bureaus in FY 2002.**

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**TREASURY FORFEITURE FUND**  
**Analysis of Revenue and Expenses and Distributions**  
**For the Year Ended September 30, 2002**  
**(Dollars in Thousands)**

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**Revenue, Expenses and Distributions by Asset Category:**

	<u>Revenue</u>	<u>Expenses and Distributions</u>
Vehicles	\$10,365	\$30,634
Vessels	2,879	39,032
Aircraft	2,879	12,574
General Property	9,213	123,888
Real Property	32,246	4,853
Currency and monetary instruments	<u>148,535</u>	<u>59,447</u>
	206,117	270,428
Less:		
Mortgages and claims	(5,761)	(5,761)
Refunds	(3,669)	(3,669)
Add:		
Excess of net revenues and financing sources over total program expenses	<u>    --</u>	<u>(64,311)</u>
<b>Total</b>	<u><b>\$196,687</b></u>	<u><b>\$196,687</b></u>

**Revenues, Transfers, Expenses and Distributions by Type of Disposition:**

Sales of property and forfeited currency and monetary instruments	113,938	51,381
Reimbursed storage costs	160	27,043
Assets shared with state and local agencies	75,923	75,923
Assets shared with other federal agencies	11,399	11,399
Assets shared with foreign countries	2,124	2,124
Victim Restitution	2,573	2,573
Destructions	--	32,451
Pending disposition	<u>    --</u>	<u>67,534</u>
	206,117	270,428
Less:		
Mortgages and claims	(5,761)	(5,761)
Refunds	(3,669)	(3,669)

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Add:

Excess of net revenues and financing sources over total program expenses		<u>(64,311)</u>
Total	<u>\$196,687</u>	<u>\$196,687</u>

The revenue amount of \$196,687 is from the Statement of Net Position. This supplemental schedule "Analysis of Revenues, Expenses and Distributions" is required under the Treasury Forfeiture Fund Act of 1992. Because the Fund does not have a cost accounting system, the method used does not provide reliable information in the analysis of revenue and expenses and distributions by type of disposition. The information is presented to comply with the requirements of the Treasury Forfeiture fund Act of 1992.

**TREASURY FORFEITURE FUND**  
**Information Required by 31 U.S.C. 9703(f)**  
**For the Year Ended September 30, 2002**  
**(Dollars in Thousands)**

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The Treasury Forfeiture Fund Act of 1992, 31 U.S.C. 9703(f), requires the Secretary of the Treasury to transmit to Congress, no later than February 1, of each year, certain information. The following summarizes the required information.

(1) A report on:

- (A) The estimated total value of property forfeited with respect to which funds were not deposited in the Department of the Treasury Forfeiture Fund during the preceding fiscal year under any law enforced or administered by the Department of the Treasury law enforcement organizations of the United States Coast Guard, in the case of fiscal years beginning after 1993.

As reported in the audited financial statements, at September 30, 2002, the Fund had forfeited property held for sale of \$33,094. The realized proceeds will be deposited in the Fund when the property is sold.

Upon seizure, currency and other monetary instruments not needed for evidence in judicial proceedings are deposited in a U.S. Customs Service (Customs) suspense account. Upon forfeiture, it is transferred to the Treasury Forfeiture Fund. At September 30, 2002, there was \$9,907 of forfeited currency and other monetary instruments that had not yet been transferred to the Fund. This is reported as a part of "Cash and Other Monetary Assets" in the audited financial statements.

- (B) The estimated total value of all such property transferred to any state or local law enforcement agency.

The estimated total value of all such property transferred to any state or local law enforcement bureau is summarized by state and U.S. territories. Total

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**currency transferred was \$50,168 and total property transferred was \$3,289 at appraised value.**

**(2) A report on:**

**(A) The balance of the Fund at the beginning of the preceding fiscal year.**

**The total net position of the Treasury Forfeiture Fund on September 30, 2001 which became the beginning balance for the Fund on October 1, 2002, as reported in the audited financial statements is \$237,340.**

**(B) Liens and mortgages paid and the amount of money shared with federal, state, local and foreign law enforcement bureaus during the preceding fiscal year.**

**Mortgages and claims expense, as reported in the audited financial statements, was \$5,761. The amount actually paid on a cash basis was not materially different.**

**TREASURY FORFEITURE FUND  
Information Required by 31 U.S.C. 9703(f)  
For the Year Ended September 30, 2002  
(Dollars in Thousands)**

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**The amount of forfeited currency and property shared with federal, and distributed to state, local and foreign law enforcement bureaus as reported in the audited financial statements was as follows:**

<b>State and local</b>	<b>\$75,923</b>
<b>Foreign countries</b>	
<b>2,124</b>	
<b>Other federal agencies</b>	
<b>11,399</b>	
<b>Victim restitution</b>	
<b>2,573</b>	

**(C) The net amount realized from the operations of the Fund during the preceding fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over into the current fiscal year.**

**The net cost of operations of the Fund as shown in the audited financial statements is \$116,389**

**The amount of seized currency not on deposit in the Fund's suspense account at September 30, 2002, was \$80,922. This amount includes some funds in the**

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process of being deposited at yearend; cash seized in August or September 2002, that is pending determination of its evidentiary value from the U.S. Attorney; and the currency seized for forfeiture being held as evidence.

On a budgetary basis, unobligated balances as originally reported on the Office of Management and Budget Reports, SF-133, "Report on Budget Execution" was approximately \$60,093 for Fiscal Year 2002.

- (D) Any defendant's property not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at \$1 million or more.

The total approximate value of such property for the Treasury Forfeiture Fund, at estimated values determined by bureau and contractor's officials, and the number of seizures is as follows:

U.S. Customs Service	\$194,937,914.67	45 seizures
IRS	126,271,936.85	43 seizures
U.S. Secret Service	1,000,000.00	1 seizure

- (E) The total dollar value of uncontested seizures of monetary instruments having a value of over \$100,000 which, or the proceeds of which, have not been deposited into the Fund within 120 days after the seizure, as of the end of the preceding fiscal year.

The total dollar value of such seizures is \$0. This is also documented on page 55.

**TREASURY FORFEITURE FUND**  
**Information Required by 31 U.S.C. 9703(f)**  
**For the Year Ended September 30, 2002**  
**(Dollars in Thousands)**

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- (F) The balance of the Fund at the end of the preceding fiscal year.

The total net position of the Fund at September 30, 2002, as reported in the audited financial statements is \$173,029.

- (G) The net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for Federal law enforcement related purposes.

There is no cap on amounts that can be carried forward into Fiscal Year 2003 per the Fiscal Year 1997 Omnibus Appropriations Act (PL 104-208).

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- (H) A complete set of audited financial statements prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990.

**The audited financial statements, including the Independent Auditor's Report, is found in Section II.**

- (I) An analysis of income and expense showing revenue received or lost: (i) by property category (such as general property, vehicles, vessels, aircraft, cash, and real property); and (ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with state and local agencies, and destruction).

**A separate schedule is presented on page 56.**

## **EXHIBIT II**

### **STATUS OF PRIOR YEAR FINDINGS**

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**1. THE GENERAL LEDGER DOES NOT CAPTURE ALL BALANCES AND TRANSACTIONS THAT COMPRISE THE FUND DURING THE YEAR.  
(Repeat Condition)**

**CONDITION**

The Asset Information Management System (AIMS) which is the general ledger system maintained by the U.S. Customs Service (Customs), processes, groups and summarizes transactions into account balances for the Fund. Currently, it is not interfaced with the seized property and forfeited assets tracking systems (asset tracking systems) used by the various law enforcement agencies participating in the Fund. As a result, accounts such as accounts receivable, liens and mortgages payable, forfeited property and deferred revenue, and seized currency and its offsetting liability are not recorded in the general ledger during the year. Instead, the Fund has implemented procedures to capture these balances only at year end.

**RECOMMENDATION**

We reaffirm our recommendations from previous financial statement audits, specifically:

In the absence of an integrated system, manually record all accounts subject to accrual, such as seized currency and its offsetting liability, and forfeited property and the related revenue and any applicable liability, on a regular basis in the Fund's general ledger.

Expedite the implementation of the FGL system, an integrated financial system that is capable of capturing all transactions related to the Fund's activities, in the general ledger.

**FY 2002 STATUS**

During FY 2002, the bureaus participating in the Fund were required to meet new reporting standards for monthly financial data. Although it is still necessary to manually adjust data reported by the Standard General Ledger for the non-integrated bureaus (IRS, Secret Service and ATF) in order to complete the Treasury Forfeiture Fund's monthly and annual financial statements, the manual adjustments are supported by data provided by the inventory and/or accounting systems of the Fund's participating bureaus.

The "Revised Implementation Guidance for the Federal Financial Management Improvement Act" (the Guidance) issued January 4, 2001, states, "Ideally, financial management systems should provide complete reliable, timely and useful financial management information efficiently and automatically. However, FFMIA compliance itself neither requires nor results in ideal or state-of-the-art system performance or system efficiency; nor does it require that systems be entirely automated."

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The Guidance further requires integrated financial management systems to provide interrelationships between the core financial system and feeder systems (whether automated or not). This is attainable through the existence of an audit trail from any summary data recorded in the core financial system to detailed source transactions maintained in feeder systems.

Given the above, this reportable condition is no longer applicable.

**2. TOTAL ASSET SPECIFIC EXPENSES ARE NOT RECORDED AND ACCOUNTED FOR BY THE FUND (Repeat Condition)**

**CONDITION**

Total asset specific expenses resulting from asset disposition activities are not recorded and accounted for by the Fund in the various seized property and forfeited assets tracking systems. The Fund's Property Custodian incurs costs on behalf of the Fund from the time of seizure until the asset is ultimately disposed. Currently, only holding costs and direct selling costs related to real property are captured in SEACATS at the line item level.

**RECOMMENDATION**

In view of the Fund's acknowledgement of this condition and SEACATS' inability to capture the required information we make the following recommendations:

- a. For all direct costs and common support costs not directly traceable to individual seizures, an allocation process needs to be developed and implemented. Indirect costs will have to be applied to the individual seizures. Direct and indirect costs will have to be added together to provide total costs per seizure.
- b. EOAF should vigorously pursue the enhancement of SEACATS system capabilities to record and report expenses at the asset level.

**FY 2002 STATUS**

During FY 2001, Fund management awarded a contract to an independent public accounting firm (IPA) for the review of the Property Contractor's accounting system and methodology for determining and distributing indirect costs at the asset level. This contract was for the review of costs associated with real property only. The IPA determined that the accounting system utilized by the Real Property Contractor is capable of capturing and reporting both direct and indirect costs, but a methodology for determining and distributing the indirect costs at the asset level had not been developed.

In regard to the inventory systems maintained by the bureaus participating in the Fund, two of the three inventory tracking systems currently captures cost data for seized and forfeited property. While indirect costs are not being recorded in the two systems that do capture cost data, SEACATS and FASTRAK, direct costs, such as advertising and liens, are being captured.

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