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TREASURY FORFEITURE FUND

***ANNUAL REPORT
FISCAL YEAR 1997***



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

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Office of the Under Secretary
(Enforcement)
Washington, DC

TO TREASURY LAW ENFORCEMENT:

The Treasury Forfeiture Fund has completed yet another year of fulfilling its promise. Besides covering the direct costs of seizing and forfeiting criminal properties, it has directed millions of dollars back into the support of the law enforcement operations. This annual report of the Fund shows how that task was accomplished both through the traditional presentation of Fund financial condition reporting and through a description of some of the cases and initiatives in which we have been involved.

The Treasury Fund well serves the interests of American citizens. By taking away ill-gotten proceeds, asset forfeiture helps restore some of the sense of fairness in lawful society that is disrupted by criminal activity. By then taking these resources and using them to strengthen law enforcement throughout the United States and overseas as well, the Fund accomplishes much of what otherwise would be left to the availability of limited taxpayer dollars.

The success that the Fund has realized is directly attributable to the conscientious efforts of Treasury law enforcement personnel. Whether it involves sensible and efficient management in seized property operation or decisions to apply powerful forfeiture authorities always in a manner that respects and safeguards the rights of affected persons, the women and men of Treasury law enforcement have commendably carried out their forfeiture programs responsibilities. Day in and day out, their work delivers on the significant promise of the Treasury Forfeiture Fund for all our citizens.

RAYMOND W. KELLY
Under Secretary (Enforcement)

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Chapter 1:

SAFEGUARDING INDIVIDUAL RIGHTS

The Department of the Treasury's Forfeiture Fund (the Fund) was established by the Treasury Postal Appropriations Act of 1992, also known as Public Law 102-393 and codified at 31 USC 9703. With its creation, all Treasury law enforcement organizations were consolidated under a single forfeiture fund program administered by the Treasury Department. Before the Treasury Fund came into being, the Bureau of Alcohol, Tobacco and Firearms, the Criminal Investigation Division of the Internal Revenue Service and the United States Secret Service were members of the Asset Forfeiture Fund of the Department of Justice. The U.S. Customs Service had its own forfeiture fund, into which deposits of all Customs and U.S. Coast Guard forfeitures were made. Today, the Treasury Forfeiture Fund is a department wide fund serving the forfeiture program needs of all Treasury enforcement bureaus.

The Treasury Forfeiture Fund now stands as the repository of all the non-tax forfeitures made pursuant to laws enforced or administered by the Department of the Treasury. It is a valuable resource for law enforcement in its continuing efforts to meet the challenges posed by criminal activity. Monies from the Treasury Forfeiture Fund assist and support American law enforcement at all levels of government. They are used to cover the direct expenses of seizures and forfeitures incurred by Treasury law enforcement agencies in their various operations. They are also used to more generally support aspects of Treasury's forfeiture program. The statutory authorities of the Fund that permit the sharing of forfeited assets with other law enforcement organizations that have assisted Treasury investigations have

carried the benefits of the Fund to numerous police agencies throughout the United States and internationally as well.

Asset forfeiture is a powerful law enforcement tool. It is capable of not only disrupting criminal organizations, but also of taking them apart and effectively putting them out of business. Although forfeiture authorities have been re-invigorated and expanded in the last two decades, the theory and practice of forfeiture is not new. In fact, in the United States, the ability to forfeit assets used in criminal activity has been an option available to the Customs Service since the late eighteenth century. The effectiveness of asset forfeiture, now as then, rests upon public confidence in its integrity. This is especially true of civil forfeitures; those conducted outside of the criminal courts. A discussion of some of the process safeguards in civil forfeiture as well as the related policies of the Treasury Forfeiture Fund will give a view of how the goal of safeguarding individual rights is being pursued.

Protecting Due Process in Civil Forfeitures

While civil forfeiture actions can be pursued either administratively by the seizing agency, or judicially in court, they always proceed against property and not persons. It is, however, readily apparent that property, by definition, cannot exist without someone, somewhere, having an ownership or other interest in it. Fairness demands that those persons having any interest in seized property be notified of the seizure and the intent to forfeit their interest in the property so that they may have an opportunity to come forward and be heard as to why they should

retain their interest in the property. Such notification begins a process designed to safeguard the rights of affected parties. The main points of this process include:

- **Personal Notice** - This is the most direct form of notice and occurs whenever the true owner or owners of the property are known, or if there is a valid lien against the property held by an individual or institution. In these circumstances, these persons must be extended personal notice of the seizure and intended proceedings by registered or certified mail.
- **Publication** - To be sure that anyone with an interest in the property is not overlooked, even if they are unknown to the seizing agency, personal notice is supplemented by publishing a notice of the specific seizure and pending proceedings in a newspaper of general circulation.
- **The Claim and Cost Bond** - Upon being notified of the seizure of the property, the interested person may choose to contest the forfeiture of the property by filing a claim and cost bond. This action stops the investigative agency from ruling on the forfeiture and requires that the matter be resolved in civil court. At this point, the action is referred to the U.S. Attorney. If an interested person cannot afford the cost bond, he or she may file an *in forma pauperis* petition to have the requirement of the cost bond waived and still move the matter into the judicial arena.
- **Petitions for Remission or Mitigation** - Filing a claim and cost bond is only one course of action available to the interested party. Alternatively, the party may acknowledge the validity of the seizure and file what is known as a petition for remission or mitigation. In this course of

action, the party is asking, in effect, that the property be pardoned. For a remission, the party must prove that they have an interest in the property and that they had no knowledge that the property would be used illegally. If the petition for remission is granted, the government will return the property or make a payment equal to the petitioner's interest in the property. A mitigation is a partial pardon and usually results in the government returning the property on the condition that the petitioner pay a penalty.

Whether civil forfeiture is accomplished administratively by an investigative agency or judicially in a court of law, it must always proceed through a very structured and delineated process; a process that comprehensively notifies affected parties, invites arguments against the intention to forfeit, accommodates the indigent and offers opportunities to achieve compromise resolutions.

Supportive Policy of the Treasury Forfeiture Fund

Since its establishment in 1992, Treasury's Executive Office for Asset Forfeiture has issued policies and directives designed to effectively and efficiently realize the purposes of the Fund as intended in its enabling legislation. Recognizing the critical linkage between meriting the public trust and the Fund's continued ability to benefit law enforcement, several of these directives have been aimed at safeguarding the integrity of the Fund and the rights of individuals affected by seizure and forfeiture actions.

- **Purchasing Forfeited Property** - Treasury Department employees and their immediate families are prohibited from purchasing property that has been forfeited to the United States and is being sold by

the department or its agents. This safeguard is designed to eliminate even the appearance of a conflict of interest between the law enforcement actions resulting in the forfeiture and the ultimate disposition of property.

- **Sixty Day Notice** - An integral part of due process in any forfeiture proceeding is that notice be given as soon as practicable to advise interested persons of the pending action and give them an opportunity to be heard. Congress has clearly intended that the government be expeditious in providing notice and in initiating forfeiture actions against seized property. This directive requires written notice from Treasury law enforcement to all interested parties in administrative forfeiture cases within sixty days of either seizure or of reasonably determining ownership or interest.
- **Pre-Seizure Judicial Review** - This directive requires that Treasury law enforcement agencies obtain appropriate judicial approval before the seizure of real property and underscores that, whenever practicable, Treasury officers should obtain *ex parte* judicial approval before the seizure of personal property. This safeguard ensures that, as much as possible, a neutral and detached judicial officer can review the basis for seizures before they occur.
- **Use of Property Under Seizure** - To avoid the appearance of impropriety, this directive, with few exceptions, forbids the use of property by department personnel for any reason until a final decree or court order of forfeiture is issued. It also extends this prohibition to making such property available for use by others.

Guidelines

In addition to its policy directives, Treasury's Executive Office for Asset Forfeiture has issued two publications to set out and explain prominent financial policies of the Fund. Both of these guides closely track counterpart volumes of the Department of Justice Asset Forfeiture Fund in order to ensure as much as possible that the federal forfeiture program has fair and consistent policies and procedures.

- **The Secretary of the Treasury's Guidelines for Seized and Forfeited Property** - Known as the 'Secretary's Guidelines', this document explains requirements for the retention and use of property forfeited by Treasury agencies; the transfer of forfeited property to other federal agencies, participating state and local agencies and foreign governments; and the appropriate uses of fund resources received by Treasury agencies. It is a seminal document of the Fund designed to inform the reader about the most prominent policies of the program.
- **The Guide to Equitable Sharing for Foreign Countries and Federal, State and Local Law Enforcement Agencies** - This document referred to as the 'Equitable Sharing Guide', is intended for use by state and local recipients of equitable shares from the Fund. It cites the statutory authority for sharing and describes the mechanics of the equitable sharing decision making process. The guidelines also describe the state and local responsibilities in accounting for the property and/or funds that are shared with them. Included is a discussion of compliance requirements that must be met before the state or local agency can receive a sharing payment from the Fund.

DETECTING CRIMINAL ACTIVITIES

In criminal justice administration, questions that often arise involve whether or not law enforcement actions have a deterrent effect and, if so, whether or not there is any possibility of measuring that effect. Although practitioners may dismiss this questioning as arcane and irrelevant, the essence of this issue has reappeared in the last several years to frame a number of public policy debates around the nation. Commentators, observing the experience of New York City, have attributed at least some of the decrease in crime rates to a conscious crackdown by police on nuisance crimes. Turnstile jumpers in subway stations, squeegee men on Canal Street, and graffiti expressionists throughout the mass transit system all have found a less tolerant environment in which to practice their avocations. The theory is that the resultant increasing sense of order and decreasing appearance of lawlessness has had some deterrent effect on even more serious crimes.

With the exception of crimes of passion and certain other ideologically motivated crimes, most criminal activity is motivated by a simple desire for profit. As such, it involves choice and, in this case, choice in the traditional economic sense of choosing to allocate limited or scarce resources among potential alternative employments. It involves consideration of costs and benefits and an assessment of risk. Asset forfeiture is partly designed to increase the risks associated with crime and in so doing serve as a deterrent.

The Department of the Treasury has exercised asset forfeiture in its law enforcement

operations since Alexander Hamilton served as the Department's first Secretary. The forfeiture rules and procedures first developed for Treasury's Customs Service have been models for much of the expansion of federal asset forfeiture during the last two decades. Does the existence of asset forfeiture affect the decision to commit or not commit a crime? Lacking empirical evidence, the answer, at best, can only be surmised. At the least, it raises the stakes far beyond the prospects of mere personal incarceration as a potential penalty. Asset forfeiture defines an environment less tolerant of crime, one that is willing to take away the instruments and proceeds of crime to regain some of the balance upset by the criminal action. Although a deterrent effect may be difficult to measure, it is not implausible.

During Fiscal Year 1997, asset forfeiture was used throughout the operations of all four Treasury law enforcement bureaus. From narcotics trafficking and money laundering to trade fraud and counterfeiting, Treasury law enforcement personnel pursued a wide variety of investigations and, as appropriate, applied asset forfeiture authorities. Some representative cases give a sense of how the use of forfeiture has sought to deter further criminal activity in various areas of Treasury investigative responsibility.

The Criminal Enterprise of Dr. Loftis

The Secret Service receives thousands of requests each year to investigate forgeries of government checks. In August of 1991, one of these requests involved a \$19,000 check from

the Resolution Trust Corporation, the agency entrusted with implementing the national savings and loan bailout. The initial investigation conducted by the Dallas field office indicated that a Dr. Dean Loftis was the forger, even though he had taken extensive measures to implicate his wife and thereby insulate himself from the crime.

Ruthlessness seemed to be quite a pattern for Dr. Loftis. Already a convicted felon for sending a mail bomb with intent to murder, information began to develop that he was attempting to hire a "hit man" to murder his wife, that he abused and battered both wives and girlfriends, and that he was engaged in the manufacture of dangerous and illegal drugs. Dr. Loftis also came under suspicion for the murder of a pharmaceutical company executive in Texarkana who had a pipe bomb placed under his vehicle, and for a hospital co-worker who had died of cyanide poisoning. Potential witnesses in the case were characteristically nervous, scared and intimidated.

As the day of the arrest approached, three raid teams were organized; one for Dr. Loftis' residence, one for his medical practice and one for a storage facility he used. The execution of the search warrants led to much in the way of incriminating evidence including recipes for methamphetamine, a secret room in his house with a cache of weapons, many of which were illegally modified and bore no serial numbers, volumes of fraudulent medical records and even bank records pertaining to the original check forgery. Dr. Loftis' house was seized as well as quantities of sophisticated surveillance and eavesdropping equipment found at his office and used to protect his criminal activities.

The case against Dr. Loftis was divided into three separate trials. He was convicted on all counts in the gun case and agreed to a plea in the fraud/forgery and drug cases. Dr. Loftis

agreed to the forfeiture of the seized electronic equipment and to the \$19,000 he received from the forged check that he used to pay off the mortgage on his house. He received consecutive sentences that totaled thirty-seven and a half years. Dr. Loftis will be in his eighties before his earliest possible release from prison.

Clean Air Act Enforcement

The Treasury Department's Customs Service along with the Criminal Investigation Division of the Internal Revenue Service joined forces with the Environmental Protection Agency (EPA) to unmask a smuggling operation that had brought over 4,000 tons of the ozone depleting refrigerant gas, freon, into the United States from 1993 to 1995. The importation of freon, alternatively known as CFC-12 or dichlorodifluoromethane gas, is strictly regulated by the EPA as a result of the Clean Air Act. Under an international agreement known as the Montreal Protocols, the United States has pledged to take effective measures to reduce the production and consumption of such ozone depleting chemicals. To do this, Congress has imposed significant taxes on their sale and use and has charged the EPA with overseeing consumption allowances designed to reduce, each year, the amounts that can be manufactured and imported for use in the United States.

On June 2, 1997, three individuals and their corporation, Refrigeration USA, entered guilty pleas in Miami to charges of smuggling and associated money laundering. The defendants purchased freon from a variety of sources in Europe and paid for it through fictitiously named accounts in Switzerland and the Channel Islands. They then used nominee corporations and bank accounts in the Turks and Caicos Islands to conceal further their activities and impede Internal Revenue Service collection of

excise taxes on domestic sales.

As part of the plea agreement, the individuals and the corporation agreed to forfeit almost \$5 million held in the off-shore accounts, real properties in Miami and London worth over \$3 million and 11,200 thirty pound cylinders of freon gas valued at \$6.7 million. The United States Attorney for the Southern District of Florida, in commending the investigation leading to the guilty pleas, noted that this was the largest forfeiture of assets yet achieved in an environmental crimes case.

Forfeiting the Bribes Paid by Drug Traffickers

The Galleria district of Houston exudes wealth. From boutique shopping to tree-lined avenues, it is a section of the city quite comfortable with money. As such, it was not particularly unusual when, in December of 1993, a prominent Mexican government official appeared at the Texas Commerce Bank there to open a personal account with \$40,000 in cash.

The new account holder was Mario Ruiz-Massieu who at the time was the Deputy Attorney General of Mexico and that nation's top drug prosecutor. Over the course of the next thirteen months, the balance in Massieu's account grew substantially. Massive cash deposits were routinely made by an aide often in the form of rubber banded bundles of twenty dollar bills. Although the activity was unusual, appropriate reporting documents were filed both upon entry into the country at the border and by the bank at the time of the deposits.

Meanwhile, other events in Mexico were unfolding that were to have a bearing on this case. In August of 1994, a commander of the Mexican federal police took delivery of several tons of cocaine unloaded from a converted passenger jet that landed near the northern town

of Sombrerete. Ruiz-Massieu supervised the investigation of this incident but found no wrongdoing. A month later, his brother, a high ranking official in the ruling Institutional Revolutionary Party, was assassinated and shortly thereafter, incoming President Ernesto Zedillo asked Ruiz-Massieu to conduct an investigation of the murder. After only two months, Ruiz-Massieu quit that investigation and was on his way to Spain via Newark International Airport when U.S. Customs agents arrested him on charges of failing to fully declare the cash he was taking out of the United States.

After the arrest, Ruiz-Massieu's assets in the Houston bank account were frozen, having by then grown to an amount in excess of \$9 million. During the course of the civil asset forfeiture trial that followed, Ruiz-Massieu and his family maintained that all those cash deposits came from his family's fortune as well as generous government bonuses for his work. The U.S. prosecutors maintained that the money was derived from drug corruption and the jury delivered a verdict in March of 1997 that supported that contention, forfeiting the money to the U.S. Government and its Treasury Forfeiture Fund.

The three Customs Service special agents who led the forfeiture investigation of Ruiz-Massieu and his bribe derived assets, received special recognition from Janet Reno, the Attorney General of the United States, in September of 1997 when she personally presented them with the prestigious Excellence in Asset Forfeiture Award from the Department of Justice.

Pacific Rim Tax Fraud Case Also Yields Forfeiture Fund Payment

Sunrider International, a health food company based in Torrance, California, had an element of the Horatio Alger story in its history. Tei Fu

Chen and his wife were Taiwan natives who became American citizens, and from selling herbal remedies out of the back of their car built up a formidable and lucrative international conglomerate with sales of over \$700 million. By 1995, they had been indicted on numerous tax and customs fraud charges.

The Customs Service had earlier begun the investigation when the Chens had filed a statement saying that they had undervalued their imports of raw materials by hundreds of millions of dollars. This was actually part of a ruse involving shell companies set up in Hong Kong in which the costs of imported raw materials were inflated up to 900 percent to help Sunrider avoid paying much higher amounts in federal taxes. Additionally, Chen was accused of greatly undervaluing other items and of smuggling artifacts. In 1997, the Chens paid \$93 million to the U.S. Government to settle one of the largest tax evasion cases ever filed. In addition, Mr. Chen made a \$4 million payment in lieu of forfeiture to the Customs to regain some of the artifacts he had brought into the country without paying duty.

Drug Diversion in Newark, New Jersey

There are numerous drugs approved for use in the United States that when prescribed by a physician and administered under his or her care and supervision are perfectly legal. It is only when these substances are diverted from this controlled distribution and structure does the element of criminality enter the picture. In December 1994, the Federal Bureau of Investigation and the Office of Criminal Investigation of the Food and Drug Administration began a general investigation of street level drug diverters working out of Newark, New Jersey after having been advised by New Jersey Medicaid officials of a scheme by pharmacies and individuals in the area to defraud the government.

Within six months of the start of the initial investigative effort, the Criminal Investigation Division of the Internal Revenue Service was looking at financial information on specific pharmacies that were targets of the probe. It seems that street level drug diverters were fraudulently buying and selling drugs to and from the pharmacies undergoing IRS scrutiny. The U.S. Attorney's Office for New Jersey quickly merged the parallel investigations. By 1997, this merger paid significant dividends in that numerous seizures of bank accounts and property were made based upon violations of several federal statutes including the Prescription Drug Marketing Act, and involving Medicaid fraud, mail and wire fraud and money laundering. In all, over \$5 million in assets were seized as one large scale drug diversion enterprise ground to a halt.

A Criminal Undertaking

In a case calling to mind Evelyn Waugh's famous 1940s novel, *The Loved One*, criminal investigators from the Internal Revenue Service uncovered a money laundering operation that utilized a prominent Dallas area funeral home to launder the proceeds from cocaine trafficking. The business had been a prominent part of the community for generations but a recent owner apparently found the lure of profits to be made from laundering drug monies to be overwhelming. The owner and two women accomplices were convicted in 1995 on charges that they laundered almost \$5 million for a Texas cocaine dealer back in 1989. They forfeited \$3.9 million in substitute assets that consisted mostly of funeral homes and cemeteries belonging to the business. After sorting out community property considerations and outstanding liabilities against some of the assets, the Fund received a deposit of approximately \$2 million in net proceeds from the sale of the substitute assets in the first quarter of FY 1997.

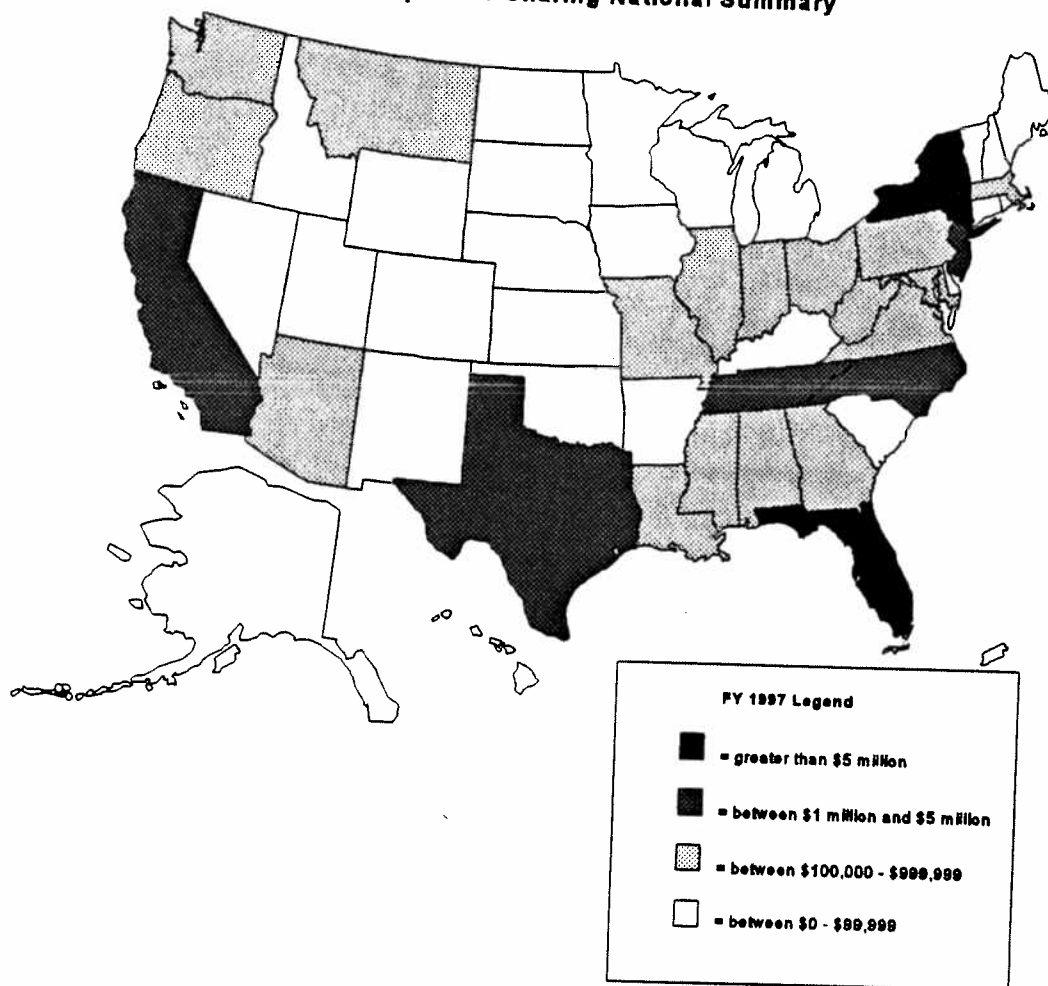
Chapter 3:

FOSTERING LAW ENFORCEMENT COOPERATION

The grainy black and white images from the 1950s newsreel persist. New, massive and expensive American-built automobiles are parked outside of the hilltop mansion of a Joseph Barbara in rustic, upstate Appalachian, New York. It was the afternoon of November 14, 1957, and inside the residence was an unprecedented convocation of representatives of America's organized crime families. The

meeting took place less than a month after the assassination of Albert Anastasia while he sat in a barber's chair in New York City's Park-Sheraton Hotel. On leaving, participants told New York State Police that the gathering had been nothing more than simply friends visiting a friend.

FY 97 Equitable Sharing National Summary



Forty years later, the meetings continue but the revenue and participants have changed. Today, sources are quoted in news accounts describing meetings between Russian organized crime figures and Italian mafia contacts, between South American drug cartel leaders and post-Soviet underworld bosses from Eastern Europe, between representatives of Japan's Yakusa and other criminal elements operating on the Pacific Rim. The combinations, both potential and actual, are many and varied: political terrorists, drug and illegal arms traffickers, financial criminals and money launderers. All share a common realization that has existed for years on that side of the social divide that opposes law enforcement. When interests coincide, cooperation can be useful, beneficial and rewarding.

The Comprehensive Crime Control Act of 1984 gave a tremendous boost to promoting cooperation on the other side of that same divide. This Act set up the basic structure of the federal forfeiture funds that we have today, and in so doing allowed federally forfeited proceeds to be equitably shared with state and local law enforcement organizations that assisted federal investigations leading to forfeiture. In time, this sharing authority of the forfeiture funds was extended to foreign governments whose authorities provided similar assistance.

Today, one of the largest single categories of disbursements from the Treasury Forfeiture Fund involves the payment of equitable shares to assisting police agencies. The Fund, however, also has some other disbursement authorities that foster cooperation with state and local law enforcement personnel. When they are conducting operations with Treasury law enforcement, the Fund can help reimburse the state and local police officers' overtime costs. The Fund is also authorized to help pay some of the expenses of equipping another agency's

vehicles, vessels and aircraft when they are used in joint operations with Treasury enforcement bureaus.

The value of law enforcement cooperation and the key role that equitable sharing of forfeited assets plays in promoting it, is increasingly recognized by state, local and foreign governments as they enact authorities to share from their own forfeitures to the federal forfeiture funds whose agencies have assisted in the local forfeiture. The Fund, therefore, is also the recipient of this multi directional asset sharing, receiving monies not only from the forfeitures of the Department of Justice and other federal agencies but also from a growing number of state, local and foreign authorities who have been helped by Treasury agents in their investigations.

Cooperation among law enforcement agencies stretches limited resources, allows specialized expertise to be brought to bear as needed and provides a more effective response to criminal organizations that are no longer confined within county lines, national borders or even continents. The Fund continued, throughout FY 1997, to do its part to support this vital cooperation nationally and overseas.

Crewing for the Cartel

Retailed on the streets of New York, the cocaine would have had a value of over \$30 million. The problem for the cartel was to get it from the growing fields to the market and, when dealing in contraband, this can become a complex distribution challenge. Fortunately for law enforcement, the delivery option contracted for in this instance turned out to be not in the best interests of the traffickers.

Jesus Orlando Balza was ostensibly a sales representative for an export-import company doing business in South Florida. In February of

1996, he and two colleagues met with an individual in Mobile, Alabama, to discuss a pending importation that was to be outside of the normal channels of international trade. The cargo, approximately 325 kilograms of cocaine, was to be delivered to a point 200 miles north of the Colombian coast, where the Mobile contact would load it onto a vessel and take it the rest of the way to the Alabama port city. The original agreement was for \$30,000 to be delivered up-front for expenses, with another \$120,000 to be paid upon delivery in Mobile and a final \$1 million to be paid after the cocaine was distributed to associates in the United States.

During the last week of March, the Mobile contact met with a 40-foot fishing vessel at the pre-determined point and accepted the cache of cocaine. After a brief layover in the Cayman Islands, caused by inclement weather, heavy seas and ongoing negotiations with the drug traffickers, the vessel arrived back in Mobile on April Fools Day -- somehow appropriate since the Mobile contact, the vessel and crew were all part of a Customs undercover operation. Within the next three weeks, various individuals who arrived in Alabama to accept delivery were arrested along with some compatriots in Miami. All but one, who fled while on bond, were convicted or pled guilty.

Approximately \$65,000 in cash was forfeited and equitable shares were made to the many law enforcement agencies whose assistance contributed to the success of this delicate undercover operation. These included the Cayman Islands Drug Task Force, the Drug Enforcement Administration, the Mobile Police Department and Airport Police, and the police departments of Prichard, Daphne and Bayou La Batre.

Tribal Police Lend a Hand in Montana

While 1997 saw a national debate regarding a settlement with the cigarette industry over the health effects of smoking, a more operational issue for Treasury's Bureau of Alcohol, Tobacco and Firearms (ATF) involving the smuggling of cigarettes on a northwestern Indian reservation resulted in a sizable forfeiture to the Fund and the subsequent sharing of assets.

Dorothy and Larry Clinkenbeard had a ranch in Arlee, Montana, that was within the boundaries of the Flathead Indian Reservation. On the ranch, they would take delivery of huge quantities of cigarettes from a licensed wholesaler in Missoula. As telephone and fax orders would come in from the owners and managers of smoke shops on the Puyallup Reservation in the Western District of Washington, the Clinkenbeards would dutifully load the cigarettes into smuggling vehicles designed to look like mobile campers and drive to rendezvous points in Idaho and Washington where smoke shop representatives would pick up the orders in similar looking vehicles and continue to their point-of-sale destinations. Smoke shop representatives from the Colville and Spokane reservations in the Eastern district of Washington would simply drive to the Clinkenbeard's ranch and load their specially designed horse trailers, pickups and vans for the trip back to their stores. This illegal distribution ring was set up to circumvent the Washington State cigarette allocation program as well as the thirty-four percent per pack tax.

This smuggling operation began in 1983 and at its height the wholesaler in Missoula was selling \$13 million worth of cigarettes per year to the Clinkenbeards. The Flathead Tribal Police of the Confederated Salish and Kootenai Tribes had originally contacted ATF about the violations that eventually led to forfeitures

valued at more than \$2.7 million. Six persons were arrested and convicted on hundreds of counts in this case including racketeering, money laundering, contraband cigarette trafficking and conspiracy violations. For their information and help in conducting the investigation, an equitable share for the Tribal Police was approved in 1997. Also assisting with the case and receiving a share from the net proceeds of the forfeited assets was the Montana Department of Justice Narcotics Investigation Bureau.

Long Island Information Leads to Miami Currency Seizures

Port Washington is a well-heeled residential community situated on a cove of Long Island's North Shore, with some of its estates reminiscent of the homes portrayed in F. Scott Fitzgerald's classic tale of the 1920s, *The Great Gatsby*. Seventy years after that story first appeared, while Port Washington detectives were searching the residence of a money launderer, they chanced upon a business card for a firm in Miami that led to two Customs administrative forfeitures totaling over \$15 million.

The card was for a South Florida freight forwarder doing business as Universal American Cargo. In August of 1996, Customs agents arrived at Universal American Cargo in Miami and, with the help of the Forensic Imaging Bureau of the Dade County Medical Examiner, photographed electronic and other cargo documenting how these items had been gutted to conceal undeclared outbound currency. Approximately, \$6.3 million was seized on the spot.

Meanwhile, during that same month, information was developed that a container shipped from Universal American Cargo and hiding another \$9.2 million in cash, was on a

vessel bound for Cartagena, Columbia. Upon the request of the Government of the United States, the suspect container was not unloaded in Colombia but instead returned with the vessel to Miami, where this currency was discovered and seized. In FY 1997, the Customs' recommendation to share from the net forfeited proceeds in this case was approved. Equitable shares were paid to the Drug Enforcement Administration, the police departments of Metro-Dade, the City of Miami and Port Washington as well as to the Dade County Medical Examiner.

Shared Real Property Trains West Virginia's Police

Jerry Wandling likely had come to believe that he was living in "almost heaven." For many years he had been the largest marijuana dealer in southern West Virginia and despite attempts by several law enforcement agencies since 1989, none had been able to successfully conclude their investigations of his activities. That track record changed in 1995 when the West Virginia State Police Bureau of Criminal Investigation enlisted the aid of the Internal Revenue Service in pursuing Wandling and his previously impervious operation.

Working together, IRS and state police investigators soon found the weak link in Wandling's marijuana empire, his wife, who provided enough evidence to establish probable cause for the issuance of search warrants on his residence. That evidence showed that Wandling had accumulated hundreds of thousands of dollars of assets while at the same time showing minimal income on his tax returns. Once the initial crack in the organization was identified, progress came rapidly. On one day alone, ten agents and officers interviewed thirty of Wandling's associates over a fourteen hour span and came

away with even more incriminating evidence regarding the illegal enterprise.

Not unexpectedly, when confronted with the results of the investigation, Wandling agreed to plead guilty to filing false tax returns, money laundering, and the cultivation and distribution of marijuana. Additionally, he agreed to forfeit property and cash totaling over \$200,000. One piece of property forfeited was Wandling's 147 acre farm in Mason County, West Virginia. In FY 1997, approval was given by the Department of the Treasury to transfer title to that property to the West Virginia State Police as an equitable share recognizing their contributions to the overall investigation leading to forfeiture. The state police will use the land to construct an emergency vehicle driver training facility to train federal, state, county and municipal law enforcement personnel in the area.

STRENGTHENING LAW ENFORCEMENT

Federal forfeiture funds support and strengthen law enforcement in several interrelated ways. In doing this they realize a principal Congressional intent that lay behind their original enabling legislation as embodied in the Comprehensive Crime Control Act of 1984. Before then, certain forfeiture authorities existed but without the supporting mechanisms of the forfeiture funds and even in that early circumstance they assisted law enforcement by allowing for the dismantling of criminal organizations by removing their assets, something that incarceration by itself was often incapable of doing. In the years since 1984, forfeiture authorities have been expanded and, contemporaneously, forfeiture funds have been established and refined.

Today, the funds bolster law enforcement on several distinct levels. Primarily, they pay for most of the costs of the seizure and forfeiture program. What is known as the non-discretionary side of the Treasury Forfeiture Fund is made up of a permanent and indefinite appropriation of the receipts of the Fund and is used to pay the expenses associated with specific seizures and forfeitures. The discretionary side of the Fund consists of a specific annual appropriation from Congress, again from the receipts of the Fund, and is used to pay expenses more generally supportive of the Department of the Treasury's seizure and forfeiture program. Amounts in the Fund that are derived from shares that are received as a result of participation in Justice seizures (reverse asset sharing) and surplus amounts that remain after all non-discretionary and discretionary obligations have been met, are two other categories of Fund resources that can

be used to strengthen Treasury and other federal law enforcement.

The overall effect of these payment authorities of the Fund is a stronger law enforcement presence, more capable of meeting the challenges posed by increasingly sophisticated and globalized criminal organizations. First, by paying for the costs of seizures and forfeitures from the proceeds of crime, the salary and expense appropriations of Treasury enforcement bureaus, derived from tax receipts, are able to go much further in support of each bureau's fundamental mission. Second, the significant disbursements from the Fund each year for equitable sharing payments to assisting state and local law enforcement agencies must be used by the recipients for law enforcement purposes. Finally, the amounts available in the Fund from reverse asset sharing and year end surpluses must be used to support either Treasury or other federal law enforcement.

The deposit of the value of a forfeiture in the Fund creates a ripple effect that strengthens and empowers law enforcement not only within the Department of the Treasury but throughout the federal, state and local levels of government and even at times extending internationally as well. Some specific examples from FY 1997 of how the Fund is assisting and expanding enforcement capabilities will provide a picture of how this goal is being pursued.

Computer Investigative Specialists

When Eliot Ness and his fellow Treasury agents were pursuing some of America's most notorious criminals during the 1920s, his office

support equipment would have consisted mostly of gun metal gray filing cabinets, an upright telephone in any color desired as long as it was black, and a massive Underwood typewriter covering most of the desktop. Today, Treasury agents work in an environment that enjoys the benefits provided by fiber optics, wireless communications, digital imaging, faxes, modems, the Internet, and, thanks to advances in microprocessing, more and more computing power in increasingly convenient packaging. Unfortunately, most of these technological innovations are also available to and being used by criminal elements. In FY 1997, the Fund began to provide resources for Computer Investigative Specialist (CIS 2000), a planned four year effort that is aimed at developing a cadre of computer investigative specialists who will be able to recover computer evidence needed for the successful investigation and prosecution of cases.

CIS 2000 builds upon and expands an already existing IRS sponsored computer laboratory and classroom at Treasury's Federal Law Enforcement Training Center in Brunswick, Georgia. Since 1995, that effort has trained law enforcement personnel as computer evidence recovery specialists, provided for their continuing professional development and introduced computer evidence recovery into the international financial fraud training program. Beginning in FY 1997, the CIS 2000 initiative aims to train and equip approximately 400 computer investigative specialists from among special agents in all four Treasury law enforcement bureaus. CIS 2000 will draw upon the Fund to provide the resources for prerequisite, basic, advanced and Internet training, additional hardware and software for the CIS agents, improvements in the classroom technology and installation of a communications center and intranet site linking all Treasury CIS personnel.

In FY 1997, almost \$3 million was allocated to the CIS 2000 initiative. These monies were provided from the Secretary's Enforcement Fund portion of the Treasury Forfeiture Fund.

A Customs Attaché for Pretoria

When he addressed the second session of his nation's new parliament in February of 1995, South African President Nelson Mandela spoke with force and determination:

"The situation cannot be tolerated in which our country continues to be engulfed by a crime wave which includes murder, crimes against women and children, drug trafficking, armed robbery, fraud and theft. We will take the war to the criminals..."

It was not long afterward that the Fund was able to lend some tangible support to South African law enforcement and the pivotal role it plays in ensuring the success of the post-apartheid government. In both FY 1995 and FY 1996, the Fund was able to underwrite, from its discretionary payment authorities, training for South Africa's National Police Service by Treasury enforcement bureau personnel. Both these sessions were conducted in South Africa and both revealed a consensus among the participants regarding the need for a more structured and permanent relationship.

That need was translated into a proposal which became a reality in FY 1997 with the establishment of a Customs Service attaché office in Pretoria. The Fund during this fiscal year contributed over \$600,000 to cover start-up costs for this office. By year's end, dividends for both nations were already being realized. The Customs attaché, working with South African counterparts in the Border Police, the commercial and serious crimes sections of the Police Service, South Africa's Revenue Service as well as its Customs and Excise Service, was

fielding numerous investigative collateral requests and requests for training in everything from basic investigative techniques to how South Africa might best implement its Proceeds of Crime Act and a proposed money laundering law.

Four Camden Properties

It has been many years since the prized and plentiful jobs at places like RCA and the Campbell Soup Company provided the engine that powered the thriving economy of the industrial city of Camden, New Jersey. Like many other similar cities in the Midwest and northeast, Camden suffered a decline in the last several decades. It lost jobs and population and to many became a pass through on the way from suburban homes to work and other activities just across the Delaware River in Philadelphia.

The city and people of Camden have admirably fought back from economic decline and the spread of street crime that often accompanies it. In the first quarter of FY 1997, the Criminal Investigation Division of the Internal Revenue Service was able to share four forfeited real properties with the Camden Police Department, which put them to productive community use.

The properties had been forfeited as a result of an investigation of the Holland drug organization. Walter Holland had become a local folk anti-hero to vulnerable youngsters in Camden and Philadelphia thanks to his marijuana trafficking business. Holland and a longtime family friend and officer in a real estate agency, Evelyn Moody, invested millions of dollars of drug proceeds in real estate and expensive automobiles. Moody would locate the properties and Holland provided the cash for the purchases. Thanks to a tireless three year joint investigation by IRS and the Camden Police Department, both Holland and Moody

pled guilty to conspiracy and currency structuring charges. Moody provided key testimony regarding the banking and real estate transactions of the organization.

Two of the four forfeited properties are being retained by the city police for use as satellite station houses and represent an equitable share for their contributions to the investigation. The other two properties are being transferred to a city agency and a community service group under the federal Weed and Seed program to help accomplish the goal of ridding neighborhoods of crimes and fostering their economic development.

PROGRAM PERFORMANCE AND FINANCIAL HIGHLIGHTS

As the third year in which the Fund has had performance indicators in place, results from FY 1997 allowed for comparison with results from FY 1996 as a means of monitoring forfeiture program operations. For FY 1997, the performance measures selected for monitoring were: (1) processing time for equitable sharing payments with a target time frame of 9.3 months; (2) time between forfeiture of real property and disposal through sale with a target time frame of 7.7 months; and (3) timely processing of the administrative seizure inventory with a target time frame of 68 percent processed in a timely fashion. Among these three performance measures, improvement was noted in the processing time of equitable sharing payments. The other performance measures showed an increase in the time required to dispose of real property after forfeiture and a deterioration in the percent of administrative cases processed timely. The tracking of this information and the availability of comparison data are of significant benefit to management of the Fund.

Processing Time for Equitable Sharing Payments

Equitable sharing of Fund revenue continues to be one of the most visible operations of the Treasury Forfeiture Program. State and local law enforcement agencies derive a valuable benefit from equitable sharing proceeds which assist them in ongoing operations to combat drug trafficking and violent crime. The average time to make an equitable sharing payment

decreased from 10 months in FY 1996 to **9.4 months** in FY 1997. The equitable share payment process was achieved in an average of 8.5 months for currency forfeitures and 12.9 months for noncurrency forfeitures, for a combined average of 9.4 months for all forfeitures. The improved processing times reflect quality control assurances implemented by the Department's Executive Office for Asset Forfeiture to ensure that all such payments are consistent with Departmental policy. This is a credit to the law enforcement bureaus that process the associated paperwork nationwide, accomplishing the targeted goal while processing over 2,100 such equitable sharing payments to state and local law enforcement agencies nationwide.

The Average Time Between Forfeiture and Disposal of Real Property

During FY 1997, the average time between forfeiture and disposal of real property was **10.8 months**, a deterioration from FY 1996's disposal period of 7.8 months. The target range for this measure was 7.8 months. Information about hard-to-dispose-of-properties in the FY 1997 inventory base targeted for sale during the year caused management to revise expectations to an anticipated performance of 10 months. The program did not achieve the revised goal, but did dispose of several "problem" properties, which should contribute to improved statistics in future years. The disposal of real property is one of the more complicated activities associated with the forfeiture program. The existence of liens, taxes, mortgages and other

encumbrances can complicate the closing of a real property sale. Through close coordination with the seized property contractor, the seizing agency and the U.S. Attorneys, Fund management continues to work to ensure that properties are disposed of in a timely manner.

Age of Administrative Seizure Inventory

Administrative forfeitures are those in which an asset is forfeited without judicial involvement. To ensure that the due process rights of citizens are protected and that revenue is collected in a timely manner, a goal of the forfeiture program is to process administrative cases quickly. A by-product of this management initiative is a more efficient equitable sharing process which serves to reinforce the working relationship between federal, and state and local law enforcement. Fund management established 9 months for the U.S. Customs Service (Customs) and 6 months for all other enforcement bureaus as a reasonable period to process administrative seizure cases.

The timely processing of administrative cases within the prescribed times decreased from 65 percent in FY 1996 to **56 percent** in FY 1997. Of the cases remaining outside the standard, nearly 60 percent were ATF cases, principally associated with illegal weapons. Most of ATF's cases are tied to firearms forfeitures and specific statutes require that the criminal proceedings be resolved before the administrative seizure can be closed. This results in a noticeably longer administrative processing procedure for ATF. When ATF is factored out, the Fund achieved a timeliness rate of **74 percent** for processing administrative cases, down from 85 percent in FY 1996, though consistent with long range targets for the performance measure. The majority of administrative forfeitures are executed by Customs. However, estimates were used by

Customs in the current year to support performance data for this measure. An itemization of over-age cases was not provided by Customs as required by EOAF Directive #26 dated March 1, 1995 'Timely Processing of Administrative and Civil Judicial Forfeiture Cases.'

Financial Highlights

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, 1997. 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, the reader is advised that direct comparisons are not possible between figures found in this report and similar financial figures found in the FY 1999 and FY 1998 *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.

Revenues and Financing Sources

A comparison of revenues and financing sources (in millions) for the past two fiscal years is shown in the table below:

Revenues and Financing Sources (\$ millions) (continued)		
	1997	1996
Forfeited Currency and Monetary Instruments	\$ 203	\$ 120
Forfeited property	25	32
Payments in lieu of forfeiture	7	3
Reimbursed costs	2	2
Proceeds from participation with other Federal agencies	11	9
Interest	14	9
Other miscellaneous	<u>1</u>	<u>1</u>
Total	<u>\$ 263</u>	<u>\$ 176</u>

Currency and Monetary Instruments

The Fund's primary source of revenue is forfeited currency and monetary instruments. For FY 1997 revenue from forfeited currency and monetary instruments totaled \$203 million, or 77 percent of total revenues, versus \$120 million, or 68 percent, in FY 1996. The increase in forfeited currency is largely due to a currency forfeiture in the Bulldog medical case of over \$32 million as well as a slight upswing in general currency forfeitures during fiscal year 1997.

Forfeited Property

The revenue from forfeited property, net of mortgages, was \$25 million in FY 1997 and \$32 million in FY 1996.

Payments in Lieu of Forfeiture

After property is seized for forfeiture, the government may enter into negotiations with the violator for a cash payment to settle the pending case instead of proceeding with the formal forfeiture process. Such payments in lieu of forfeiture totaled \$7 million in FY 1997, an increase of \$4 million over FY 1996.

Interest

The Fund is authorized to invest cash balances in certain special Treasury securities. On September 30, 1997, investments totaled \$407 million. This included \$261 million invested from balances of the Fund and \$146 million invested from seized balances not yet forfeited. Interest income earned on these investments totaled \$14 million, an increase of \$5 million over FY 1996.

Allocation of Revenues

A comparison of allocation of revenues for the past two fiscal years is shown in the table that follows.

Allocation of Revenues (\$ millions)		
	1997	1996
State and local	\$ 42	\$ 48
Foreign countries	*	*
Other federal agencies	6	7
Victim restitution	33	3
Total	<u>\$ 81</u>	<u>\$ 58</u>

* Less than \$500,000

The total revenues allocated from the Fund increased to \$82 million in FY 1997. Most of this increase is attributable to about \$32 million

recovered and available to distribute as restitution in the U.S. v. Contents of Accounts at Compass Bank, Tuscaloosa, Alabama, et al matter, also referred to as "U.S. v. Bulldog Medical." The Bulldog Medical case was a culmination of a three year investigation initiated by the Department of Health and Human Services, Office of the Inspector General, into the alleged false billing practices of a Kissimmee Florida company, Bulldog Medical. The HHS OIG contacted IRS to request their assistance in evaluating potential money laundering violations. The investigation revealed that substantial wealth had been accumulated from the alleged payment of fraudulent Medicare claims. In 1996, the defendant was charged with mail fraud, interstate transportation, money laundering, witness tampering, conspiracy, aiding and abetting, and criminal forfeiture. In October 1996, pursuant to a plea agreement, the defendant pled guilty to conspiracy to defraud Medicare of over \$70 million and mail fraud and agreed to forfeit the \$32 million previously seized. The defendant was sentenced to 10 years in prison without the possibility of parole, and ordered to pay \$4.1 million additional restitution above the \$32 million forfeited. After expenses and other adjustments consistent with the judicial order, substantial funds will be forwarded to the Medicare entitlement account of the U.S. Government as restitution.

Program Expenses

After allocation of revenues, the remaining net revenues support the law enforcement activities of the Fund and pay for the storage of seized and forfeited property and sales associated with the disposition of forfeited property. Program expenses decreased \$31.3 million from the FY 1996 level, or about 27 percent. This is largely due to a 1997 Super Surplus allocation proposal held in abeyance by Congress pending a

comparison of the proposal with the FY 1998 enacted appropriation. In addition, a large discretionary expense item for which funds were obligated in FY 1997 will not be delivered until a subsequent year, resulting in a reduction in expenses for FY 1997.

Program Expenses (\$ millions)		
	1997	1996
Non-discretionary		
Seizure investigative costs and asset management	\$ 29	\$ 36
Seized property national contract services	26	26
Other asset related contract services	1	1
Awards to informer (moiety payment)	1	3
Other	16	11
Super Surplus	1	14
Secretary's Enforcement Fund	6	13
Discretionary		
Awards for information or assistance	*	*
Purchase of evidence or information	1	2
Federal law enforcement conveyance	2	9
Other	1	1
Total	\$ 84	**\$115
* Less than \$500,000 ** Column does not foot due to rounding of amounts.		

Property Contractor

The single largest program expense of the Fund is for the storage, maintenance and disposal of real and personal property. This function is performed by EG&G Dynatrend, a private firm under contract to Customs. EG&G provides coverage for Treasury's forfeiture program through a nationwide system of 17 warehouse facilities with a capacity in excess of 470,000 square feet, as well as supplemental facilities provided by over 200 active vendors under contract to EG&G. In FY 1997 EG&G expenses were approximately \$26 million, about the same as FY 1996.

Super Surplus and the Secretary's Enforcement Fund

Super Surplus expenses totaled less than \$1 million in FY 1997. The Super Surplus is one of the Fund's permanent spending authorities, authorized under 31 U.S.C. § 9703(g)(4)(B). At the end of each fiscal year, after reserving the Fund's authorized retained capital, one-half of the remaining Funds are declared as the Super Surplus available to the Secretary of the Treasury for any federal law enforcement activity. As referenced previously, a proposed allocation of Super Surplus funds for FY 1997 totaling \$14.4 million was not released by Congress in time for FY 1997 expenses, but is expected to be expensed in FY 1998.

Expenses of the Secretary's Enforcement Fund (SEF) totaled \$6 million in FY 1997, a decrease of \$7 million from FY 1996. As with the Super Surplus, the SEF is another one of the Fund's permanent spending authorities. The SEF is authorized under 31 U.S.C. § 9703(b)(5) and is derived from asset sharing revenue received from the Justice Department or the U.S. Postal Service. Such revenue represents Treasury's

share of forfeitures that resulted from joint investigations with these agencies. The SEF is available for any Treasury law enforcement purpose.

Assets

A summary of the assets of the Fund as of September 30, 1997, is presented in the following table. **Undistributed funds and fund balances with Treasury and cash** totaled \$106 million on September 30, 1997. This balance fluctuates based on the timing of deposits of forfeited currency into the Fund and distributions of forfeited currency shared with local, state and foreign law enforcement agencies. On September 30, 1997, the Fund had **investments** in Treasury securities of \$261 million and **accrued interest** on investments of \$634,000. The balance for **receivables** totaled \$3,858,000 on September 30, 1997, and is principally associated with Funds forfeited but still in the U.S. Customs suspense account. The value of forfeited property, net of mortgages, on September 30, 1997, was \$37 million, an increase of \$3 million over FY 1996. Finally, the total for **seized currency** on September 30, 1997, was \$207 million, a decrease of \$31 million from FY 1996, reflecting the large U.S. v. Bulldog Medical forfeiture of over \$32 million during FY 1997.

End of Year Assets of the Fund (\$ millions)

	<u>1997</u>	<u>1996</u>
Undistributed funds and fund balances with Treasury and cash	\$ 106	\$ 76
Investments	261	145
Accrued Interest	1	1
Receivables	4	1

End of Year Assets of the Fund
(\$ millions)
(Continued)

	<u>1997</u>	<u>1996</u>
Prepaid Expenses	3	0
Forfeited property, net of liens payable	36	34
Seized currency and other investments	<u>*207</u>	<u>238</u>
Total	<u><u>\$ 618</u></u>	<u><u>**\$494</u></u>

* Under the Statement of Financial Accounting Standards (SFFAS) No. 3, effective September 30, 1994, and thereafter, seized currency is reported as a custodial asset upon seizure. The amount cited here represents seized monetary instruments accounted for in the Fund's suspense account and which is: (a) on deposit with Treasury; (b) on hand in vaults at field office locations; or (c) converted to interest-bearing U.S. Government obligations.

** Column does not foot due to rounding of amounts.

Liabilities and Net Position

A summary of the liabilities and net position of the Fund as of September 30, 1997, as compared with September 30, 1996 is shown in the following table. The large increase in **distributions payable** is principally associated with over \$30 million in victim restitution payments arising from U.S. v. Bulldog Medical matter completed in FY 1997 for which restitution payments will be distributed in FY 1998. Revenue from forfeited property held for sale is deferred until the property is sold. When compared to FY 1996, more forfeited property was held for sale on September 30, 1997, which accounts for the increase in **deferred revenue** of \$6 million. **Accounts payable** totaled \$28 million on September 30, 1997, a decrease from FY 1996 of \$23 million.

In addition to total liabilities of \$345 million recognized by the Fund on September 30, 1997, \$130 million was reserved as the **unobligated balance** to be carried forward to begin 1998 operations and \$81 million was reserved for **unliquidated obligations** of FY 1997. Further, the Fund recorded an increase in distributions to the Office of National Drug Control Policy's (ONDCP) **Special Forfeiture Fund**. FY 1997 ended with the **cumulative results of fund operations** totaling \$97 million.

End of Year Fund Liabilities and Net Position
(\$ millions)

	<u>1997</u>	<u>1996</u>
Liabilities		
Distributions payable	\$ 73	\$ 29
Deferred revenue from forfeited assets	37	31
Seized currency	207	238
Accounts payable	28	51
Net Position		
Unobligated balance	130	40
Unliquidated obligations	81	67
Distributions to ONDCP's Special Forfeiture Fund	(36)	(16)
Cumulative Results of Operations	<u>97</u>	<u>54</u>
Total	<u><u>**\$618</u></u>	<u><u>**\$494</u></u>

** Column does not foot due to rounding of amounts.

Summary of Financial Management Improvements

During FY 1997, Fund management continued to identify incremental improvements in operational processes and financial management operations. Recognizing the close connection between field operations and proper financial management, the Executive Office for Asset Forfeiture continued the process of reviewing and updating the policy guidelines disseminated by the office. Additionally, extensive training was conducted throughout FY 1997. The purpose of these seminars was to ensure that the field staff of the four Treasury law enforcement bureaus are fully aware of the Fund's policies and the proper practices associated with the asset seizure and forfeiture process.

Performance Indicators

Performance indicators are a tool for ensuring that a program's operations are functioning as intended and that the mission is being achieved. In FY 1995, the Fund began tracking several performance measures through a manual data collection and calculation process. This effort continued during FY 1997. Additionally, the Fund has identified another area for FY 1998 where it would be appropriate to gather data and assess performance. Steps are anticipated to ensure that the appropriate data elements and reports are incorporated into the Fund's automated systems so that the manual collection of data will no longer be necessary.

FY 1997 Audit

The Fund's independent auditors have given the FY 1997 financial statements an unqualified opinion. This is the third consecutive year that the Fund has received an unqualified opinion, and gives the Fund's management reassurance

that the financial management efforts undertaken in the past several years have been fruitful. However, the number of material weaknesses and reportable conditions cited by the auditors in the accompanying *Independent Auditor's Report on Internal Control* have increased as a result of automated system malfunctions detected during the FY 1997 audit process, discussed below.

Inventory Tracking Systems

The remaining material weaknesses and reportable conditions pertain principally to deficiencies contained in financial accounting and property inventory systems maintained by Customs. The Fund had previously reported that those weaknesses would be corrected with the inception of the Seized Asset and Case Tracking System (SEACATS). SEACATS was intended to support the financial system of record for the Fund, and serve as a single repository for all inventory and case information related to seized and forfeited property, fines, penalties or liquidated damages of Customs. The development of this system was intended to replace several non-integrated tracking systems operated by Customs and was to rectify the remaining material weaknesses identified in the Fund's annual financial audits. With the assistance and participation of Fund management, SEACATS was approved under Treasury Directive 32-02, which requires that the development of revenue and financial management systems be sanctioned by the Assistant Secretary for Management.

In November 1996, the SEACATS system was implemented by Customs. The system has been beset with a number of start-up problems, including system conversion difficulties. The auditors of the Fund did not perform tests on SEACATS and other Customs' systems used by the Fund, as they were not the auditors of

Customs. However, the report of the Customs' auditors on the substantial compliance of Customs with the Federal Financial Management Improvement Act of 1996 (FFMIA), disclosed instances where Customs' financial management systems did not substantially comply with Federal Financial Management Systems requirements as prescribed by FFMIA. Assisting the U.S. Customs Service to resolve these problems has been among the highest priorities for management of the Fund.

Lastly, Fund management has initiated changes to maintain accounting records on an accrual basis, and to provide more expense detail through the automated financial systems. This will help to correct portions of the Fund's material weaknesses identified in the FY 1997 audit.

SECTION II
FINANCIAL STATEMENTS

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Management Consultants and Certified Public Accountants

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Independent Auditor's Report on Financial Statements

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

We have audited the accompanying statements of financial position of the Department of the Treasury Forfeiture Fund (the Fund) as of September 30, 1997 and 1996, and the related statements of operations and changes in net position for the years then ended. These financial statements are the responsibility of the Fund's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards; *Government Auditing Standards*, issued by the Comptroller General of the United States; and the Office of Management and Budget (OMB) Bulletin 93-06, *Audit Requirements for Federal Financial Statements*, as amended. Those standards require that we plan and perform the audit 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 management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

These financial statements were prepared in conformity with the hierarchy of accounting policies described in Note 2 to the financial statements, which is a comprehensive basis of accounting other than generally accepted accounting principles.

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In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Department of the Treasury Forfeiture Fund as of September 30, 1997 and 1996, and the results of its operations and changes in net position for the years then ended, on the basis of accounting described in Note 2.

In accordance with *Government Auditing Standards*, we have also issued a report dated February 13, 1998, on our consideration of the Fund's internal control structure and a report dated February 13, 1998, 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 management's Overview of the Department of the Treasury Forfeiture Fund and the Supplemental Financial and Management Information sections is not a required part of the financial statements but is supplementary information required by OMB Bulletin Nos. 94-01 and 97-01, *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 U.S. Congress, the management of the Fund, and the U.S. Department of the Treasury. However, this report is a matter of public record and its distribution is not limited.

February 13, 1998

Beck, Kuyka + Associates

Department of the Treasury Forfeiture Fund
Statements of Financial Position
September 30, 1997 and 1996
(Dollars in thousands)

Assets		
Entity Assets:	<u>1997</u>	<u>1996</u>
Intra governmental		
Fund Balance with Treasury and cash (note 3)	\$ 105,777	\$ 75,982
Investments (note 4)	260,868	145,379
Interest receivable (note 4)	634	590
Accounts receivable	3,858	448
Prepaid expenses	3,142	-
Total Intra governmental	<u>374,279</u>	<u>222,399</u>
Governmental		
Accounts receivable	238	142
Prepaid expenses	-	200
Forfeited property (note 5):		
Held for sale, net of mortgages, liens and claims	36,131	30,653
To be shared with Federal, state or local, or foreign governments	418	2,749
Total forfeited property, net of mortgages, liens and claims	<u>36,549</u>	<u>33,402</u>
Total governmental	<u>36,787</u>	<u>33,744</u>
Total entity assets	<u>411,066</u>	<u>256,143</u>
Non-Entity Assets:		
Seized currency (note 6):		
Fund balance with Treasury and cash	60,264	72,505
Investments (note 4)	146,249	165,519
Total seized currency	<u>206,513</u>	<u>238,024</u>
Total non-entity assets	<u>206,513</u>	<u>238,024</u>
Total Assets	<u>\$ 617,579</u>	<u>\$ 494,167</u>

The accompanying notes are an integral part of the financial statements

Department of the Treasury Forfeiture Fund
Statements of Financial Position
September 30, 1997 and 1996
(Dollars in thousands)

Liabilities and Net Position

Liabilities	<u>1997</u>	<u>1996</u>
Liabilities covered by budgetary resources:		
Intra governmental liabilities:		
Distributions payable:		
ONDCP Special Forfeiture Fund	\$ 35,679	\$ 16,388
Other Federal agencies	32,420	3,062
Accounts payable	<u>19,181</u>	<u>46,365</u>
Total Intra governmental	<u>87,280</u>	<u>65,815</u>
Governmental liabilities:		
Distributions payable:		
State and local agencies and foreign governments	4,537	7,910
Victim restitution	-	1,697
Accounts payable	9,065	5,011
Deferred revenue from forfeited assets	<u>37,471</u>	<u>31,038</u>
Total governmental	<u>51,073</u>	<u>45,656</u>
Total liabilities covered by budgetary resources	<u>138,353</u>	<u>111,471</u>
Liabilities not covered by budgetary resources:		
Governmental:		
Commitments and contingencies (note 13)	-	-
Seized currency (note 6)	<u>206,513</u>	<u>238,024</u>
Total governmental	<u>206,513</u>	<u>238,024</u>
Total liabilities not covered by budgetary resources	<u>206,513</u>	<u>238,024</u>
Total liabilities	<u>344,866</u>	<u>349,495</u>
Net Position (note 7):		
Unobligated balance	130,186	40,000
Unliquidated obligations	81,362	66,713
Cumulative results of operations	96,844	54,347
Distributions to ONDCP's Special Forfeiture Fund	<u>(35,679)</u>	<u>(16,388)</u>
Total net position	<u>272,713</u>	<u>144,672</u>
Total liabilities and Net Position	<u>\$ 617,579</u>	<u>\$ 494,167</u>

The accompanying notes are an integral part of the financial statements

Department Treasury Forfeiture Fund
Statements of Operations and Changes in Net Position
For the years ended September 30, 1997 and 1996
(Dollars in thousands)

	<u>1997</u>	<u>1996</u>
Revenues and financing sources:		
Federal:		
Investment interest income	\$ 14,284	\$ 9,021
Proceeds from participating with other federal agencies	11,439	8,920
Public:		
Undistributed forfeited currency and monetary instruments	125,372	73,889
Distributed forfeited assets (Note 8)	81,969	57,518
Sales of forfeited property, net of mortgages and claims of \$4,821 and \$4,062, respectively	20,800	20,918
Payments in lieu of forfeiture, net of refunds of \$7,028 and \$6,677, respectively	6,791	2,880
Reimbursed costs	1,477	1,773
Other revenues and financial sources	674	1,253
Total revenues and financing sources	<u>262,806</u>	<u>176,172</u>
Allocation of revenues:		
Equitable sharing:		
State and local agencies	42,376	47,683
Foreign countries	231	111
Federal agencies	6,310	6,774
Victim restitution (note 10)	33,052	2,950
Total allocations of revenue	<u>81,969</u>	<u>57,518</u>
Net revenues and financing sources	<u>180,837</u>	<u>118,654</u>
Program expenses - Non-discretionary:		
Seizure investigative costs and asset management	28,958	35,804
Seized property national contract services	26,335	26,248
Other asset related contract services	1,364	2,711
Awards to informer (moiety payment)	1,099	1,985
Others	16,276	10,809
Super Surplus (note 11)	435	13,515
Secretary's Enforcement Fund (note 12)	5,862	12,902
Total non-discretionary expenses	<u>\$ 80,329</u>	<u>\$ 103,974</u>

The accompanying notes are an integral part of the financial statements

Treasury Forfeiture Fund
Statements of Operations and Changes in Net Position
For the years ended September 30, 1997 and 1996
(Dollars in thousands)

	<u>1997</u>	<u>1996</u>
Program expenses- Discretionary:		
Awards for information or assistance	\$ 19	\$ 355
Purchases of evidence and information	1,139	1,770
Federal law enforcement conveyance (note 9)	1,639	8,617
Other	867	601
Total discretionary expenses	<u>3,664</u>	<u>11,343</u>
Total program expenses	<u>83,993</u>	<u>115,317</u>
Excess of net revenues and financing sources over total program expenses	96,844	3,337
Distribution to ONDCP's Special Forfeiture Fund	(35,679)	(16,388)
Transfer from ONDCP (note 7)	66,876	-
Recission of apportionment (note 7)	-	(194)
Net Position, beginning of year	144,672	157,917
Net Position, end of year (note 7)	<u><u>\$ 272,713</u></u>	<u><u>\$ 144,672</u></u>

NOTES TO FINANCIAL STATEMENTS

(1) Reporting Entity

The Department of the Treasury Forfeiture Fund (the Fund) was established by the Treasury Forfeiture Fund Act of 1992, Public Law 102-393 (the TFF Act), and is codified at 31 USC 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 1994, only Customs and Coast Guard participated in the Fund.

The Fund, which is managed by the Executive Office for Asset Forfeiture (EOAF), is accounted for under Treasury symbol number 20X5697. From this no-year account, expenses may be incurred consistent with 31 USC 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.

Under a Memorandum of Understanding (MOU) with the Department of the Treasury, Customs acts as the executive agent for certain Fund operations. Pursuant to that executive agency role, the Customs Accounting Services Division (ASD) is responsible for accounting and financial reporting for the Fund; including timely and accurate reporting and compliance with Treasury and the Office of Management and Budget (OMB) regulations and reporting requirements.

The principal goals of the Treasury forfeiture program are to: (1) punish and deter criminal activity by depriving criminals of property used in or acquired through illegal activities; (2) be cognizant of the due process rights of affected persons; (3) enhance cooperation among foreign, federal, state, and local law enforcement agencies through the equitable sharing of forfeited assets; and (4) produce revenues to enhance the forfeiture program and strengthen law enforcement.

(2) Summary of Significant Accounting Policies

Basis of Accounting and Presentation

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

NOTES TO FINANCIAL STATEMENTS

Fund financial statements are presented in accordance with the following hierarchy as prescribed by OMB, which constitutes an other comprehensive basis of accounting:

- Individual standards agreed to by the Secretary of the Treasury, the Director of OMB, and the Comptroller General of the United States, and published by OMB and the General Accounting Office.
- Interpretations related to the Statements of Federal Financial Accounting Standards (SFFAS) issued by OMB in accordance with the procedures outlined in OMB Circular A-134, "Financial Accounting Principles and Standards."
- Requirements contained in OMB's Form and Content Bulletins in effect for the period covered by the financial statements.
- Accounting Standards contained in agency accounting policy, procedures, manuals, and /or related guidance, which are prevalent practices.
- Accounting principles published by authoritative standard setting bodies and other authoritative sources: (a) in the absence of other guidance in the first three parts of this hierarchy; and (b) if the use of such accounting standards improve the meaningfulness of these financial statements.

Financial Statements Presented

To appropriately present the results of its principal activities (i.e., custodial/fiduciary responsibilities) and the funding of such, the Fund has presented a statement of operations and changes in net position with the detailed changes in net position presented in note 7.

The form and content of the statement of financial position, as suggested by OMB, has been adjusted to present non-entity assets (and offsetting liabilities) for revenue collected or to be collected but not yet distributed to the various entities expected to receive these funds.

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, other foreign governments and the Office of National Drug Control Policy (ONDCP) Special Forfeiture Fund in accordance with the various laws and regulations governing the operations and activities of the Fund. These activities reflect the custodial/fiduciary responsibilities that the Fund has been authorized by law to enforce.

Pursuant to 31 USC 9703, as amended, the Fund is authorized to pay certain discretionary and non-discretionary expenses.

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 in interest to forfeited property. Expenses incurred by state and local law enforcement agencies in joint law enforcement operations with a Treasury law enforcement organization are also recognized as non-discretionary expenses. Under the enabling legislation, non-discretionary expenses are authorized by permanent indefinite authority and limited only by revenue generated from forfeiture activities.

Discretionary expenses include purchases of evidence and information related to smuggling of controlled substances; equipment to enable vessels,

NOTES TO FINANCIAL STATEMENTS

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 limitation and are paid from deposits made to the Fund.

The Fund's expenses are generally paid on a reimbursement basis. Reimbursable expenses are incurred by the respective bureaus participating in the Fund against the Salaries and expenses appropriation and then submitted to the Fund for reimbursement. The bureaus are reimbursed through Inter-Agency Transfer (SF-1081) or Online Payments and Collections (OPAC). Certain expenses such as equitable sharing payments, are paid directly from the Fund.

Further, the Fund is a component unit of the Department of the Treasury and as such, employees of Treasury perform certain operational and administrative tasks related to the Fund. Reimbursed payroll costs of employees directly involved in the security and maintenance of forfeited property are 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 operations and changes in net position).

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 or foreign government. Revenue is not recorded if the forfeited property is ultimately destroyed or cannot be legally sold.

Revenue from seized monetary instruments 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. Similar to the distributions of forfeited property or currency made to federal, state or local agencies or foreign countries who provide direct or indirect assistance in related seizures, the fund receives proceeds from certain other federal agencies. Operating costs are recorded as expenses when goods are received or services are performed.

As provided for in the enabling legislation, the Fund has invested seized and forfeited currency. Treasury's Bureau of the Public Debt invests the funds in obligations of, or guaranteed by, the United States Government. Interest is reported to the Fund and recorded monthly in the general ledger.

Transactions with the Office of National Drug Control Policy

At fiscal year end, certain excess unobligated balances, on a budgetary basis, remaining in the Fund are to be transferred to the Office of National Drug Control Policy (ONDCP) Special Forfeiture Fund. The Omnibus Crime Control Act of 1994 requires the transfer of one half of all excess unobligated balances, up to \$100 million, to the ONDCP Special Forfeiture Fund. The remaining excess unobligated balances are retained in the Fund. Liabilities of approximately \$35.7 million and \$16.4 million to the ONDCP Special Forfeiture Fund for fiscal years 1997 and 1996, respectively, have been recognized in the Statements of Financial Position.

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

NOTES TO FINANCIAL STATEMENTS

other federal agencies which would benefit from the use of the item. In 1995, a new class of asset distribution was established for victim restitution. These distributions include property and cash returned to victims of fraud and other illegal activity. Upon approval by EOAF management to share or transfer the assets, both revenue from distributed forfeited assets and distributions (allocations or revenue) are recognized for the net realizable value of the asset to be shared or transferred, thereby resulting in no gain or loss recognized. Liabilities are recognized when EOAF approves payments.

Entity Assets

Entity assets are used to conduct the operations and activities of the Fund. Entity assets consist of forfeited 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, receivables, and forfeited property which is held for sale or to be distributed.

- **Fund Balances with Treasury and Cash --** Forfeiture Fund balances with Treasury and cash represents the aggregate amount of the Fund's accounts with Treasury for which the Fund is authorized to make expenditures and pay liabilities, and includes forfeited cash not yet deposited.
- **Investments --** This includes forfeited cash held by the Fund that has been converted to U.S. Government Obligations.
- **Receivables --** Intra-governmental receivables principally represent monies due from Customs. The values reported for governmental receivables are primarily funds due from EG&G Dynatrend, the seized and forfeited property contractor.

• **Prepaid Expenses --**

Intra-governmental Prepaid Expenses- primarily represents advances paid to the Department of Treasury for the wireless communication program.

Governmental Prepaid Expenses- are mortgages and other claims paid before final closing of sale of related property, as required by court order. The values reported here are associated with these special transactions.

- **Forfeited Property --** Forfeited property is recorded at 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 time of forfeiture. Direct and indirect holding costs are not capitalized for individual forfeited assets. Forfeited currency is included in Fund Balances with Treasury and Cash in the Statement of Financial Position.

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 are reflected as a reduction of sales of forfeited property.

OMB issued Statement of Federal Financial Accounting Standards Number 3, *Accounting for Inventory and Related Property* (SFFAS No. 3). SFFAS No. 3 requires seized monetary instruments (cash and cash equivalents) to be recognized as an asset in the financial statements and a liability be established in an

NOTES TO FINANCIAL STATEMENTS

amount equal to the seized asset value. SFFAS No. 3 also specifies that a valuation allowance be established against forfeited property for liens or claims from a third party.

SFFAS No. 3 requires certain additional disclosures in the notes to the financial statements, including an analysis of changes in seized property and an analysis of changes in forfeited property, 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 5 and 6.

Non-entity Assets

"Non-entity assets" consist of seized currency and investments of seized currency. Because the non-entity assets are not considered as financing sources (revenue) available to offset operating expenses, a corresponding liability is recorded and presented as governmental liabilities under "liabilities not covered by budgetary resources" in the statement of financial position to reflect the custodial/fiduciary nature of these activities.

- **Seized Currency and Property** -- is defined as cash or financial instruments that are readily convertible to cash on a dollar for dollar basis. Seized property (including currency and monetary instruments) is recorded at its market value at the time of seizure. The value is determined by the seizing entity and is usually based on market analysis such as a third party appraisal, standard property value publications or bank statement.
- **Fund Balances with Treasury and Cash** -- Fund balance with Treasury and cash represents the aggregate amount of the Fund's suspense account balances - cash on deposit and on hand in vaults at field office locations.

- **Investments** -- This includes seized monetary instruments accounted for in the Fund's suspense account which have been converted to U.S. Government Obligations.

Liabilities Covered by Budgetary Resources

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

- **Distributions Payable** -- Distributions payable to federal sources is principally related to surplus revenue that, by law, must be transferred to the ONDCP. (See "Transactions with Office of National Drug Control Policy"). Distributions payable to non-federal sources is associated with equitable sharing payments to state and local governments, and payments to be made by the Fund to victims of fraud.
- **Accounts Payable** -- Amounts reported in this category are mainly accrued expenses authorized by the TFF Act (See "Allowable Fund Expenses") for which reimbursement was pending at year end.
- **Deferred Revenue from Forfeited Assets** -- At year end, forfeited assets were held by the Fund which had not yet been converted into cash through sale and deposited. The amount reported here represents the value of these assets, net of mortgages and claims.

Liabilities Not Covered by Budgetary Resources

These amounts represent liabilities of the Fund which are not covered by available budgetary resources. Such liabilities consist of commitments and contingencies, which is disclosed in note 13, and seized currency. As explained in the Non-entity Assets section, seized currency presented here is a corresponding liability recorded to reflect

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the custodial/fiduciary natures of the non-entity assets.

The presentation of non-entity assets and the corresponding liabilities in a separate, self-balancing set of accounts ensures that the net position of the Fund presents only those resources which will be consumed in current or future operating cycles, while the non-entity categories contain resources relating to the Fund's custodial/fiduciary activities.

Net Position

The components of net position are classified as follows:

- **Unobligated Balance** --There is no cap on amounts that the Fund can carry forward into FY 1998. The cap was removed by the FY 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. An expense and liability are recognized and the corresponding obligations are reduced as goods are received or services are performed. For equitable sharing, the expense and liability are recognized and the corresponding obligations are reduced when final EOAF approval for payment is given.
- **Cumulative Results of Operations** -- This category represents the net difference, since the inception of the activity, between: (1) financing sources including used appropriations, revenues and gains; and (2) expenses and losses and distributions.

- **Distributions to ONDCP's Special Forfeiture Fund** -- This category represents the balance to be transferred to ONDCP.

(See "Transactions with the Office of National Drug Control Policy").

(3) Entity - Assets Fund Balances with Treasury and Cash

Fund balances with Treasury and cash as of September 30, 1997, and 1996, consists of the following (dollars in thousands):

	<u>1997</u>	<u>1996</u>
Obligated	\$ 138,410	\$ 118,089
Unobligated	<u>(32,633)</u>	<u>(42,107)</u>
	<u>\$ 105,777</u>	<u>\$ 75,982</u>

The negative unobligated Fund Balance with Treasury and Cash is offset by investments. Fund balances with Treasury include forfeited currency, as well as forfeited currency held as evidence, and amounted to approximately \$18 million and \$9 million at September 30, 1997 and 1996 respectively.

(4) Investments

All investments are short-term (31 days or less) non-marketable par value Federal debt securities issued by the Bureau of the Public Debt and purchased through the Department of the Treasury's Bureau of the Public Debt. Investments are always purchased at a discount and are reported at acquisition cost, 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 Treasury Forfeiture Fund and from seized currency held in the Customs Suspense Account. Interest earned on investments of seized currency is recognized as

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revenue of the Fund. The following schedule presents the investments on hand as of September 30, 1997, and 1996 (dollars in thousands):

<u>Description</u>	<u>Par</u>	<u>Discount</u>	<u>Net</u>
<u>September 30, 1997:</u>			
Treasury Forfeiture Fund - 28 days 4.65 % U.S.			
Treasury Bills	\$261,815	\$ (947)	\$260,868
U.S. Customs Suspense Account - 28 day 4.65 % U.S.			
Treasury Bills	<u>146,780</u>	<u>(531)</u>	<u>146,249</u>
Total	<u>\$408,595</u>	<u>\$(1,478)</u>	<u>\$407,117</u>

September 30, 1996:

Treasury Forfeiture Fund - 31 days 4.86 % U.S.			
Treasury Bills	\$145,990	\$(611)	\$145,379
U.S. Customs Suspense Account - 317 day 4.86 % U.S.			
Treasury Bills	<u>166,215</u>	<u>(696)</u>	<u>165,519</u>
Total	<u>\$312,205</u>	<u>\$(1,307)</u>	<u>\$310,898</u>

The Customs suspense account became the repository for seized cash for the Treasury Forfeiture Fund following enactment of Public Law 102-393 on October 6, 1992. Interest receivable at September 30, 1997, and 1996, was \$634,000 and \$590,000, respectively.

(5) Analysis of Changes in Forfeited Property and Currency

The following summarizes the components of forfeited property (net), as of September 30, 1997 and 1996 (dollars in thousands):

	<u>1997</u>	<u>1996</u>
Held for Sale	\$38,794	\$32,747
To be shared with Federal, state or local, or foreign government	<u>418</u>	<u>2,749</u>
Total forfeited property	39,212	35,496
Less: Allowance for mortgages and claims	<u>(2,663)</u>	<u>(2,094)</u>
Total forfeited property, net	<u>\$36,549</u>	<u>\$33,402</u>

Forfeited property held for sale, net of allowance for mortgages and claims as of September 30, 1997 and 1996, were \$36,131,000 and \$30,653,000, respectively, and is presented in the Statement of Financial Position.

(5) Analysis of Changes in Forfeited Property and Currency (Continued)

The following schedule presents the changes in the forfeited property balances from October 1, 1996, to September 30, 1997. The detail of this schedule by bureau, is presented in the notes to the financial statements of each bureau. Dollar value in thousands.

	10/1/96 Financial			10/1/96			Forfeitures			Deposits/Sales			Disposals/Transfers		
	Statement Balance	Value	Number	Adjustment	Carrying Value	Number	Value	Number	Value	Value	Number	Value	Value	Number	Number
Currency	\$9,049				\$9,049		\$201,712			(\$182,478)					
Other Monetary Instruments	8,048				8,048		4,728			(5,282)					
Real Property	17,057	136		2,853	20,010	136	17,398	145		(10,040)	81				2
General Property	3,526	3,344		12,559	16,085	3,344	43,042	7,628		(22,862)	2,509		(138)		2
Vessels	330	31		191	521	31	2,587	85		(1,486)	55		(2,238)		801
Aircraft	3,233	8		(239)	2,994	8	245	7		(3,037)	10		(328)		9
Vehicles	3,302	482		874	4,176	482	14,810	5,509		(9,835)	4,758		(111)		2
	\$35,486	4,003		\$16,336	\$51,834	4,003	\$82,808	13,372		(\$52,332)	7,413		(\$5,937)		1,023
Grand Total	\$44,545	4,003		\$16,336	\$60,883	4,003	\$284,521	13,372		(\$244,808)	7,413		(\$5,937)		1,023

	Victim Restitution			Destroyed			Other Adjustments			Value Change			9/30/97 Financial			Fair Value Adjustment			9/30/97 Financial		
	Value	Number		Value	Number		Value	Number		Value	Number		Statement Balance	Value	Number	Value	Number		Statement Balance	Value	Number
Currency	(19)						(154)			(9)			16,103						16,103		
Other Monetary Instruments	(92)						(6,009)			(8)			1,408						1,236		
Real Property	(677)	3					1,204	15		(344)			27,413		212	(170)			24,630		
General Property	(55)	23		(291)	2,864		4,087	(819)		(2,854)			35,314		3,854	(2,783)			7,701		212
Vessels	(6)	2		(5)	7		183	10		(167)			1,288		53	(469)			3,854		
Aircraft	(356)	19		(24)	6		37	1		(60)			128		4	10			797		53
Vehicles							(375)	4					5,210		1,001	(500)			138		4
	(\$1,191)	47		(\$320)	2,879		(\$893)	(789)		(\$3,233)			\$70,737		5,224	(\$31,525)			\$39,212		1,001
Grand Total	(\$1,210)	47		(\$320)	2,879		(\$1,047)	(789)		(\$3,242)			\$86,940		5,224	(\$31,525)			\$57,315		5,224

Adjustments to opening forfeited property balances are necessary to reverse fair value adjustments made in FY '96 and to restate forfeited property held at the beginning of the year to the unadjusted carrying value. The fair value adjustments at 9/30/97 are necessary to convert forfeited property from unadjusted carrying value (market value at the time of seizure) to an estimate of the fair value at the time of forfeiture, which is the amount recorded in the financial statements. Other adjustments above primarily represent property forfeited in prior fiscal years but reversed to seized status during the current fiscal year. Due to the varied mix of specific types of assets within each asset category, the number of items presented in the 10/1/96 balance represent qualities calculated using many different units of measure. Due to the use of different units of measure, within each asset category, the usefulness of this quantity disclosure is questionable. In 1997, in order to present a more meaningful quantity, the number presented for each class of property represents the number of seizure line items recorded regardless of the unit of measure or unit quantity.

Other adjustments above primarily represent minor reclassifications or adjustments to beginning balances.

(6) Analysis of Changes in Seized Property and Currency

Seized property and currency result primarily from enforcement activities. Such property is not legally owned by the Fund until judicially or administratively forfeited. Because of the fungible nature of currency and the high level of control necessary over it, seized currency is reported as a custodial asset upon seizure. Seized property other than currency is reported as a custodial asset upon forfeiture. The detail of this schedule by bureau, is presented in the notes to the financial statements of each bureau. Dollar value in thousands.

	9/30/96 Financial		Seizures		Remissions		Forfeitures		Adjustments		Value Change		9/30/97 Financial	
	Statement Balance		Value	Number	Value	Number	Value	Number	Value	Number	Value	Number	Statement Balance	
Currency	\$238,024	-	\$218,609	-	(\$44,405)	-	(\$201,712)	-	(\$1,860)	-	(123)	-	\$206,513	-
Other Monetary Instruments	20,438	-	19,704	-	(2,801)	-	(4,729)	-	(388)	-	(2,545)	-	\$29,579	-
Real Property	50,582	331	24,151	169	(9,487)	71	(17,396)	145	3,923	5	(7,701)	-	\$44,072	289
General Property	179,974	23,873	152,460	20,184	(122,471)	10,977	(43,042)	7,626	(3,771)	(14,814)	(18,533)	-	\$144,617	10,640
Vessels	4,077	140	7,615	178	(4,680)	73	(2,587)	85	(335)	(15)	(157)	-	\$3,933	145
Aircraft	1,508	24	2,167	19	(953)	13	(245)	7	(38)	(4)	(410)	-	\$2,029	19
Vehicles	19,332	3,702	53,709	8,459	(40,045)	3,572	(14,810)	5,509	(1,605)	(246)	(1,501)	-	\$15,080	2,834
Total Other Monetary Instruments and Property	\$275,911	28,070	\$259,806	29,009	(\$180,537)	14,706	(\$82,809)	13,372	(\$2,214)	(15,074)	(\$30,847)	-	\$239,310	13,927
Total	\$513,935	28,070	\$476,415	29,009	(\$224,942)	14,706	(\$284,521)	13,372	(\$4,094)	(15,074)	(\$30,970)	-	\$445,823	13,927

Due to the varied mix of specific types of assets within each asset category, the number of items presented in the 10/1/96 balance represent quantities calculated using many different units of measure. Due to the use of different units of measure within each asset category, the usefulness of this quantity disclosure is questionable. In 1997, in order to present a more meaningful quantity, the number presented for each class of property represents the number of seizure line items recorded regardless of the unit of measure or unit quantity.

NOTES TO FINANCIAL STATEMENTS

(7) Net Position

The following summarizes the changes in net position for the years ended September 30, 1997, and 1996 (dollars in thousands):

	Unobligated Balance	Unliquidated Obligations	Cumulative Results of Operations	Total Net Position
Balances, September 30, 1995 before distribution to ONDCP's Special Forfeiture Fund	\$ 50,000	\$ 57,169	\$ 72,670	\$ 179,839
Distribution to ONDCP's Special Forfeiture Fund	-	-	(21,922)	(21,922)
Balances September 30, 1995, net of distribution to ONDCP's Special Forfeiture Fund	50,000	57,169	50,748	157,917
Excess of net revenues and financing sources over total program expenses	-	-	3,337	3,337
Net change in obligations of current resources	-	9,544	(9,544)	-
Reduction of unobligated balance	(10,000)	-	10,000	-
Recission of Apportionment	-	-	(194)	(194)
Balances September 30, 1996, before distribution to ONDCP's Special Forfeiture Fund	40,000	66,713	54,347	161,060
Distribution to ONDCP's Special Forfeiture Fund	-	-	(16,388)	(16,388)
Balances September 30, 1996, net of distribution to ONDCP's Special Forfeiture Fund	<u>\$40,000</u>	<u>\$66,713</u>	<u>\$37,959</u>	<u>\$144,672</u>
Excess of net revenues and financing sources over total program expenses	-	-	96,844	96,844
Net change in obligations of current resources	-	14,649	(14,649)	-
Increase of unobligated balance	90,186	-	(90,186)	-
Transfer from ONDCP	-	-	66,876	66,876
Balance, September 30, 1997, before distribution to ONDCP's Special Forfeiture Fund	130,186	81,362	96,844	308,392
Distribution to ONDCP's Special Forfeiture Fund	-	-	(35,679)	(35,679)
Balance, September 30, 1997 net of distribution to ONDCP's Special Forfeiture Fund	<u>\$130,186</u>	<u>\$81,362</u>	<u>\$61,165</u>	<u>\$272,713</u>

NOTES TO FINANCIAL STATEMENTS

(7) Net Position (continued)

Recission of Apportionment -- During Fiscal Year 1997, the fund has received \$66,876,000 from the Office of National Drug Control Policy (ONDCP) per Public Law 104-208. The Secretary of the Treasury is authorized to receive all unavailable collections transferred from the ONDCP as deposit into the Treasury Forfeiture Fund.

During Fiscal Year 1996, Public law 104-134 adjusted previously approved OMB apportionments for amounts not subject to apportionments. Rescissions were taken on a pro rata basis from funds available to every federal agency, department and office in the Executive Branch. Accordingly, the Fund's portion of the recission was \$194,000.

The following summarizes the components of unliquidated obligations as of September 30, 1997, and 1996 (dollars in thousands):

	<u>1997</u>	<u>1996</u>
Discretionary	\$12,016	\$ 6,577
Equitable Sharing	6,305	25,544
Non-discretionary	<u>63,041</u>	<u>34,592</u>
Total	<u>\$81,362</u>	<u>\$ 66,713</u>

(8) Distributed Forfeited Assets

The following summarizes the components of distributed forfeited assets for the years ended September 30, 1997, and 1996 (dollars in thousands):

	<u>1997</u>	<u>1996</u>
Currency	\$77,282	\$ 46,132
Property	2,337	6,757
Proceeds from sales of forfeited property	<u>2,350</u>	<u>4,629</u>
Total	<u>\$81,969</u>	<u>\$ 57,518</u>

(9) Related Party Transactions

The Fund reimbursed agencies for their purchases of certain capital assets. These assets are reported by the participating agencies. During the fiscal years ended September 30, 1997 and 1996, \$1,639,000 and \$8,617,000, respectively, of capital assets were reimbursed by the Fund and are reported as discretionary expenses in the accompanying financial statements.

(10) U.S. vs. Bulldog Medical Fraud Case

The Bulldog medical case was a culmination of a three year investigation initiated by the Department of Health and Human Services, Office of Inspector General, into the alleged false billings practices of a Kissimmee Florida company, Bulldog Medical. In October 1996, pursuant to a plea agreement, the defendant pled guilty to conspiracy to defraud Medicare of over \$70 million and mail fraud and agreed to forfeit the \$32 million previously seized.

(11) Super Surplus

31 USC 9703 (g)(4)(B) allows for the expenditure, without fiscal year limitation, of funds amounting to one half of the excess of unobligated balances 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. Super surplus expenses for FY 1997 were limited because the notice of proposed uses of Super Surplus funds was pending in Congress at the end of the fiscal year, leaving the funds unavailable for obligation by the bureaus.

(12) Secretary's Enforcement Fund

31 USC 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

NOTES TO FINANCIAL STATEMENTS

enforcement organizations. The source of Section 9703(b)(5) funding 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.

(13) Commitments and Contingencies

As of year end, there are equitable sharing requests in various stages of approval. Because final approval has not been obtained as of September 30, 1997, they are not recorded as liabilities of the Fund. However, the Fund identified equitable sharing requests in the amount of approximately \$22,283,000 and \$19,439,000, which were approved or in the final stages of approval subsequent to September 30, 1997, and 1996, respectively. The forfeited currency revenue was recognized in one fiscal year; however, the distribution will not be recognized in the financial statements until the following fiscal year. In addition to the amount estimated above, there are additional amounts which may ultimately be shared which are not identified at this time.

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

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

SECTION III
INDEPENDENT AUDITOR'S REPORTS ON COMPLIANCE
AND INTERNAL CONTROL STRUCTURE

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Independent Auditor's Report on Compliance

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

We have audited the financial statements of the Department of the Treasury Forfeiture Fund (the Fund) as of and for the year ended September 30, 1997, and have issued our report thereon dated February 13, 1998. Our responsibility is to report on the Fund's compliance with laws and regulations based on our audit. 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, applicable 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 the Customs and, consequently, we did not perform tests of the Customs' compliance with the above requirements using the implementation guidance for FFMIA issued by OMB on September 9, 1997. Those tests were performed by other auditors whose report has been furnished to us. Our opinion, insofar as it relates to FFMIA compliance, is based solely on the report of the other auditors.

We conducted our audit in accordance with generally accepted auditing standards; 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. 93-06, "Audit Requirements for Federal Financial Statements," as amended.

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

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statement amounts, and certain other laws and regulations specified in OMB Bulletin 93-06, as amended, including the requirements referred to in FFMIA.

The results of our tests of compliance with the laws and regulations described in the preceding paragraph disclosed instances of noncompliance with the following laws and regulations that are required to be reported under *Government Auditing Standards* and OMB Bulletin 93-06, as amended, which are described below:

The Budget and Accounting Procedures Act of 1950 as amended, Section 3512, *Executive Agency's Accounting System* requires Federal agencies to establish an internal control structure which ensures the safeguarding of assets and the proper recording of revenues and expenditures. As described in our Report on Internal Controls dated February 13, 1998, the Fund's internal control structure has certain material weaknesses which result in noncompliance with this Act. Most of the material weaknesses require significant computer system improvements to correct. Until the system enhancements can be implemented, management has developed year-end manual procedures to compensate for the system's significant weaknesses.

The report of the other auditors on the substantial compliance of Customs with the requirements of FFMIA disclosed instances where Customs' financial management systems did not substantially comply with Federal Financial Management Systems Requirements (FFMSR). These instances and Customs' planned remedial actions and time frames to implement such actions are described in the schedule titled "Open Section 4 Non-conformance as of September 30, 1997" of the *United States Customs Service Fiscal Year 1997 Accountability Report*. The results of their tests also disclosed no instances where Customs' financial management systems did not substantially comply with applicable accounting standards and the United States Standard General Ledger at the transaction level.

Providing an opinion on compliance with certain provisions of laws and regulations was not an objective of our audit 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, and the U.S. Congress. However, this report is a matter of public record and its distribution is not limited.

February 13, 1998

Gordon, Kungu + Associates

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Independent Auditor's Report on Internal Control Structure

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

We have audited the financial statements of the Department of the Treasury Forfeiture Fund (the Fund) as of September 30, 1997, and for the year then ended, and have issued our report thereon dated February 13, 1998.

We conducted our audit in accordance with generally accepted auditing standards; *Government Auditing Standards*, issued by the Comptroller General of the United States; and the Office of Management and Budget (OMB) Bulletin No. 93-06, *Audit Requirements for Federal Financial Statements*, as amended. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

The management of the Fund is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgements by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that:

- transactions including those related to obligations and costs, are executed in compliance with applicable laws and regulations that could have a direct and material effect on the financial statements and any other laws and regulations that the OMB, Fund management, or the Inspector General have identified as being significant for which compliance can be objectively measured and evaluated;

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- funds, property, and other assets are safeguarded against loss from unauthorized use or disposition;
- transactions are properly recorded and accounted for to permit the preparation of reliable financial statements and to maintain accountability over the assets; and,
- data that support reported performance indicators are properly recorded and accounted for to permit preparation of reliable and complete performance information.

Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

In planning and performing our audits of the financial statements of the Fund as of and for the year ended September 30, 1997, we obtained an understanding of the internal control structure. With respect to the internal control structure, we obtained an understanding of the design of significant internal control structure policies and procedures, determined whether they have been placed in operation, assessed control risk and performed tests of the Fund's internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide an opinion on the internal control structure. Accordingly, we do not express such an opinion. Our consideration included obtaining an understanding of the significant internal control structure policies and procedures and assessing the level of control risk relevant to all significant cycles, classes of transactions, or account balances.

With respect to the performance indicator control objective described above, we obtained an understanding of relevant internal control structure policies and procedures designed to achieve this control objective and assessed control risk.

We noted certain matters involving the internal control structure and its operation that we consider to be reportable conditions under standards established by the American Institute of Certified Public Accountants and OMB Bulletin No. 93-06, as amended. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure over financial reporting that, in our judgement, could adversely affect the Fund's ability to ensure that the objectives of the internal control structure, as previously defined, are being achieved.

A material weakness is a reportable condition in which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited, or material to a performance indicator or aggregation of related performance indicators, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses as defined below. However, we noted two matters involving the internal control structure and its operation that we consider to be material weaknesses as defined below. These conditions were considered in determining the nature, timing and extent of the procedures to be performed in our audit of the financial statements of the Fund as of and for the year ended September 30, 1997.

The identified material weaknesses and reportable conditions, as defined above, are summarized below with further explanation in **Exhibits I and II** of this report.

Material Weaknesses

Prior Year Material Weaknesses:

The two material weaknesses identified below were reported in the prior year's Independent Auditor's Report on Internal Control Structure and are of continuing significance:

- **Accounting Records are Maintained on a Cash Basis** - The Fund's accounting records are primarily maintained on the cash basis rather than the accrual basis of accounting. Accordingly, most transactions are reflected in the accounting system when the cash is received or disbursed rather than when the transactions occur. Financial information and transactions from each bureau are not received timely to accurately record the Fund's activities during the year. Hence, year-end manual procedures were developed in order to produce accrual basis financial statements that could be substantiated through an audit.
- **General Ledger** - The Fund's general ledger does not record all balances and transactions that are reflected in the financial statements. Financial information needed from each bureau to accurately record the Fund's activities are not sent timely. Instead, procedures were developed to identify and capture information manually from other bureaus' systems in order to compile the financial statements.

Current Year Material Weakness:

The following additional material weakness was identified in fiscal year 1997:

- **U.S. Customs Services' Inadequate Inventory Tracking System** - The U.S. Customs Services (Customs) seized and forfeited property and currency tracking system, the Seized Assets and Case Tracking System (SEACATS), does not contain accurate and sufficient data that can be relied upon to prepare the analysis of changes in forfeited and seized currency and property without substantial manual manipulation and reconciliation. As a result, year-end procedures were developed to

identify forfeited and seized property not recorded in SEACATS as of September 30, 1997, and to adjust the financial statements for the value of forfeited and seized property on hand at year-end. Additionally, the value of forfeited and seized currency reported by SEACATS is unreliable. Consequently, exhaustive year-end procedures were developed to manually compile forfeited and seized currency as of September 30, 1997, for financial reporting purposes.

Reportable Conditions

Prior Year Reportable Conditions:

The reportable conditions identified below were reported in the prior year's Independent Auditor's Report on Internal Control Structure and are of continuing significance:

- **Differing Inventory Tracking Systems** - The four Treasury law enforcement bureaus used different inventory tracking systems to prepare the required analysis of changes in forfeited and seized property schedules. The systems collect and account for seized and forfeited assets differently and used slightly different data definitions. As a result, manual manipulation and reconciliation are required to produce the analysis of change in forfeited and seized property schedules.
- **Improper Timing for Valuation of Forfeited Property** - During the year, forfeited property is not recorded in the subsidiary system at its fair value at the time of forfeiture as required by Statement of Federal Financial Accounting Standards (SFFAS No. 3). As a result, an adjustment is made at year end to record forfeited property at an estimate of fair value.

Current Year Reportable Conditions:

The following additional reportable conditions were identified for fiscal year 1997:

- **Lack of Inventory Control** - The Fund does not adequately monitor property placed with the national property contractor, EG&G Dynatrend (EG&G) during the year. Consequently, the Fund is unable to independently report the quantity and value of property held by EG&G at any particular time during the year.
- **Lack of Sales Revenue Reconciliations** - The Fund does not adequately monitor the sale of property by EG&G during the year. It does not reconcile properties which it has recorded as sold to EG&G reports of properties sold. Also, it does not reconcile proceeds received from EG&G for sale of properties to EG&G sales reports. Consequently, the Fund is unable to assess, from time to time, whether it has received an accurate and complete accounting of all properties disposed of by EG&G, or whether it has received all proceeds from the sale of properties during the year.

In preparing the financial statements, the Fund's management uses year-end manual procedures to compensate for the above identified conditions and weaknesses. These conditions and weaknesses existed throughout the year. Therefore, information obtained from the accounting system during the year may not be reliable. Consequently, management of the Fund cannot place reliance on this information as the sole basis on which to base decisions.

Because these conditions and weaknesses impact many functions and lines of authority between the Treasury bureaus, we recommend the Fund's management, together with the other Treasury bureaus, develop a joint plan to implement the recommendations included in **Exhibits I and II**.

We also noted other matters involving the internal control structure and its operation that we have reported to the management of the Fund in a separate letter dated February 13, 1998.

In accordance with *Government Auditing Standards*, we have also issued reports dated February 13, 1998 on our audit of the Fund's financial statements and its compliance with laws and regulations.

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

February 13, 1998

Burke, Karger & Associates

EXHIBIT I
MATERIAL WEAKNESSES

EXHIBIT II
REPORTABLE CONDITIONS

1. **ACCOUNTING RECORDS ARE MAINTAINED ON A CASH BASIS**

CONDITION

The Treasury Forfeiture Fund's (the Fund) general ledger as well as the U.S. Customs Service (Customs), U.S. Secret Service (Secret Service), Internal Revenue Service (IRS) and the Bureau of Alcohol, Tobacco and Firearms (ATF) supporting systems are maintained primarily on a cash basis. In addition, the supporting computer systems maintained by each enforcement bureau do not interface with one another or with the Fund's general ledger to ensure that all transactions are accurately and timely recorded. To produce accrual basis financial statements that can be substantiated through an audit, year end manual procedures for each enforcement bureau were developed. The Fund's management provided each bureau representative with year end close out procedures designed to identify the amounts which should be accrued in the financial statements at year end.

Accounts Payable and Accrued Liabilities - The Fund does not follow accrual accounting whereby a liability and an expense is recognized when the underlying goods have been received or the services have been performed. Furthermore, during the fiscal year, reimbursement requests were not submitted regularly and on a timely basis.

Mortgage and Claims payable - The issue of how to determine a lien liability and when to reduce it has been addressed by Executive Office of Asset Forfeiture (EOAF) in the updated directive issued by the Department of the Treasury, titled number 14, "Expeditious Payment of Liens, Mortgages and Taxes", effective October 1995. However, the updated directive does not provide clear instructions as to when the liability is to be recorded. Therefore, implementation of the instructions, while resolving other issues, will not ensure that a liability is recorded for claims and mortgages throughout the year. In fact, the directive requires that upon EOAF's approval of payment, the appropriate accounting strip data be affixed to the paperwork authorizing the obligation and disbursement of funds which are then to be forwarded to the Accounting Services Division (ASD) for processing. Also, the directive requires ASD to disburse the approved payments within 14 calendar days from the date of EOAF's approval of payment. Because ASD cannot record the liability unless EOAF's approval with the accompanying accounting strip is received, these requirements do not provide for a complete accrual of all liens and mortgages.

Forfeited Currency - Currently, a time lag exists between when the Field Officers are notified of a forfeiture and when ASD is notified and records revenue in the general ledger.

Distributions Payable - The Fund, under certain laws and regulations, has the authority to share forfeited property and currency with Federal, state, and local agencies or foreign countries that participate either directly or indirectly in a related seizure. In addition, the

Fund may transfer forfeited property to other federal agencies with appropriate approval. Currently the Fund does not record the transfer of property to other federal agencies during the fiscal year. Instead, the Fund makes an adjustment to record this information on financial statements as part of the year end manual adjustments.

Accounts Receivable - Customs Service maintains a contract with EG&G Dynatrend (EG&G), whereby EG&G stores property seized by any agency participating in the Fund, conducts auctions sales of forfeited property, and collects storage costs reimbursed by violators. Cash collections made by EG&G on behalf of the Fund are deposited into various bank accounts in the name of EG&G and, within one week, are accumulated and transferred to the U.S. Treasury account at the Federal Reserve Bank of New York. The money collected by EG&G represents a significant portion of the revenues earned by the Fund. However, the ASD only records revenue upon receipt of a validated deposit slip, which is approximately one week later.

CRITERIA

The Statement of Federal Financial Accounting Standards (SFFAS) No. 1, *Accounting for Selected Assets and Liabilities*, requires Federal agencies to maintain accounts of the agency on the accrual basis. If the difference between the results of cash and accrual basis of accounting are insignificant, the cash basis of accounting may be followed.

The accrual basis of accounting contributes significantly to effective financial control over resources and costs of operations and is essential to the development of meaningful cost information. The accrual basis of accounting involves identifying and recording costs and revenues in the period in which the revenue is earned or the cost is incurred, rather than in the period revenue is collected or the cost is disbursed. This position is further supported by the Office of Management (OMB) Bulletin 94-01, *Form and Content of Agency Financial Statements*, which recommends the use of accrual basis of accounting by Federal agencies.

CAUSE

In order for ASD to accurately record the Fund's activities on the accrual basis, financial transactions received from each bureau must be current and timely. Currently, the financial statement information received from the bureaus for accounts payable and accrued liabilities, mortgages and claims payable, and forfeited currency is not current. For example, ASD is not notified timely of the forfeiture of currency because: (1) the Field Offices are not monitoring and updating the system timely to reflect the change in the currency status; and (2) a standardized procedure for documenting the forfeiture date in the system has not been implemented. ASD is unable to identify that the forfeiture has occurred prior to year end unless the system is updated or proper notification is given, because the forfeiture date is entered into the system by the field and the supporting documentation is maintained by the field.

EFFECT

The Fund's maintenance of the general ledger on a cash basis and the untimely recordation of transactions distorts the information reported in the monthly financial statements. This prevents the periodic preparation of accrual-basis financial information upon which management can base its daily decision making or evaluation of the achievement of the Fund's objectives.

RECOMMENDATION

Although the necessary adjustments are made each September 30 to convert the cash basis financial data to the accrual basis, in order to comply with the requirements of SFFAS No. 1 and to improve financial information on which daily decisions are based, we recommend that the following specified procedures be implemented to properly account for transactions on the accrual basis of accounting.

Accounts Payable and Accrued Liabilities - Customs, Secret Service, IRS and ATF should submit monthly requests for reimbursement to provide more timely results of operations for the Fund and thereby allow for more timely analysis of the financial position of the Fund. The reimbursement requests submitted by each law enforcement bureau, but not yet paid by the Fund should be accrued as liabilities at each month end. Also, any direct payment requests which have been received but not paid at month end should be accrued as liabilities.

Mortgages and Claims Payable - We recommend that agencies record lien and mortgage information in their tracking systems. We also recommend that the updated lien and mortgage information obtained from the national seized property contractor be used to record liens and mortgages information in the agencies' tracking systems.

Forfeited Currency - We recommend that ASD perform a reconciliation of forfeited currency between the revenue recorded in the Automated Commercial System (ACS) and the forfeited currency balance reported in the "Analysis of Changes in Forfeited Property" schedule required by the Statement of Federal Financial Accounting Standards No. 3 (SFFAS No. 3), *Accounting for Inventory and Related Property*. However, if the ACS system is not promptly updated with the forfeiture status of seized currency, this reconciliation cannot provide the information necessary to capture the revenue for currency that was forfeited prior to year end.

While it may be less efficient, an alternative method to implement these recommendations is to require each district coordinator to submit a signed letter on a monthly basis to the appropriate individual at the ASD indicating all seizures forfeited during the current month. A journal entry could then record forfeited currency as revenue in the general ledger.

We also recommend that Customs emphasize the need to immediately update cases in the Seized Asset and Case Tracking System (SEACATS) for forfeiture status during the

SEACATS user training sessions. Customs should also review the design of SEACATS with respect to revenue recognition upon input of forfeiture status into the system.

Distributions Payable - We recommend that the Fund establish and implement policies and procedures to ensure the recordation of property distributed to Federal, state, and local agencies or foreign countries during the fiscal year. The procedures may require that each law enforcement bureau submit, on a monthly basis, a list of all property distributed to Federal, state, and local agencies or foreign countries for accrual in the general ledger.

Accounts Receivable - Due to the significance of the revenues collected by EG&G and the average two week lapse between receipt of funds by EG&G and the recordation of revenue by the ASD, we recommend that EG&G provide the Fund with details of cash held as of month-end and indicate the composition of revenue (that is sales, reimbursed storage costs, etc.) which it represents. Based on this information, we recommend that the ASD record the revenue and related accounts receivable due from EG&G.

Until the necessary system changes can be implemented, the manual year-end procedures will continue to be necessary to prepare the annual financial statements. Therefore, we recommend that the law enforcement bureaus be reminded of the importance of properly following the year-end procedures. We also recommend that procedures be again reviewed with the law enforcement bureaus to identify any possible misunderstandings or refinements to the procedures.

2. GENERAL LEDGER

CONDITION

The Asset Information Management System (AIMS) which is the general ledger system maintained by Customs, processes, groups and summaries transactions into account balances for the Fund. The general ledger is currently not used to track all balances and transactions that comprise the Fund, such as accounts receivable, liens and mortgages payable, forfeited property and deferred revenue, and seized currency and its offsetting liability due to the lack of interface between the systems. Instead, at the end of the fiscal year, information is identified and captured manually from other systems in order to properly compile the financial statements.

CRITERIA

The Budget and Accounting Procedures Act of 1950, Section 3512, *Executive Agency's Accounting System* requires federal agencies to establish an internal control structure which ensures the safeguarding of assets and the proper recording of revenues and expenditures. It is further reinforced by the Federal Manager's Financial Integrity Act of 1982 (FMFIA) which requires that internal accounting and administrative controls be established to provide reasonable assurance that revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets. Finally, the Federal Accounting Standards Advisory Board (FASAB) has recommended certain standards, which have been issued by the OMB, requiring the use of the accrual basis of accounting (SFFAS No. 1) and accounting and reporting requirements for inventory and related property (SFFAS No. 3).

CAUSE

The Fund's general ledger is maintained on the cash basis. Accordingly, accrual basis accounts are not maintained during the year. In addition, the inventory subsidiary systems maintained by each of the Treasury law enforcement bureaus do not interface with the Fund's general ledger. Accordingly, inventory-related transactions that are non-cash generated are not recorded in the Fund's general ledger.

EFFECT

The combined effect of the use of cash-basis accounting and the lack of interface among the relevant subsidiary systems and the general ledger precludes the capturing of all transactions related to the Fund on a regular (monthly) basis. Therefore, complete financial statements cannot be produced

using the general ledger balances. Seized and forfeited property, related liabilities, and various other accrual accounts are not captured in the general ledger during the year. As a result, financial statements produced during the year do not correctly present the results of operation and net position of the Fund.

RECOMMENDATION

We recommend that all accrual basis accounts, seized currency and its offsetting liability, and forfeited property and the related revenue, be recorded in the Fund's general ledger in a timely manner. We recommend that existing procedures be followed requiring each law enforcement bureau's staff to forward the forfeiture information as authorized, to the appropriate personnel for updating the bureau's inventory tracking system and, if held by the contractor, to EG&G, to update SEACATS to reflect changes in property status.

Alternatively, the Fund should develop and implement an integrated system that will capture all transactions in the general ledger, including accounts receivable, liens and mortgages payable, forfeited property, deferred revenue, and seized currency and its offsetting liability.

3. U.S. CUSTOMS SERVICE'S INADEQUATE INVENTORY TRACKING SYSTEM

CONDITION

The U.S. Customs Service (Customs) seized and forfeited property and currency tracking system, the Seized Assets and Case Tracking System (SEACATS), does not contain accurate and sufficient data that can be relied upon to prepare the analysis of changes in forfeited and seized currency and property without substantial manual manipulation and reconciliation. As a result, year-end procedures were developed to identify forfeited and seized property not recorded in SEACATS as of September 30, 1997, and to adjust the financial statements for the value of forfeited and seized property on hand at year-end.

CRITERIA

Federal Financial Management Systems Requirements issued by the Joint Financial Management Improvement Program (JFMIP) demand that an agency's Core financial system be able to provide financial information on a timely and useful fashion to meet five goals: (1) support management's fiduciary role; (2) support budget formulation and execution functions; (3) support fiscal management of program delivery and program decision making; (4) support internal and external reporting requirements, including, as necessary, the requirements for financial statements prepared in accordance with the form and content prescribed by OMB, reporting requirements prescribed by Treasury, and legal, regulatory and other management requirements of the agency; and monitor the financial management system.

CAUSE

SEACATS was implemented without sufficient user requirement analysis and comprehensive system documentation. Additionally, the system was implemented without user training, acceptance testing, or comprehensive parallel testing.

EFFECT

The difficulties encountered in preparing the changes in forfeited and seized property and currency analysis indicates that Customs lacks the ability to properly, fully and accurately account for seized and forfeited property and currency at this time. Specifically:

- SEACATS was used as the system of record for property. However, seized and forfeited property information from SEACATS contained substantial erroneous information indicating

the inability to track seizures within the system. Consequently, significant interim and year-end procedures were developed to identify forfeited and seized property not recorded in SEACATS as of September 30, 1997. As a result of the implementation of these procedures, a significant number of adjustments were made to the SEACATS data to adjust to the value of forfeited and seized property on hand at year-end.

- Reliable seized and forfeited currency information could not be provided from SEACATS. Exhaustive year-end procedures were developed to manually compile forfeited and seized currency as of September 30, 1997, for financial reporting purposes. This was a time consuming and cumbersome process which delayed the completion of the annual audit and significantly impacted Customs's daily activity.

RECOMMENDATION

The Fund's current intention is to develop SEACATS until it is fully functional so that Customs can process property and currency transactions as intended and ultimately use SEACATS as the Customs system of record in fiscal year 1998. We strongly recommend that the shortfalls identifiable to SEACATS be immediately corrected to allow for cradle to grave tracking of all property and currency from case initiation to final resolution including SFFAS No. 3 requirements. We also strongly recommend that Customs provide user training and also, comprehensive system documentation to conform to user requirements. We also recommend post conversion audits to ensure that the system works as purported.

1. DIFFERING INVENTORY TRACKING SYSTEMS

CONDITION

Customs, IRS, Secret Service, and ATF maintain seized and forfeited property, the value of which is included in the Fund's financial statements. The four Treasury law enforcement bureaus use different inventory tracking systems to prepare the required analysis of changes in forfeited and seized property schedules. The different systems collect and account for seized and forfeited assets differently and use slightly different data definitions. As a result, manual manipulation and reconciliation are required to prepare the analysis in forfeited and seized property schedules. Additionally, since these inventory tracking systems do not tie to the Fund's system of record, it is necessary to perform substantive reconciliations between the Fund's records and the bureaus' records to give assurance that all transactions are being properly recorded.

CRITERIA

SFFAS No. 3 requires disclosure of an analysis of changes in forfeited and seized property. The standard requires presentation of both dollar amounts and quantity changes. Therefore, each of the law enforcement bureaus' inventory property tracking systems should provide all data necessary to produce the analysis of changes in forfeited and seized property, with minimal manual intervention and reconciliation, and to provide management with meaningful information.

CAUSE

The Seized Asset and Case Tracking System (SEACATS), was developed and implemented by Customs in November 1996. SEACATS was developed to replace several non-integrated tracking systems operated by Customs and other law enforcement agencies participating in the Fund. Due to SEACATS non performance, other law enforcement bureaus had to revert to information produced by their independent tracking systems for financial reporting purposes at year-end:

Customs - In order to produce the SFFAS No. 3 for property, Customs relied on the property reports produced by SEACATS and manually manipulated them to meet the reporting requirements. Significant manual adjustments were required to prepare the SFFAS No. 3 exhibits for property. SEACATS provided unreliable information for currency, therefore, manually compiled information was used to produce the SFFAS No. 3 exhibits for currency and monetary instruments.

IRS, ATF and Secret Service - In order to produce the SFFAS No. 3 exhibits, IRS, ATF and Secret Service printed a variety of standard reports from their independent tracking systems and manually manipulated them to meet the reporting requirements. ATF and Secret Service's system, the Consolidated Asset Tracking System (CATS), does not automatically perform the required

reconciliation between seized currency and deposits to the Customs suspense account, or the reconciliation between forfeited currency and deposits to the Fund. ATF and Secret Service manually reconciled this information based on printed reports generated from the CATS system.

EFFECT

The difficulties encountered in preparing the changes in forfeited and seized property analysis by the four bureaus indicate that the Fund lacks the ability to properly, fully and accurately account for seized and forfeited property.

The number of non-integrated systems makes reconciliation extremely difficult and seriously diminishes the quality of the data available for financial reporting.

The current policies and procedures were developed piecemeal and independently of any one systems initiative, and, as a result, the systems do not effectively support the policies and procedures.

Because the current systems were developed prior to the recognized need for consistent, timely and accurate financial management data and strict financial management controls, little or no system functions (e.g., beginning and ending- balances, audit trails, etc.) exist to support these areas.

RECOMMENDATION

We recommend that Customs immediately evaluate and correct the shortfalls identified within SEACATS so that Customs can process property and currency transactions for fiscal year 1998. IRS, Secret Service and the ATF should continue to manually reconcile information generated from their individual tracking systems until such time as SEACATS is fully functional.

Additionally, we recommend that IRS, Secret Service, and ATF manually reconcile periodically to SEACATS. If SEACATS still cannot be correctly updated, then inventory should be accounted for using information generated from their tracking systems.

2. IMPROPER TIMING FOR VALUATION OF FORFEITED PROPERTY

CONDITION

Forfeited property is not recorded in the subsidiary system during the year at its fair value at the time of forfeiture. Rather, the value of forfeited property is currently recorded in the law enforcement bureaus' inventory tracking systems at appraised value, determined at the seizure date, by the seizing agent, import specialist or independent appraiser.

To develop year end value of forfeited property for inclusion in the Fund's financial statements, management performed a historical analysis by property category of sales values compared to the initial appraised amounts. These ratios are then applied to the ending forfeited property value to determine the financial statement value of forfeited property. In fiscal year 1997, Customs was unable to calculate ratios for this purpose as sales value for property disposed were not compiled to compute this ratio.

CRITERIA

Statement of Federal Financial Accounting Standards (SFFAS) No. 3 requires forfeited property to be stated at fair market value at the time of forfeiture, in the bureaus' general ledger (inventory tracking systems).

CAUSE

The Fund does not perform an appraisal to determine fair market value of property at the date of forfeiture.

EFFECT

Carrying forfeited property at appraised values as of seizure date, in particular, for financial reporting purposes can be misleading because the values are often overstated and therefore do not present an accurate picture of the net realizable value to the Fund.

RECOMMENDATION

We recommend that the Fund's management evaluate the accuracy of fair market values assigned to forfeited property. Accordingly, the fair market value should be determined by performing an appraisal at the date of forfeiture. Failing this, we recommend that the Fund's management continue reviewing the methodology used to arrive at fair market value to refine its accuracy and ease in preparation. As the process is refined, it will become easier to prepare the monthly analysis to

properly value and record month-end forfeited property balances. Additionally, individual agencies participating in the Fund must prepare the 'sales value' to 'appraised amounts' ratio in order that the forfeited value for property disclosed in the financial statements is reported at the best estimate.

3.

LACK OF INVENTORY CONTROL

CONDITION

The U.S. Customs Service (Customs) manages and records seized and forfeited property in the Seized Assets and Case Tracking System (SEACATS). EG&G Dynatrend (EG&G), the national seized property contractor (outside contractor), also manages and records the seized and forfeited property transferred to and held by them on behalf of all Treasury law enforcement agencies (IRS, Secret Service, and ATF) through a module within SEACATS. Currently, the inventory held by EG&G does not agree to what is recorded in SEACATS by Customs. Also, the inventory held by EG&G on behalf of IRS, Secret Service, and ATF differed significantly from the inventory reports generated by SEACATS. The year end physical inventory value and count per Customs' SEACATS inventory records require significant adjustments because seizures and forfeitures are either not recorded at all or not recorded in the modules within SEACATS on a timely basis. Additionally, no reconciliations were performed during the year to identify discrepancies.

CRITERIA

Federal Financial Management Systems Requirements issued by the Joint Financial Management Improvement Program (JFMIP) demand that an agency's Core financial system be able to provide financial information on a timely and useful fashion to meet five goals: (1) support management's fiduciary role; (2) support budget formulation and execution functions; (3) support fiscal management of program delivery and program decision making; (4) support internal and external reporting requirements, including, as necessary, the requirements for financial statements prepared in accordance with the form and content prescribed by OMB, reporting requirements prescribed by Treasury, and legal, regulatory and other management requirements of the agency; and monitor the financial management system.

CAUSE

Inventory systems (SEACATS) were not in place to track property seizures and forfeitures, and, consequently, there were no inventory records at any time during the year for reconciliation purposes. Additionally, design flaws within SEACATS made it impossible for EG&G to update the SEACATS system to correctly reflect inventory.

There are no procedures in place requiring the regular reconciliation of inventory systems' records maintained by Customs with inventory records maintained by EG&G.

Seizing officers do not adhere to policy with respect to entering seizures and forfeitures in their bureaus' inventory tracking systems within the prescribed time period.

EFFECT

Due to non-integrated inventory and general ledger systems, the lack of inventory reconciliation and timely recordation in the general ledger results in the Fund's inability to provide accurate and timely financial information in a manner supportive of management's program and administrative responsibilities.

RECOMMENDATION

We recommend that quarterly reconciliations between Customs and EG&G's inventory reports be performed. This will ensure that the property held as reported by Customs agrees with the amount recorded and reported by EG&G. Any differences should be resolved timely.

We also strongly recommend that Customs conduct a physical inventory of properties held prior to year end. The physical count should be reconciled to both Customs' and EG&G's inventory records.

Additionally, we recommend that IRS, Secret Service, and ATF manually reconcile assets in EG&G's custody against EG&G inventory records produced by SEACATS. If it continues to be impossible to record inventory properly in SEACATS for these agencies, the Fund's Management should consider having EG&G conduct the year-end inventory using reports produced by the agencies independent inventory systems (AFTRAK and CATS), rather than SEACATS.

4. LACK OF SALES REVENUE RECONCILIATIONS

CONDITION

EG&G Dynatrend (EG&G) provides property management services to the U.S. Customs Service (Customs), such as: storage of property seized by any bureau participating in the Fund; disposal of the properties through public auctions; and, collection of storage costs reimbursed by violators. Cash collections made by EG&G on behalf of the Fund are deposited into various bank accounts in the name of EG&G and, within one week, are accumulated and transferred to the U.S. Treasury account at the Federal Reserve Bank of New York. The money collected by EG&G represents a significant portion of the revenues earned by the Fund. However, the ASD only records revenue upon receipt of a validated deposit slip, which is approximately one week later. Currently, Customs does not independently verify the revenue earned from sales of inventory items. The money deposited into the Fund by EG&G is reported as revenue. Additionally, no reconciliations are performed to verify sales proceeds owed to the Fund.

CRITERIA

The Budget and Accounting Procedures Act of 1950, Section 3512, *Executive Agency's Accounting System* requires Federal agencies to establish an internal control structure with ensures the safeguarding of assets and the proper recording of revenues and expenditures. It is further reinforced by the Federal Manager's Financial Integrity Act of 1982 (FMFIA), which requires that internal accounting and administrative controls be established to provide reasonable assurances that revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets.

CAUSE

The Fund does not independently monitor the sales conducted by EG&G. In addition, in FY '97 the Fund discontinued the practice of reconciling proceeds received from the sales to EG&G sales reports.

EFFECT

The lack of independent verification of revenue earned from sales of inventory items and the absence of reconciliations to substantiate sales proceeds owed to the Fund, inhibits the Fund's ability to adequately demonstrate the safeguarding of Fund assets and proper and complete recordation of revenue.

RECOMMENDATION

We recommend that sales be monitored by a representative of the Fund, independently of EG&G. This representative should compile records of sales, which should be later reconciled to EG&G's sales reports. Any differences should immediately be cleared with EG&G.

Additionally, we recommend that ASD reconcile deposits from EG&G on a monthly basis and investigate any differences immediately.

SECTION IV
SUPPLEMENTAL FINANCIAL AND MANAGEMENT
INFORMATION
(Unaudited)

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Equitable Sharing Summarized by State and U.S. Territories
For the year ended September 30, 1997
(Dollars in Thousands)
(Unaudited)

State/U.S. Territories	Currency Value	Property Value
Alabama		
Alaska	\$339	\$ 3
Arizona	0	0
Arkansas	505	7
California	46	0
Colorado	3,269	24
Connecticut	23	0
D.C. Washington	64	0
Delaware	109	0
Florida	7	0
Georgia	11,743	295
Guam	93	0
Hawaii	0	0
Idaho	0	0
Illinois	4	0
Indiana	774	32
Iowa	252	0
Kansas	0	0
Kentucky	0	0
Louisiana	282	3
Maryland	165	5
Massachusetts	550	53
Michigan	137	0
Minnesota	34	48
Mississippi	0	0
Missouri	234	0
Montana	475	4
Nebraska	97	0
Nevada	0	0
New Jersey	4	0
New Hampshire	547	0
New Mexico	0	0
New York	4	88
North Carolina	9,389	13
North Dakota	568	30
Ohio	0	0
Oklahoma	237	78
Oregon	0	0
Pennsylvania	224	0
Puerto Rico	338	0
Rhode Island	0	0
South Carolina	0	0
South Dakota	75	1
Tennessee	0	0
Texas	1,186	0
Utah	1,499	101
Vermont	60	0
Virgin Islands	0	0
Virginia	0	0
Washington	40	0
West Virginia	138	1
Wisconsin	92	0
Wyoming	97	0
	<u>63</u>	<u>0</u>
Total	<u>\$33,763</u>	<u>\$786</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 statements of the Department of the Treasury Forfeiture Fund. Information in 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 adjustment to present property distributed at net realizable value.

DEPARTMENT OF THE 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, 1997
(Dollars in Thousands)
(Unaudited)

<u>State / U.S. Territory</u>	<u>Number of Seizures</u>	<u>Dollar Amount (in Thousands)</u>
United States Customs Service (Customs)		
California	5	\$ 2,060
Florida	9	3,048
Indiana	1	103
Maryland	1	149
Massachusetts	2	1,691
Michigan	2	589
Nevada	1	145
New Jersey	2	895
New York	14	4,245
Tennessee	1	239
Texas	8	4,228
Total Customs	46	\$ 17,392
Internal Revenue Service (IRS)		
No State / Territory Provided	3	\$ 1,443
GRAND TOTAL	49	\$ 18,835

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.

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Analysis of Revenues, Expenses, and Distributions
For the year ended September 30, 1997
(Dollars in Thousands)
(Unaudited)

Revenues and expenses and distributions by asset category:

	<u>Revenues</u>	<u>Expenses and Distributions</u>
Vehicles		
Vessels	\$ 8,322	\$ 9,416
Aircraft	2,312	11,997
General Property	2,312	3,865
Real Property	7,398	38,080
Currency and monetary instruments	25,893	1,492
	<u>228,418</u>	<u>77,282</u>
Less:	274,655	142,132
Mortgages and claims		
Refunds	(4,821)	(4,821)
Add:	(7,028)	(7,028)
Allocation of revenue to ONDCP Special Forfeiture Fund	--	35,679
Excess of net revenues and financing sources over total program expenses	--	96,844
	<u>\$262,806</u>	<u>\$262,806</u>

Revenues and expenses and distributions by type of disposition:

	<u>Revenues</u>	<u>Expenses and Distributions</u>
Sales of property and forfeited currency and monetary instruments	\$ 191,210	\$ 27,005
Reimbursed storage costs	1,477	14,213
Assets shared with state and local agencies	42,375	42,375
Assets shared with other federal agencies	6,310	6,310
Assets shared with foreign countries	231	231
Victim Restitution	33,052	33,052
Destructions		17,056
Pending disposition		<u>1,890</u>
	274,655	142,132
Less:		
Mortgages and claims		
Refunds	(4,821)	(4,821)
Add:	(7,028)	(7,028)
Allocation of revenue to ONDCP Special Forfeiture Fund	--	35,679
Excess of net revenues and financing sources over total program expenses	--	96,844
	<u>\$262,806</u>	<u>\$262,806</u>

This supplemental schedule "Analysis of Revenues, Expenses and Distributions" is required under the Treasury Forfeiture Fund Act of 1992. The allocations in the schedule were determined from information obtained from a U.S. Customs Service information system. This system maintains revenue and expenses by each seizure for property held at the contractor. The percentages of revenue and expenses from this system were applied to revenue and expenses and distributions as reflected in the statement of operations and changes in net position. 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.

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Information Required by 31 U.S.C. 9703(f)
For the year ended September 30, 1997
(Unaudited)

The Treasury Forfeiture Fund Act of 1992, 31 U.S.C. 9703(f), requires the Secretary of the Treasury to transmit to Congress, not 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 or the United States Coast Guard, in the case of fiscal years beginning after 1993.**

At September 30, 1997, the Fund had forfeited currency of \$18,103,000 not deposited. These amounts are reported as undistributed funds with Treasury and cash in the audited financial statements.

As reported in the audited financial statements, at September 30, 1997, the Fund had forfeited property held for sale of \$36,131,000. The 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, 1997, there was \$2,706,000 of forfeited currency and other monetary instruments that had not yet been transferred to the Fund. This is reported as a part of - "Intra governmental accounts receivables" 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 agency is summarized by state and U.S. territories. Total currency transferred was \$46,915,000 and total property transferred was \$786,000 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, 1996, which became the beginning balance for the Fund on October 1, 1996, as reported in the audited financial statements is \$144,672,000.

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Information Required by 31 U.S.C. 9703(f)
For the year ended September 30, 1997
(Unaudited)

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

Mortgages and claims expense as reported in the audited financial statements were \$4,821,000. The amount actually paid on a cash basis was not materially different.

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

State and local agencies	\$42,376,000
Foreign countries	231,000
Other federal agencies	6,310,000
Victims restitution	33,052,000

- (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 amount realized from the operations of the Fund as shown in the audited financial statements is \$96,844,000.

The amount of seized currency not on deposit in the Fund's suspense account at September 30, 1997, was \$13,006,000. This amount includes some funds in process of being deposited at year end; cash seized in August or September 1997, 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 \$205,067,000 for fiscal year 1997.

- (D) Any defendant's property, not forfeited at the end of the proceeding 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 Agency and contractor officials, and the number of seizures is as follows:

U.S. Customs Service	\$91,979,872	26 seizures
IRS	30,119,724	21 seizures
U.S. Secret Service	7,933,069	1 seizure

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Information Required by 31 U.S.C. 9703(f)
For the year ended September 30, 1997
(Unaudited)

- (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 \$17,392,000. A separate schedule is presented on page 71.

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

The total net position of the Fund at September 30, 1997, as reported in the audited financial statements is \$272,713,000.

- (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 1998 per fiscal year 1997 Omnibus Appropriations Act (PL104-208). The amount carried over to fiscal year 1998 is \$130,186,000.

- (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 72.

