

**REPORT ON THE
AUDITED FISCAL YEAR 1999
FINANCIAL STATEMENTS
OF THE
TREASURY FORFEITURE FUND**

OIG-00-063

MARCH 3, 2000



Office of Inspector General

United States Department of the Treasury



OFFICE OF
INSPECTOR GENERAL

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

March 3, 2000

MEMORANDUM FOR RAYMOND M. DINEEN, DIRECTOR
EXECUTIVE OFFICE FOR ASSET FORFEITURE

FROM: Dennis S. Schindel *Dennis Schindel*
Assistant Inspector General for Audit

SUBJECT: Report on the Audited Fiscal Year 1999 Financial
Statements of the Treasury Forfeiture Fund

I am pleased to transmit the attached report on the audited Fiscal Year 1999 financial statements of the Treasury Forfeiture Fund (TFF). Gardiner, Kamyra, & Associates, P.C., an independent public accountant (IPA), performed the audits and issued the following reports, which are included in the attachment:

- Independent Auditor's Report on Financial Statements;
- Independent Auditor's Report on Internal Control; and
- Independent Auditor's Report on Compliance with Laws and Regulations.

The IPA rendered an unqualified opinion on the TFF's Balance Sheets as of September 30, 1999 and 1998, and the related Statements of Net Cost, Changes in Net Position, Budgetary Resources, and Financing for the Fiscal Years ended September 30, 1999 and 1998. However, the Independent Auditor's Report on Internal Control cited three material weaknesses: (1) accounting records are primarily maintained on a cash basis (repeat finding); (2) all balances and transactions that comprise the TFF are not captured by the general ledger (repeat finding); and (3) systems control deficiencies exist in the United States Customs Service's (Customs Service) seized property and forfeited assets tracking system (repeat finding).

In addition, the Independent Auditor's Report on Internal Control cited the following three reportable conditions: (1) improper timing for valuation of forfeited property (repeat finding); (2) lack of control over assets (repeat finding); and (3) inadequate property management functions (repeat finding).

The Independent Auditor's Report on Compliance with Laws and Regulations cited one (repeat) instance of noncompliance with applicable laws and regulations. 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 summarized above, the TFF's internal control structure has certain material weaknesses which signify noncompliance with this Act.

Furthermore, the Customs Service, which acts as the executive agent for certain TFF operations and is responsible for accounting and financial reporting for the TFF, did not comply with the Federal Financial Management Improvement Act of 1996. In a separate report, the OIG noted instances where the Customs Service's financial management systems do not substantially comply with Federal Financial Management Systems Requirements.

These issues, some of which were identified during prior year audits, will remain of continuing significance until the necessary internal control improvements and systems changes are implemented.

The IPA will issue a management letter discussing matters that were identified during the audit which are not required to be included in the audit reports.

As in the prior year, my staff monitored the conduct of these audits and performed a quality control review of the IPA's working papers. The audits were performed in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States, and met the requirements of Office of Management and Budget Bulletin No. 98-08, *Audit Requirements for Federal Financial Statements*, as amended.

Should you have any questions, please contact me at (202) 927-5400, or a member of your staff may contact William H. Pugh, Deputy Assistant Inspector General for Audit(Financial Management) at (202) 927-5430.

Attachment

TREASURY FORFEITURE FUND

*ANNUAL REPORT
FISCAL YEAR 1999*



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

Gardiner, Kamya & Associates, P.C.

Management Consultants and Certified Public Accountants
Washington, D.C.



DEPARTMENT OF THE TREASURY
OFFICE OF THE UNDER SECRETARY
WASHINGTON, DC

TO TREASURY LAW ENFORCEMENT:

Everyday, the women and men of Treasury's law enforcement organizations pursue a wide variety of cases that range from trade and financial fraud to narcotics smuggling, illegal firearms trafficking, terrorism, counterfeiting, money laundering and other threats to our own citizens as well as our neighbors throughout the world. Asset forfeiture is a formidable tool available to us as we pursue our mission. It places a high levy on criminal activity, taking apart the very structures that support many illegal enterprises.

I am pleased to present this annual report of the Treasury Forfeiture Fund for fiscal year 1999. In its financial statements, along with accompanying reports and exhibits, is a measure of how we have performed in managing the Fund on behalf of the American public. In its narrative of related occurrences and achievements is a sense of how the Treasury forfeiture program strives to meet its four fundamental goals of protecting individual rights, deterring crime, promoting cooperation and strengthening law enforcement.

When we look to the future of asset forfeiture, we see it ultimately resting upon public faith in the integrity of its administration. Only with that faith secured, will it continue to provide valuable service – doing what prisons alone cannot do, giving the victimized a chance at recovery, building communities torn apart by drugs and violence and strengthening all of law enforcement's ability to protect and serve.

JAMES E. JOHNSON
Under Secretary (Enforcement)

**TREASURY FORFEITURE FUND
ANNUAL REPORT
FISCAL YEAR 1999**

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SECTION I
OVERVIEW

Chapter 1:

Safeguarding Individual Rights

The Treasury Forfeiture Fund (the Fund) is the receipt account for the deposit of non-tax forfeitures made pursuant to laws enforced or administered by Treasury law enforcement agencies and the United States Coast Guard. It was established in October of 1992 as the successor to the forfeiture fund of the United States Customs Service. It is codified at 31 USC 9703 and brings together all of Treasury law enforcement under a single forfeiture fund program. When the enabling legislation for the Department of the Treasury Forfeiture Fund (the Fund) was enacted as Public Law 102-393, it brought into alignment the substantial Federal law enforcement responsibilities of the Secretary of the Treasury with authority and control over an increasingly significant source of resources for the Department of the Treasury's (the Department) law enforcement efforts.

Recent growth in Federal forfeiture programs only underscores the fundamental principle that their effectiveness ultimately rests upon public confidence in their integrity. Since the inception of the Fund, the Department's forfeiture program has always set as one of its principal goals the safeguarding of individual rights. That asset forfeiture not transgress upon rights guaranteed by the Constitution of the United States is essential, if this law enforcement resource is to merit the public trust. This is especially true in the realm of civil forfeitures; those conducted outside of the criminal courts system. A look at the civil forfeiture process as well as some of the related reforms the Treasury forfeiture program has implemented during the last several years will give some idea of how this goal is constantly being pursued.

Safeguarding Due Process. While civil forfeiture actions can be pursued either administratively by the seizing agency or judicially in civil court, they always proceed against property and not persons. It is also readily apparent that property cannot

exist without someone, somewhere, having an ownership or other interest in it. Simple fairness demands that those persons having any interest in seized property be notified of the seizure and the intent to forfeit so that they may have an opportunity to come forward and be heard. In Treasury's forfeiture program, such notice begins a process designed to safeguard the rights of affected parties. Some of 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 an institution. In these circumstances, these persons must be extended personal notice of the seizure and intended proceedings by registered or certified mail. We have even held discussions with the Bureau of Prisons to be certain that interested parties who may be incarcerated actually receive the notice of intent to forfeit.
- **Publication** - Ensure 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. Mitigation is a partial pardon and usually results in the Government returning the property on the condition that the petitioner pays a penalty.

The Department goes to great lengths to ensure that its civil forfeiture actions are not covert activities bereft of concerns for process and rights. Whether civil forfeiture is accomplished administratively by the investigative agency or judicially in a court of law, the Department insists that it always proceeds through a very structured and delineated process. It is a process that comprehensively notifies affected parties, invites arguments against the intention to forfeit, accommodates the indigent and offers opportunities to achieve compromise resolutions short of forfeiture.

Timeliness in Processing Civil Forfeitures. To further ensure that the Department and its law enforcement agencies are vigilant in seeing to it that due process is fully granted in civil asset forfeiture cases, the Department's Executive Office for Asset Forfeiture (EOAF) issued a policy directive in 1995 on the timely processing of administrative and civil judicial forfeitures. Twice each year, the Department's enforcement bureaus

are asked to examine their open civil forfeiture cases and determine how many have exceeded what are general timeliness standards in the administrative, civil and judicial categories. If more than a minimal amount are found to be untimely, i.e. older than six to nine months in the administrative category or older than two years in the civil judicial category, then a report on these cases is forwarded to the EOAF. This policy promotes active caseload monitoring so that all seized property will either proceed to forfeiture or be returned to an interested party without suffering, and any delay.

Post and Walk for Real Properties. Additionally, in cases involving real property, seizures are usually accomplished with explicit instructions from a court. Typically, when a warrant of arrest "*in rem*" for the real property is issued, agents serve the warrant on the individuals occupying the premises and post a copy of the notice of intent to forfeit in a conspicuous place on the property. Institution of this post and walk policy, as it is commonly known, has allowed claimants to remain in possession of the premises while contesting the forfeiture proceeding in court.

Comprehensive Training for Forfeiture Personnel. Management of the forfeiture program and the use of its funds are very important. Fund Management has taken measures in several other areas to ensure that the Fund effectively fulfills its responsibilities to the public. The Department has conducted and participated in comprehensive training for all its forfeiture personnel - from special agents and their supervisors to seized property managers. Such training has repeatedly underscored the importance of considered and responsible seizures and the need for the pre-seizure planning that makes these possible. Quality in the management of seized property has been emphasized so that the value of the property, whether it is forfeited or returned, is never carelessly diminished.

Achieving the Goal. In sum, the Department has taken various administrative measures to achieve its goal of having a forfeiture program that

safeguards the rights of individuals. Day-in and day-out, the Department's law enforcement pursues a wide range of cases in its many areas of responsibility - from trade and financial fraud to narcotics smuggling, illegal firearms trafficking, terrorism, counterfeiting and money laundering. Civil forfeiture, the most historic and tested element of the forfeiture program, has come to play a very important role in pursuing the fight against these and other criminal activities and has demonstrated a longstanding record of accomplishment in serving the best interests of citizens. While reforming civil forfeiture continues as a topic of public discourse, the Department's forfeiture program remains committed to those fundamental policies and guidance that reflect America's sense of fair play.

Chapter 2:

Detering Criminal Activity

When the final 1998 figures from 17,000 city, county and state police agencies were in, analyzed and released, the Uniform Crime Reports from the Department of Justice showed that the United States had recorded the fewest number of serious crimes since 1985. These figures showed a seventh straight year of decline in the nation's crime rate. Commentators and analysts were quick to offer a variety of reasons which ranged from the aging of the baby boom generation, to the robust national economy, to the implementation of get-tough-on-crime policies. Undoubtedly, many factors have likely contributed to this trend, including more police officers on the street, greater cooperation between law enforcement agencies, truth in sentencing policies, initiatives to keep guns away from criminals and the overall effects of various innovative approaches to prevention, intervention, punishment and supervision.

The last fifteen years have also been marked by the re-invigoration and growth of asset forfeiture as a tool of law enforcement. The Department of the Treasury (the Department) has employed asset forfeiture in its law enforcement operations since 1789, when George Washington's former aide-de-camp, Alexander Hamilton, served as the Department's first secretary. The forfeiture rules and attendant procedures that were first developed for the Department's Customs Service at the end of the eighteenth century, have been models for much of the expansion of Federal asset forfeiture at the end of the twentieth. A decade and a half of asset forfeiture program growth interspersed with years of downward trend in serious crime begs a question of cause and effect.

While such a question may remain unanswerable, consider what Federal asset forfeiture programs have accomplished since the Comprehensive Crime Control Act of 1984 afforded them the forfeiture funds that have made the programs largely self-sustaining. Between the forfeiture funds of the Departments of Justice and the

Treasury several billions of dollars worth of assets have been siphoned away from either reinvestment in criminal enterprises or service as the reward for criminal pursuits. If crimes, other than those of passion and ideology, are mostly motivated by a desire for profit, then the looming presence of an effective asset forfeiture authority may enter into reasonable calculations of costs, benefits and related risks. Minimally, asset forfeiture raises the stakes involved. Incarceration is no longer the only cost of criminality. The higher the perceived risk, the greater the likelihood of some deterrent effect.

Today, in meeting the threats posed by sophisticated criminal elements, who show scant regard for international boundaries, the original forfeiture authorities of the Customs Service have been expanded. At the same time, Treasury's Bureau of Alcohol, Tobacco and Firearms (ATF), the United States Secret Service (Secret Service) and the Criminal Investigation Division within the Internal Revenue Service (IRS) have all been allotted new and significant authorities to seize and forfeit in furthering their law enforcement missions. By taking a look at just some of the areas in which these authorities have been applied in FY 1999, one gains an insight into the range of the Department's law enforcement responsibilities and how asset forfeiture works to deter related criminal activities.

Operation Cash Back. When the National Money Laundering Strategy for 1999 was released in September of that year, it mentioned the existence of the Black Market Peso Exchange, citing it as the largest known money laundering system for drug proceeds in the Western Hemisphere. One year earlier, the Under Secretary of the Treasury for Enforcement set up the Black Market Peso Exchange Working Group to bring together Federal enforcement, banking and related agencies to mount a coordinated attack on this peso exchange system, which is estimated to launder as much as \$5 billion per year. One breakthrough in this effort occurred in Miami at the end of FY 1999 when

over \$4 million was seized and dozens were indicted and arrested in the United States and Columbia as the result of an IRS led investigation known as Operation Cash Back.

Operation Cash Back began in 1996 as an undercover probe that eventually exposed a scheme to launder millions of dollars in narcotics proceeds through the sale of computer equipment and other goods to businesses in South America. Colombian traffickers would sell their drug dollar in the United States to a peso broker at a discount. The broker would then pay the trafficker with pesos in Colombia, providing the trafficker with his money and now making the broker the money launderer, confronting the challenge of getting the U.S. drug dollars into the financial system. In Operation Cash Back, the Colombian brokers would sell these drug dollars at an attractive discount to Colombian import businesses who were seeking U.S. denominated funds to purchase American goods. Employees of several U.S. corporations who sold the goods, including computer equipment, agreed to accept the drug-tainted funds and not file the cash transaction reports required by the IRS.

When the indictments were made public in September 1999, IRS agents had frozen some sixty bank accounts containing approximately \$12 million in addition to the monies already seized. Indictments charged Colombian brokers and couriers as well as the employees of some sixteen American businesses with charges ranging from money laundering to failure to file requisite IRS forms. Assisting the Criminal Investigation Division of the IRS in this case were investigators from the Broward County Sheriff's Office, the Sunrise Police Department and the Coral Springs Police Department.

Deputy Secretary of the Treasury, Stuart Eizenstat, in a joint statement with the Deputy Attorney General, noted that the indictments from Operation Cash Back "...demonstrated that law enforcement will not tolerate businesses giving drug traffickers and money launderers a free hand to sanitize their illicit profits, and that they" ... illustrate the way money laundering systems can tempt some

otherwise legitimate businesses to knowingly violate the law.

Years Later, Marijuana Proceeds Forfeited. By June of 1999, the story of Paul Edward Hindelang Jr. had made the front page of the *Wall Street Journal* under the caption, *Secret Accounts-Ghosts of Hidden Past Come Back to Haunt a Star Entrepreneur*. The accompanying article chronicled Hindelang's own peculiar odyssey, which six months earlier ended another chapter with his agreement to forfeit \$50 million in drug proceeds thanks to the dogged determination of investigators from the United States Customs Service and the Monroe County Sheriff's Office in the Florida Keys.

Hindelang, now in his fifties, had received a six month prison term back in 1970 when he was stopped trying to smuggle seventy-five pounds of marijuana into the United States. After that brush with the law, he applied his substantial entrepreneurial talents into developing innovative drug smuggling methods and techniques. Reportedly, he was the mind behind the concept of the mother ship, whereby a large vessel full of contraband, unloads its cargo to several mid-sized boats on the high seas, who in turn offload their shipments to even smaller craft for the final trips to shore. Over the next decade, Hindelang earned substantial compensation in the smuggling business for his skills and ideas.

By 1981, his criminal successes had started to sour as he found himself caught up in an undercover operation in Louisiana. Pleading guilty in Federal district court in New Orleans to drug trafficking charges, Hindelang agreed to cooperate with law enforcement and to forfeit his criminal proceeds, which he contended amounted to only \$640,000 in currency. Sentenced to ten years, he was released in less than three. From that point, he appears to have applied his formidable aptitudes to legitimate businesses and encountered success by availing himself of the opportunities presented by the breakup of the AT&T telephone monopoly. The company he put together, Pacific Coin, became one of the largest independent pay phone operators in the United States and by 1998 had merged with

another firm, allowing Hindelang and his partners to sell half their interests.

Over the last few years, however, a Customs Service special agent and an investigator from the Monroe County Sheriff's Office seriously questioned just how much money Hindelang had made during his heyday of narcotics trafficking and just what had become of it. It was soon apparent that the \$640,000 he had forfeited earlier was only a small fraction of his overall smuggling profits. Thanks to their painstaking efforts, they found a money trail that appeared to lead to real estate in Colorado, a ranch in Montana and possibly even a cable television company in Costa Rica.

In 1997, Hindelang was first confronted with what the investigators had found. He acknowledged that there were indeed other assets traceable to his trafficking activities and they were still concealed offshore. Within the year, he had accounted for these assets and agreed to forfeit \$50 million to the United States. That sum was repatriated and in June of 1999 was entered as a deposit to the Treasury Forfeiture Fund (the Fund).

Tobacco Smuggling Nets Forfeiture and Fine.

This case originated in 1993 when special agents of Treasury's ATF assigned to the Buffalo and Albany field offices began to look at illegal diversions of cigarettes, manufactured in Canada, and sent to the United States for trans-shipment to third world countries. Over five years later, in December of 1998, the work of many investigators and prosecutors paid off when Northern Brands International, a Canadian subsidiary of tobacco giant R.J. Reynolds, pled guilty to aiding and abetting customers in the complex diversion scheme. Upon acceptance of the pleas, the Federal Court imposed a \$5 million fine and ordered the corporate defendant to pay another \$10 million to the Fund.

The object of this criminal activity was straight forward - avoid paying taxes to both the United States and Canada. Cigarette smuggling had become a very lucrative business in the early 1990's as the Government of Canada sharply

increased tobacco taxes in an effort to reduce smoking. By 1994, Ottawa and several provincial governments dramatically slashed their tobacco tax rates in a bid to stop rampant smuggling but obviously not enough to remove the incentive to the defendants involved in the Northern Brands operation.

Northern Brands International conspired to help the smugglers by falsely telling U. S. Customs officials that the Canadian-Brand Export A cigarettes that they had shipped to the United States were bound for Russia or Estonia. That falsehood allowed their customers to avoid paying an excise tax of \$100,000 per truckload that would have been due if Customs had known that the cigarettes were going to be sold in the United States. Then, instead of going on to Eastern Europe, these cigarettes were sold to wholesalers on the Akwesasne Indian Reservation in northern New York, who smuggled them across the border and back into Canada. Once back in Canada, these Export A cigarettes were sold on the black market, avoiding Canadian tobacco taxes.

The case that had started out with ATF field offices in upstate New York had, by the end of 1998, resulted in the indictments of twenty-three individuals and their companies on charges of conspiracy, money laundering and other Federal violations in connection with the illegal diversions of cigarettes and liquor. The successful Federal prosecution of the co-conspirators was due to the cooperative efforts of ATF, the IRS Criminal Investigation Division, the Customs Service, the United States Border Patrol, the Federal Bureau of Investigation (FBI) and the New York State Police.

Nevada's Mustang Ranch Closed. On many of the items in a souvenir shop - the hot pink tee shirts, the coffee mugs, the styrofoam beer coolers, the shot glasses and golf shirts - it billed itself as the "World Famous Mustang Ranch." That tradition of notoriety came to a somewhat subdued close around 5 p.m. on August 9, 1999, when special agents from the Criminal Investigation Division of IRS and the Customs Service as well as seized property managers took possession of this oldest of Nevada's legalized brothels.

When Joe Conforte bought the Mustang Ranch in 1967, he had already served time for extortion and tax evasion. He was one of the principal movers behind the push for the legalization of prostitution in Nevada. His efforts were rewarded in 1971 when Storey County, home of the Mustang Ranch, legalized its operation as a brothel. The ranch survived being burned to the ground in 1975 in a suspected arson and Conforte quickly rebuilt it. The next year, the boxer, Oscar Bonavena, who was managed by Conforte's wife, was shot to death outside the ranch. Conforte continued with his ownership until 1990 when it was seized by the IRS for unpaid taxes. The ranch was then sold for a fraction of its value at a tax sale with Conforte later fleeing the country to avoid being prosecuted on tax charges.

In a thirty-three count indictment, made public in the summer of 1998, the government charged that the subsequent owners of the Mustang Ranch were actually fronts for Conforte and had purchased it at his direction and continued to operate it for his benefit. In the summer of 1999, a Federal jury in Reno found two of the ownership companies operating as A.G.E. and the brothel's madam, former Storey County Commissioner, Shirley Colletti, guilty of racketeering, wire fraud and conspiracy. Conforte himself remains a fugitive believed to be living in South America. At the close of the trial, the judge entered a preliminary order allowing the government to seize the brothel but citing the need for the ranch's employees to find new jobs, he delayed the order for a month.

Chapter 3:

Fostering Law Enforcement Cooperation

When the Comprehensive Crime Control Act of 1984 established Federal forfeiture funds, the framers of the statute had the foresight to also include language authorizing the equitable sharing of forfeited proceeds with state and local law enforcement agencies who contributed to the Federal investigations leading to forfeiture. That key authority to share, which was later extended to foreign governments who similarly assist the United States, has gone a long way to promote law enforcement cooperation as the various agencies pursue their common mission against criminal activity. The sharing of forfeited asset provides a very real incentive to work together, breaking down the institutional and jurisdictional barriers that may have hindered joint operations in the past.

The Federal government's leading role in fostering law enforcement cooperation through its equitable sharing program has served as a model for other governmental entities. Increasingly, foreign, state and local governments are allowing for the sharing of the proceeds from their forfeitures with United States Federal law enforcement agencies who have assisted with their investigations. The Fund, therefore, both disburses payments of equitable shares to other Federal, state and local law enforcement agencies as well as foreign countries, and also receives deposits into its Secretary's Enforcement Fund of shares that recognize Treasury or Coast Guard contributions to forfeitures under other Federal, state, local or foreign law.

Asset sharing from the Fund is guided by the principle of equity. The value of such a share must bear a reasonable relationship to the degree of participation of the state or local agency in the total law enforcement effort that resulted in the forfeiture. Sharing is also designed to encourage continued cooperation between the recipient and Treasury or other Federal law enforcement agencies. For those shares awarded to state and local law enforcement agencies, the Department

generally requires that they be used for law enforcement purposes.

The dollar amounts involved in the equitable sharing program make them the single most significant support of the Fund's goal of fostering law enforcement cooperation. Asset sharing, however, is not the only way in which the Fund pursues this goal. Another important statutory authority is the Fund's ability to pay for the overtime incurred by state and local officers while working on Treasury investigations. This overtime reimbursement authority is an important factor contributing to the success of many of the cases in which Treasury law enforcement has a lead role.

During FY 1999, the benefits of inter-agency law enforcement cooperation were evident in a variety of areas. Throughout this year, the Fund again has offered a very real incentive to the various members of the law enforcement community to work together, to complement one another's experience and expertise and to present an effective, coordinated response to the increasingly internationalized threat of organized criminal activity. In FY 1999, that critical cooperation was present throughout the United States and abroad as evidenced by the following cases.

Swiss Authorities Assist with IRS Case. The first quarter of FY 1999 saw Treasury's Executive Office for Asset Forfeiture host a reception for the presentation of an asset sharing check to the Government of Switzerland for approximately \$1 million dollars. The Internal Revenue Service's Criminal Investigation Division case involved a Raymond Whelan who had started selling marijuana while he was a college student in New England in the 1970s. By 1984, Whelan had begun to realize sizeable profits not only from his own trafficking but also from serving as a courier of currency going from drug smugglers to Colombian sources. He was, by that time, depositing his profits in Swiss accounts in Zurich and Geneva.

Whelan pled guilty to a marijuana charge in New Orleans in 1984 and served nine months. When he got out, he worked at legitimizing his criminal proceeds. He married a Swiss national and moved funds from account to account. Money under the control of his wife was used to purchase real property in Sun Valley, Idaho, and, when it was sold, the proceeds went back into Whelan's account in Switzerland.

Swiss authorities assisted IRS agents during the investigation and prosecution of this case by tracing and accounting for over \$4 million that went into and through Swiss accounts held by Whelan. The Swiss froze several of the accounts for almost four years while the United States was proving its case. Thanks to this restraint on the accounts, a large portion of the funds Whelan laundered was recovered. The IRS characterized the Swiss assistance as invaluable. At the presentation of the asset sharing, a check for approximately \$900,000 from the Treasury Forfeiture Fund was given to the Embassy of Switzerland's Legal Affairs Counselor by the Chief of the Rocky Mountain Criminal Investigation Division of the IRS.

Chicago's Juarez Connection. Amid the rise and fall of drug cartels, the one based in Juarez, Mexico, just across the border from El Paso, Texas, was definitely on the rise. Despite the 1997 death of one of its principal entrepreneurs, Amado Carrillo-Fuentes, who succumbed as a result of plastic surgery to alter his appearance, the Juarez group was pulling in million of dollars moving cocaine and marijuana by the ton to American cities. One of their favorite drug destinations was Chicago, where bulk shipments were brought, stored, divided up and moved onward to other points in the country. The very characteristics of Chicago that had historically attracted legitimate businesses - its location in the center of the country and a ready infrastructure of air, road and rail transport facilities - attracted the notice of the Juarez ring. In August of 1998, Vice President Al Gore visited Chicago to announce a concerted Federal response known as the Chicago Narcotics Initiative. Under this plan, personnel from the U.S.

Customs Service, the FBI, the Drug Enforcement Administration (DEA) and the U.S. Attorney's Office working together would use the resources of their organizations to target and disrupt major narcotics traffickers, money launderers and street gangs.

The Customs Service had foreshadowed the work of this initiative two months earlier when, in June of 1998, their agent had received information about a significant currency transfer going from Chicago to Mexico by tractor-trailer. Immediately, radio and teletype messages went out to state highway patrols and other law enforcement authorities to deploy and look for the suspect trailer. On the last day of June, the Missouri Highway Patrol located the rig at a weigh station in Strafford, Missouri. The Missouri Highway Patrol notified the Customs Service, and their officers, along with DEA agents, obtained the consent of the truck operator to search the vehicle. Inside they found twelve large plastic containers and two gym bags filled with U.S. currency. A total of \$2.9 million was seized and later forfeited.

To recognize the contributions of the many agencies that assisted with this forfeiture, asset sharings were approved in FY 1999 for the Missouri Highway Patrol, DEA, the Missouri National Guard, the Springfield Missouri Police Department, the Sheriff's offices of both Green and Christian Counties in Missouri, the Combined Ozarks Multi-Jurisdictional Enforcement Team and the Texas Department of Public Safety.

A Network in Southwestern Ohio. It wasn't too many years ago when Warren County in Southwestern Ohio was predominantly rural and known as much for its farms and festivals as for anything else. Today, it is the second fastest growing among all of Ohio's eighty-eight counties and along with its rapid economic development and residential growth faces the usual array of associated problems not the least of which is the illegal drug market in the greater Cincinnati area.

In the town of Lebanon, James A. McCarty and his colleagues used a garage close by upscale

boutiques and antique shops to prepare shipments of cocaine and marijuana for lower level distributors who passed it on to street dealers and retail sale. McCarty was a mid-level operator who made purchases from wholesale dealers around the country. Earlier, he had started out much more modestly, selling narcotics to employees of his construction business, Pyramid Builders, but expansion in his illegal sideline came easily. By 1998, when an Organized Crime Drug Enforcement Task Force (OCDETF) led by the Criminal Investigation Division of the IRS and DEA shut down the operation, it was estimated to have moved over 700 kilos of cocaine and three tons of marijuana into the area since 1993.

McCarty, like several of his cohorts, were family men and he laundered the proceeds from the sale of narcotics by placing various assets in the names of other family members. As the ring was taken down, search warrants were executed simultaneously at five different Warren County locations and in South Carolina. Assets seized by the IRS and DEA exceeded three-quarters of a million dollars and consisted of currency, jewelry, vehicles, real estate and several financial accounts, including a life insurance annuity and three mutual funds held in the name of his minor child. Of the assets forfeited by the IRS, nearly \$230,000 was shared with five local law enforcement agencies that had provided valuable assistance as members of DEA's multi-agency task force.

Jefferson, West Virginia, Gets Town Hall. It had a bar, a runway and the requisite disco bar to lend a certain *je ne sais quoi* to the routines of its female performers. It called itself *The Sports Page* and it was an exotic show bar in a neighborhood locally known as the badlands, infamous for several horrendous murders and other crimes. Now, the Town of Jefferson, West Virginia, will be able to transform this property into a new town hall, thanks to the successful cooperation between the West Virginia State Police and the Criminal Investigation Division of the IRS in a money laundering and tax evasion case against the club's former owner, Richard Allen.

The United States Attorney who prosecuted the case noted that Allen had run a prostitution business out of *The Sports Page* and another similarly named bar he owned in the Huntington area of West Virginia. He then laundered more than \$150,000 in profits from these operations between 1995 and 1996. On the eve of his trial, Allen entered into a plea agreement, detailing the money laundering, the underreporting of income and failure to pay employment taxes. He agreed to forfeit \$100,000 in cash and his nightclub in Jefferson.

In some situations, some or all of the equitable share that would have been awarded to a state or local law enforcement agency for their assistance in a Treasury investigation, may take the form of real property that can be passed on to a community service agency under the Weed and Seed Program. This is what transpired in the Allen case, when in April of 1999 at the U. S. Attorney's office in Charleston, the deed to the property formerly known as *The Sports Page* was presented to the Mayor of Jefferson by the chief of the IRS Criminal Investigation Division's Virginia-West Virginia District. The Town of Jefferson had only been incorporated in 1997 and city officials had been forced to set up offices in the Mayor's generator and starter repair business. With this asset sharing, the town will now have a place where citizens can go to conduct official business with the city. The municipal government has committed funds to renovate the building and has received promises for supplies and services from individuals and businesses to help set up the new town hall.

Fraudulent Merchant Accounts in South Florida. Back in January of 1996, the American Express Company notified the Miami field office of the United States Secret Service that they had discovered a scheme to create fraudulent merchant accounts. It seemed that certain persons were setting up merchant accounts over the telephone usually claiming that they were engaged in scuba diving or travel related businesses. The suspects then utilized point of sale terminals to post charges, generally between one and five thousand dollars, to these accounts. The American Express card

numbers that were used were either from collusive cardholders or they were stolen numbers. As with its legitimate merchants, American Express would then have money deposited into the bogus merchants' accounts either by check or wire. As soon as the payments from American Express were received in their accounts, the suspects would move the money out and issue a credit back to the cardholder's American Express card account. When the American Express Company then tries to debit the charge from the merchant's account, there would be no balance there to debit.

For two and a half years, the Secret Service's South Florida Organized Fraud Task Force with additional assistance from the IRS, the Postal Inspection Service and the Plantation, Florida, Police Department extensively investigated the activities of the group believed to be behind the scheme. Thirty-five fraudulent merchant accounts were identified and linked to thirteen suspects. In March of 1998, search warrants were executed on the residences of the main suspects and detailed records were found implicating numerous others. One of the principal suspects, Charles Tischler, and his wife signed plea agreements with the U.S. Attorney's Office and agreed to forfeit to the United States Government \$219,000, a 1995 Lexus SC400, a 1996 Mercedes Benz C280, a 1996 Landrover Discovery and several computer systems. By the beginning of FY 1999, shares from forfeited assets in the case were approved to recognize the vital assistance provided by the non-Treasury law enforcement agencies.

The Brazilian Connection. Another Secret Service fraud investigation that resulted in a substantial forfeiture started out in the spring of 1997 when a detective with the Montgomery County, Maryland police department received a call from the Sandy Spring National Bank. The bank's employee had some suspicions about an account that had been opened by two brothers, Alexandre and Vincente Pereira. The detective initiated an investigation into the activities of the brothers and, as it proceeded, sought the assistance of the United States Secret Service and its Metro Area Fraud Task Force based out of the Washington area field office.

What the Pereira brothers were involved in was a sophisticated embezzlement scheme. Their operation involved the submission of inflated and fraudulent bills to the Brazilian Aeronautical Commission for the purchase of tactical fighter parts and, possibly, weapons systems. Violations of bank and wire fraud laws seemed to be part and parcel of their activities.

Chapter 4:

Strengthening Law Enforcement

Federal asset forfeiture funds support Federal law enforcement and the public they serve in several important and interrelated ways. In doing this they realize the intent underlying their enabling statutes. Before the advent of these funds, forfeiting criminal assets was very likely to be a drain on law enforcement resources. That situation existed because prior to 1984, the proceeds of forfeitures could only be deposited into the general fund of the United States. That meant that Federal law enforcement agencies had to bear the sizeable costs of seizing property and managing it through forfeiture and final disposition strictly out of their normal appropriations for salaries and expenses. In a national program that seizes an entire range of commodities such as property, vessels, vehicles, aircraft and narcotics, such costs can be substantial. The more that was seized, the more these expenses grew and the more time law enforcement's special agent had to devote to property management issues not necessarily within the scope of their training or mission.

Since 1984, that situation has been effectively turned around with the development and growth of Federal asset forfeiture funds. Today's Department of the Treasury Forfeiture Fund (the Fund) strengthens law enforcement on several levels. First and foremost, it pays for most of the costs associated with the Department of the Treasury's (the Department) seizure and forfeiture programs. This is done through the non-discretionary or mandatory side of the Fund, which is made up of a permanent, indefinite congressional appropriation of the receipts in the Fund and is used to pay the expenses of specific seizures and forfeitures. The Fund also has a discretionary side which, in certain years, has consisted of a specific annual congressional appropriation, again from the receipts of the Fund, and has been used to pay expenses more generally supportive of the Department's seizure and forfeiture program. Amounts in the Fund that are derived from the deposit of shares received in recognition of

Treasury contributions to the forfeitures of non-departmental agencies, also known as reverse asset sharings, and surplus amounts remaining after all non-discretionary and other obligations have been met, are two additional categories of funding resources that strengthen Treasury and other Federal law enforcement agencies.

Placing the value of forfeited assets in the Treasury Fund sets the stage for a reinvestment of these monies in a variety of ways that enhance law enforcement. Whether this value is used to pay contractor employees to provide program support and property management services to free up investigators to attend to their principal tasks, or is shared equitably with state, local and foreign governments, or is applied to Treasury law enforcement initiatives, the Fund is constantly about the work of strengthening law enforcement. The payment authorities of the Fund underwrite a law enforcement presence at home and abroad that is more capable of meeting the challenges posed by increasingly astute and globalized criminal organizations. A sampling of how the Fund helped bolster enforcement capabilities during FY 1999 will give some idea of how it has served its purpose in this regard.

The Youth Crime Gun Interdiction Initiative. Newspaper reports of big, unusual and even exotic seizures and forfeitures sometimes obscure what later happens to these and other monies that wind up as deposits in the Fund. During FY 1999, the Fund once again allocated resources to ATF for the explicit purpose of supporting the Youth Crime Gun Interdiction Initiative - a program designed to address, head-on, the gun-related violence confronting America's youth. Some examples from the Fund's case files show how the Fund's dollars have been put to work.

- **Philadelphia, Pennsylvania** - Bringing your product to the likely buyer has always been a maxim of successful businesses.

With this concept in mind, Bonita Marshall and her compatriot, Robert Townes, a convicted felon, would cruise the high crime areas of North Philadelphia. At a suitable spot, Townes would stop his car, get out, pop the trunk and negotiate the sale of AK-47 type assault rifles to persons suspected of being local drug traffickers. Townes and Marshall conspired to purchase over fifty semiautomatic rifles, boxes of high-powered ammunition, as well as accessories such as hundred round drum magazines, high-powered scopes and laser lights. Seven of his sale rifles were recovered with one linked to homicides and at least one sold to a juvenile. In the courtroom, the jury found the two guilty on all counts, including firearms trafficking and possession of a firearms in a school zone. Townes was sentenced to eleven years and four months in prison while Marshall received a sentence of four years and nine months.

- **Richmond, Virginia** - For three years, Richmond's *Charlie Boys* had gone to war with other gangs and had their hands in numerous homicides. One member of the *Charlie Boys* was a trafficker who relied on a straw purchaser to buy firearms at gun shows and then supply these weapons to other gang members. ATF, working with the Street Crimes Unit of the Richmond Police Department, documented eleven such weapons of which eight were recovered in crimes. The trafficking member of the gang was sentenced to six and a half years in Federal prison after pleading guilty to aiding and abetting illegal possession. Two co-defendants were sentenced to just under six years each for their possession of firearms that had been provided by the gun trafficker. The leader of the gang was prosecuted separately and received sixteen years and three months. All these cases were made under firearms statutes in conjunction with Project Exile and the Youth Crime Gun Interdiction Initiative.

- **Cape Girardeau, Missouri** - ATF analyses showed that many of the crime guns recovered in Washington, D.C., Chicago and St. Louis had passed through a former Federally licensed firearms dealer who resided in Cape Girardeau in southeast Missouri. Although this dealer had received and paid for over 1,800 firearms during the time he was licensed, he only sold 194. After ATF agents served a search warrant at his residence, he provided a full confession and agreed to cooperate with the investigation. His cooperation helped uncover a trail of off-paper sales at gun shows in Kentucky and the identification of a Nashville youth who regularly placed orders for these guns, transporting them to Washington, D.C., for resale to youth gang members. After engaging in an illegal transaction with undercover ATF agents, the Nashville youth was arrested and pled guilty to numerous Federal firearms charges in Tennessee.

Asset Identification and Removal Groups. The United States Customs Service (Customs) has had forfeiture authority longer than any other Treasury law enforcement agency. Drawing on its wealth of asset forfeiture experience, Customs concluded several years ago that specialized units could enhance its ability to use this tool in support of its law enforcement mission. Particularly in the realm of international investigations, where criminal proceeds can be moved rapidly around the globe in attempts to mask their origins, the expertise to identify and track these assets is critical to an effective seizure and forfeiture program. Today, these specialized units within the Customs are known as Asset Identification and Removal Groups (AIRGs) and, from an original prototype in the Miami field office, have been expanded to twenty-one locations nationwide. In FY 1999, the Fund supported the efforts of the AIRGs with over \$3 million in mandatory funding.

AIRGs help ensure that seizure operations are done in the right way, with a maximum of precision and efficiency. The groups are comprised of special agents, auditors, accountants and contract data

analysts who are specially trained to identify the assets of criminal organizations. The personnel assigned to the groups partake in special programs at Treasury's Federal Law Enforcement Training Center to thoroughly prepare them in the areas of asset identification, removal and forfeiture. Their expertise becomes integrated into the ongoing case strategy and is initiated as early as possible in investigations.

Enhancing Egyptian Counter-Narcotics Efforts.

In November of 1999, Treasury's Executive Office for Asset Forfeiture was honored to receive his Excellency, Ambassador Nabil Famy of the Arab Republic of Egypt, who accepted a check on behalf of his government to be used to promote Egyptian law enforcement efforts to control and eliminate drug trafficking as well as other narcotic-related criminal activity. This sharing of forfeited assets, in an amount approximately \$1 million dollars, was in recognition of the assistance provided by Egyptian authorities to an IRS Criminal Investigation Division case involving a Fatih Radwan.

The case had begun all the way back in 1988 when the International Criminal Police Organization, better known as INTERPOL, learned that Radwan had purchased a residence in the quiet upstate New York hamlet of Lake Mohican for \$450,000 in cash. By 1993, the IRS Criminal Investigation Division in Mahattan had been brought in to investigate Radwan's financial affairs in the United States. According to Egyptian authorities, Radwan was one of their nation's biggest drug smugglers who had been moving hashish and opium into Egypt since at least the mid-1960s. After his assets in Egypt had been finally seized, Radwan fled his native land and established residences in both the United Kingdom and the United States by the late 1980s.

When IRS discovered that the assets Radwan had in the United States had been purchased with the proceeds of crime, a complaint was filed seeking their civil forfeiture. Not unexpectedly, Radwan then claimed that all his defendant properties were derived from legitimate sources of income in

Egypt or from an inheritance left to him from his father, a Bedouin Chief in the Sinai. He provided documents to support his claims that his wealth was only from honest means - mining quarries, an automobile import-export enterprise and general contracting. With the help of the Egyptian anti-narcotics police and officials from the Ministries of the Interior and Justice, United States special agents gathered pertinent documents that refuted Radwan's contentions regarding the sources of his wealth. In August of 1998, a consent order and judgment of forfeiture was filed in the Southern Judicial District of New York where Radwan agreed to forfeit to the United States \$2 million in full settlement and satisfaction of the government's claims.

From this forfeited amount, the Fund has also shared with DEA and the Government of the United Kingdom but perhaps the most telling portion was the first time ever amount shared with Egypt from the Fund. As Ambassador Famy mentioned in his remarks upon accepting the check, it shows that there are many other positive interactions between the governments of the United States and Egypt beyond those normally headlined on an evening news broadcast. In this particular instance, it was a very tangible support provided by the Fund to strengthen the anti-narcotics efforts of Egyptian law enforcement.

Helping Communities Target Armed and Violent Criminals. Several years ago, when the Bureau of Alcohol, Tobacco and Firearms initiated its Ceasefire program to bring the latest forensic technology to bear in the battle against violent offenders, the Treasury Forfeiture Fund was there to provide the critical funding needed to make it succeed. Today, the Fund is still there supporting Ceasefire's successor, the National Integrated Ballistics Information Network, as it helps violence plagued communities across the country link and prosecute what only a short while ago may easily have been a series of unrelated occurrences.

A key element from Ceasefire that continues in the newer national network is the Integrated Ballistic Identification System or IBIS. What IBIS does is

apply the benefits to computer technology to what once was a painstaking and time-consuming chore. IBIS uses computer imaging to match cartridges or bullets from multiple shooting incidents. It allows investigators to link a shooting in one city to shootings involving the same weapon in other localities. It automatically compares the crime scene bullet or cartridge casing with other bullet and cartridge casings that have been previously entered into the system. From its extensive automated search, it produces a short list of likely matches which then allows the firearms examiner to hone in on the best prospects for identifying bullets or cartridge cases that came from the same firearm. IBIS has taken what had often been a quest for a needle in a haystack and greatly increased the odds for success as the following examples demonstrate:

- ***The Seventh Ward Soldiers*** - They were a violent New Orleans street gang sometimes known as the Hardheads and otherwise as the Seventh Ward Soldiers. They laced their drug trafficking enterprise with violent murders and brutal assaults. Detectives from the New Orleans PD provided cartridge casings and bullets recovered from victims and crime scenes for the IBIS evaluation system. IBIS connected several different firearms used by the gang and the national network matches or hits contributed to the identification of witnesses who helped establish a connection among the crimes. Law enforcement's efforts contributed to the indictment of thirteen Seventh Ward Soldiers, six of whom were convicted and sentenced to life in prison while another six pled guilty and were awaiting sentencing.
- ***A Phone Booth Murder*** - The Oakland Police found the victim shot to death inside a telephone booth. They had no suspects and few leads. What little they had were bullets found at the scene and these were entered into the IBIS unit at the Oakland police crime laboratory. One year later, in

the summer of 1997, two suspects, who happened to be felons in violation of their parole, were arrested in possession of a firearm and jailed. The firearm that was taken from the two was test-fired and the results were entered into IBIS. A firearms examiner was then able to determine that same firearm had been used in the phone booth murder. Confronted with this information, the two suspects confessed, saying that they had killed their victim following a daylong robbery and shooting spree. They also identified a third suspect involved in the crimes.

- ***From New Britain to Paterson*** - On St. Patrick's Day, a restaurant owner was murdered execution-style in New Britain, Connecticut, after three masked and armed gunmen entered his establishment. Less than two weeks later, three teenagers were gunned down in a gang related incident in Paterson, New Jersey. Two of the three died. About a year later, in April of 1998, the shell casings and bullet fragments recovered from these homicides resulted in a hit in the IBIS unit at the Essex County Sheriff's office in Newark. By determining conclusively that the same gun was used in the Paterson murders and the restaurant killing, the State of Connecticut was able to issue an arrest warrant for a suspect in the New Britain crime.

Chapter 5:

Program Performance and Financial Highlights

Mission

The mission of the Treasury Forfeiture Fund (the Fund) is to support the Department of the Treasury's (the Department) national asset forfeiture program in a manner that results in Federal law enforcement's continued and effective use of asset forfeiture as a law enforcement sanction to punish and deter criminal activity.

Goals

The goals of the Fund are to:

1. Affirmatively influence the use of asset forfeiture by Federal law enforcement to punish and deter criminal activity; and, to manage revenues to cover the costs of seizure and forfeiture.
2. Affirmatively influence Federal law enforcement to enforce due process rights of affected persons; and, enhance cooperation among participating foreign, Federal, state and local law enforcement agencies.

Objectives

The following are the objectives of Fund Management in pursuing goals of the program:

Objectives Associated with Goal 1:

- Influence Federal law enforcement to bring civil and criminal asset forfeiture counts against criminal enterprises;
- Influence the development of improved case law;
- Influence the availability of forfeiture revenue;

- Pay all expenses of the Fund;
- Eliminate the Treasury asset forfeiture program from GAO's "high risk list".

Objectives Associated with Goal 2:

- Prevent violation of citizens' due process rights;
- Ensure similarly situated citizens are treated alike;
- Ensure forfeiture revenue is sufficient to pay equitable shares, and pay state and local overtime pursuant to joint task force operations; and
- Coordinate Federal policy between the two national asset forfeiture programs.

Performance Measures

The four performance measures currently in use by Fund Management are:

- Processing time for equitable sharing payments;
- Days elapsing between forfeiture and disposition of real property;
- Timely processing of administrative cases; and
- Percent that regular revenue to the Fund covers regular expenses of the Fund program.

While few in number, Fund Management considers these performance measures to be fairly comprehensive indicators of major segments of the

Treasury's asset forfeiture program's financial and internal controls.

Summary of Program Performance

As the fifth year in which the Fund has had in place performance indicators, results from FY 1999 allowed for comparison with results from FY 1998 as a means of monitoring forfeiture program operations. For FY 1999, the performance measures selected for monitoring were: (i) processing time for equitable sharing payments for currency assets with a target time frame of 7.3 months; (ii) days elapsing between forfeiture of real property and disposal through sale with a target time frame of 12 months; (iii) timely processing of the administrative seizure inventory with a target time frame of 75 percent being processed in a timely fashion; and (iv) the extent to which mandatory operational costs of the asset forfeiture program are funded by current year regular revenue.

Although we did not achieve performance targets in all of our performance measures, we came very close, and Fund Management considers this year's performance to be largely satisfactory if not on target for each measure. Data on the timely processing of equitable sharing payments for currency assets indicates that performance improved from 8.9 months in FY 1998 to 7.3 months in FY 1999. In addition, while performance against this measure improved significantly during FY 1999, achieving our target with a healthy margin, the number of payment transactions also increased from nearly 4,900 in FY 1998 to over 5,200 in FY 1999. The dollar value of FY 1999 equitable sharing expenses increased by 108.2 percent over the FY 1998 expense level, with expenses of approximately \$152 million in FY 1999, up from expenses of \$72 million in FY 1998. The FY 1999 figure includes estimates of equitable sharing expenses amounting to approximately \$29 million. This is because beginning FY 1999 Fund Management decided to expense a portion of all known equitable sharing requests pending final approval at year end.

Though missing the performance target of 12 months, the timely disposal of real property took 12.95 months on average after forfeiture during FY 1999, an improvement from 13.84 months in FY 1998. About sixty nine and a half percent (69.5%) of open administrative seizure cases at the end of FY 1999 were within prescribed time frames, exceeding our FY 1998 performance of 68 percent. The performance fell short of the target rate of 75 percent for the year.

Regular revenue to the Fund for FY 1999 covered regular expenses to the Fund by 107 percent, more than meeting the annual target of 100 percent.

Processing time for equitable sharing payments. Equitable sharing of the Fund's revenue continues to be one of the most visible operations of the Treasury asset forfeiture program. The reason this measure is important to Fund Management is that equitable sharing expenses represent a substantial amount of the expenses of the Fund every year. State and local law enforcement agencies derive a valuable benefit from equitable sharing proceeds that assist them in ongoing operations to combat drug trafficking and violent crime. Delayed payments can damage critical working relationships with state and local law enforcement agencies that work hard in partnership with the Federal sector in the fight against crime and can distort financial data needed for resource management planning.

Data indicates that the average time to make an equitable sharing payment for a currency asset decreased from 8.9 months in FY 1998 to 7.3 months in FY 1999. Performance against this measure improved by over a month and a half, in spite of the fact that FY 1999 was another banner year for equitable sharing with our state and local law enforcement partners. FY 1999 financial statements indicate equitable sharing with state and local law enforcement agencies, and foreign countries of over \$152 million as compared to \$72 million in FY 1998. The associated transaction volume increased to a remarkable 5,200 separate transactions, up from 4,900 in FY 1998 and 2,100 in FY 1997. No additional staff resources were applied by the program toward this achievement.

The average time between forfeiture and disposal of real property. The processing of real property through forfeiture is the most complex function encountered by the Treasury law enforcement agencies, and as such, has required Fund Management to develop special procedures to dispose of this property. Fund Management has made a decision that all forfeited real property offered for sale by the Department will possess clear title. The issuance of clear title benefits the purchaser by allowing the buyer to obtain a mortgage on the property. The process of issuing clear title requires the government to resolve all outstanding issues regarding the property including outstanding taxes, liens, building violations and environmental issues. The process of providing clear title increases the time the property is held in the status of forfeited, but not sold. While the process of providing clear title increases the timeframe by which property is held by the government and as a result increases the holding costs per property; the difference is more than made up by allowing the Fund to sell the property at market value and thus increase the revenue per property.

Given the complexities of selling real property versus other types of assets, it is Fund Management's opinion that the best achievable performance target for this measure is nine months. Our interim target for FY 1999 was 12 months. During FY 1999, the average time between forfeiture and disposal of real property was 12.95 months, an improvement over FY 1998's disposal period of 13.8 months. Performance against this measure reflects program initiatives designed to eliminate "problem" properties from the inventory, which on average take considerably longer to dispose of than routinely processed properties. In addition, the statistic includes properties for which private title insurance was unavailable, preventing would-be purchasers from obtaining loans. Fund Management's continuing initiative to issue Special Warranty Deeds for such properties should prevent this type of property problem from skewing future performance data. Nevertheless, the disposal of real property is one of the more

complicated activities associated with the Treasury asset forfeiture program.

The very fact that the government must resolve any potential issues against a real property that was created by a violator whose sole intent was to conceal either the existence or proceeds of illegal activities complicates the closing of a forfeited property sale. These issues burden the government to ensure due process to the original violator and/or legally interested parties, including possible innocent family members, payment of all outstanding encumbrances against the property and the legal resolution of any complications that could harm a potential purchaser. The resolution of these types of issues all takes time and vary on a case by case basis. Through close coordination with the seized property contractor, the executive agent, the seizing agency and the U.S. Attorneys, Fund Management continues to provide oversight to identify ways and procedures to ensure that forfeited real property is disposed 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 Fund Management initiative is a more efficient equitable sharing process which serves to reinforce the working relationship between Federal, and state and local law enforcement bureaus. Fund management established 9 months for the Customs Service 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 improved by more than one percent to over 69.5 percent in FY 1999 as compared to 68 percent in FY 1998, but still falls short of our goal of 75 percent. Referenced figures exclude weapons cases for ATF because ATF does not administratively forfeit firearms and ammunition until all judicial activities are completed. This is consistent with the Gun Control Act. Also excluded

from the performance statistics are several unusual investigations of the IRS which, although they are administrative in nature, are actually under the control of the U.S. Attorneys Office. Inclusion of these cases in the routine case statistics would unfairly skew performance data.

Additionally, calculations related to this performance measure were based on information provided in reports submitted by the respective law enforcement bureaus as required by EOAF's Directive 26, *"Timely Processing of Administrative and Civil Judicial Forfeiture Cases."*

Extent to which Regular Revenue Covers Mandatory Expenses. The objective of this measure is to gauge the Fund's management program in running the Treasury forfeiture program in a solvent manner that maintains the vitality and continuity of the Fund to meet expenses of the asset forfeiture program in the current year and in the future. The annual performance target of 100 percent is calculated by dividing total **regular** revenue for the current fiscal year by total **mandatory** expenses of the Fund for the current fiscal year. Fund Management does not intend to establish a performance goal in excess of 100 percent for this measure to avoid "speed trap" problems in the program. For FY 1999, Fund Management successfully achieved the 100 percent target. A similar analysis for FY 1998 also indicates that Fund Management achieved the 100 percent ratio of regular revenue to mandatory expenses of the Fund.

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, 1999. These statements have been prepared to disclose the financial position, results of operations and changes in net position pursuant to the requirements of the *Chief Financial Officers Act of 1990, and the Government Management Reform Act of 1994*

(*GMRA*). While the financial statements have been prepared from the books and records of the Fund in accordance with the formats prescribed by the Office of Management and Budget, the statements are different from the financial reports used to monitor and control budgetary resources that are prepared from the same books and records and are subsequently presented in Federal budget documents. Therefore, it should be noted that direct comparisons are not possible between figures found in this report and similar financial figures found in the FY 2001 and FY 2000 Appendix, Budget of the United States Government. Further, the notes to the financial statements and the independent auditor's opinion and report on internal controls are also integral components to understanding fully the financial highlights of Fund operations described in this chapter.

Statement: Changes in Net Position

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

Total Financing Sources End of Year (Dollars in Millions)		
	<u>1999</u>	<u>1998</u>
Financing Sources		
<u>Public</u>		
	\$261	\$167
Forfeited currency and monetary instruments		
Sales of forfeited property, net of mortgages and claims	23	37
Proceeds from participation with other federal agencies	12	13
Value of property transferred in equitable sharing	6	5
Payments in lieu of forfeiture, net of refund	6	2
Reimbursed costs	<u>2</u>	<u>2</u>
<i>Carried forward</i>	\$310	\$226

**Total Financing Sources
End of Year (Continued)
(Dollars in Millions)**

	<u>1999</u>	<u>1998</u>
<i>Brought forward</i>	\$310	\$226
Others	<u>1</u>	<u>1</u>
<i>Subtotal, financing from public sources</i>	<u>311</u>	<u>227</u>
<u><i>Intragovernmental</i></u>		
Investment interest income	23	21
Transfer(s) from ONDCP	<u>0</u>	<u>36</u>
<i>Subtotal, financing from intragovernmental sources</i>	<u>23</u>	<u>57</u>
<i>Total, gross revenues and transfers in</i>	<u>334</u>	<u>284</u>
Less: Applied Financing		
<u>Public</u>		
Equitable sharing - foreign countries	(2)	(1)
Equitable Sharing - State and local law enforcement	(150)	(72)
Victim restitution	<u>(2)</u>	<u>(1)</u>
<i>Subtotal, financing applied to revenues earned with the Public</i>	<u>(154)</u>	<u>(74)</u>
<u><i>Intragovernmental</i></u>		
Equitable sharing - other federal agencies ^a	<u>(12)</u>	<u>(8)</u>
<i>Total, applied financing</i>	<u>(166)</u>	<u>(82)</u>
Total Financing Sources	<u>\$168</u>	<u>\$202</u>

^a Pursuant to Title 31 U.S.C. 9703(n).

Currency and Monetary Instruments. The Fund's primary source of revenue is forfeited currency and monetary instruments. For FY 1999, revenue from forfeited currency and monetary instruments totaled \$261 million, or 84 percent of total revenues from public sources, versus \$167

million, or 74 percent of public source revenue in FY 1998.

Sale of Forfeited Property. The revenue from the sale of forfeited property was \$23 million in FY 1999 and \$37 million in FY 1998.

Proceeds from Participating with Other Federal Agencies. Pursuant to Title 28 U.S.C. 524(c), the Department of Justice is authorized to share forfeited proceeds with the Department reflecting the degree of Treasury law enforcement in the effort leading to seizure of the forfeited asset. Funding from these sources is available to the Secretary of the Treasury, without fiscal year limitation, for any Treasury law enforcement purpose. For FY 1999, these proceeds from joint investigations with other Departments totaled over \$12 million, and for FY 1998 they totaled over \$13 million.

Investment Interest Income. The Fund is authorized to invest cash balances in Treasury securities. On September 30, 1999, investments totaled \$540 million. This amount included \$287 million invested from balances of the Fund and \$253 million invested from seized currency balances not yet forfeited. Interest income earned on these investments during FY 1999 totaled \$23 million, up from \$21 million in FY 1998.

Applied Financing. The total applied financing from the Fund increased to \$154 million in FY 1999 from \$74 million in FY 1998. The increase is attributable to another banner year for equitable sharing with our state, local and foreign law enforcement partners. FY 1999 financial statements indicate equitable sharing with state and local, and foreign law enforcement agencies of over \$152 million as compared to just over \$73 million in FY 1998. These expenses represent forfeited dollars shared directly with state and local and foreign law enforcement agencies for their role leading to the seizure of assets ultimately forfeited to the Department's asset forfeiture program. The Department's policy generally restricts the use of these funds by the state and local, and foreign law enforcement agencies to law enforcement purposes. Through this policy, the Federal asset forfeiture program intends to encourage the continued

cooperation of state and local and foreign law enforcement with Federal law enforcement. The FY 1999 figure also includes a change in the estimate to reflect the majority of amounts previously identified in earlier statements as contingent liabilities.

Statement: Net Cost

Program Costs. After revenue is applied toward policy mandates, the remaining financing supports the law enforcement expenses of the Fund and pays for the storage of seized and forfeited property and sales costs associated with the disposition of forfeited property. Non-discretionary costs increased to nearly \$187 million in FY 1999, up \$64 million from the FY 1998 level, an increase of 52 percent. This is largely due to increases in non-discretionary expenses associated with investigative costs and asset management and additional super surplus expenses in FY 1999. Recent operational surpluses of the Fund have resulted in greater super surplus declarations in the past couple of years, and the expenses from projects approved for funding from that authority are now appearing on the Fund's financial statements.

Among the initiatives toward which the Fund has applied substantial resources has been the Department's Year 2000 (Y2K) automation initiative. The Treasury asset forfeiture program is heavily automated and failure of the program's widely-cast automation network to function in the year 2000 (Y2K) would have damaging effects on the program's ability to properly track nationwide seized and forfeited assets of the program. To help ensure against catastrophic problems in this regard, significant resources totaling about \$55 million were authorized from the Fund in FY 1998 for automation-related purchases designed to correct Y2K deficiencies identified by the Department, including the referenced \$50 million from non-discretionary authority. A portion of these resources were expensed during FY 1999 and are included among the increased programs costs this year.

Program Costs End of Year (Dollars in Millions)		
	<u>1999</u>	<u>1998</u>
Non-discretionary		
<i>Costs incurred with the Public</i>		
National seized property contractor	\$ 33	\$ 28
State and local law enforcement joint operations	<u>10</u>	<u>3</u>
<i>Subtotal non-discretionary costs incurred with the Public</i>	<u>43</u>	<u>31</u>
<u>Intragovernmental</u>		
Seizure investigative costs asset management	78	55
Other asset related contract services	1	2
Awards to informer	(*)	1
Data systems, training and others	18	12
Super surplus	41	17
Secretary's enforcement Fund	<u>6</u>	<u>5</u>
<i>Total, intragovernmental</i>	<u>144</u>	<u>92</u>
<i>Total non-discretionary</i>	<u>187</u>	<u>123</u>
Discretionary*		
<u>Intragovernmental</u>		
Purchase of evidence or information	(*)	(*)
Federal law enforcement conveyance	(*)	1
Data systems, training and others	<u>(*)</u>	<u>7</u>
<i>Total discretionary</i>	<u>(*)</u>	<u>8</u>
Total Program Costs	<u>\$187</u>	<u>\$131</u>

*Less than \$500,000

^a Although the Fund did not have discretionary authority in FY 1999, these expenses represent obligations of prior years, the purchases of which were delivered during FY 1999, and, therefore, expensed during FY 1999.

National Seized 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 the Property Custodian, a private firm under contract to the U.S. Customs Service. The Property Custodian provides storage 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 the Property Custodian. The seized property contract expenses in FY 1999 were approximately \$33 million, as compared to \$28 million for FY 1998. The difference in cost reflects increased physical property on hand during FY 1999 as compared with FY 1998.

Super Surplus and the Secretary's Enforcement Fund. Super Surplus expenses totaled \$41 million in FY 1999 as compared to \$17 million in FY 1998. The Super Surplus is one of the Fund's permanent spending authorities, authorized under Title 31 U.S.C. § 9703(g)(4)(B). At the end of each fiscal year, after reserving the Fund's retained capital for start-up expenses, the remaining Funds may be declared as Super Surplus authority available to the Secretary of the Treasury for any Federal law enforcement activity in the subsequent year and are available until expended.

Expenses of the Secretary's Enforcement Fund (SEF) totaled \$6 million in FY 1999, from \$5 million in FY 1998. As with the Super Surplus, the SEF is another one of the Fund's permanent spending authorities. The SEF is authorized under Title 31 U.S.C. § 9703(b)(5) and is derived from asset sharing revenue received from the Justice Department and the U.S. Postal Service. Such revenue represents Treasury's share of forfeitures to the Justice asset forfeiture program that resulted from joint investigations. The SEF is available to

fund any Treasury law enforcement activity.

Statement: Balance Sheets

Assets of the Fund's balance sheet are composed of entity and non-entity assets. Entity assets are assets that belong to the Fund. Non-entity assets are seized assets not legally used by the Fund until judicially or administratively forfeited, but are in the custody of the government.

A summary of all assets required for presentation on the Balance Sheet of the Fund as of September 30, 1999 is presented in the following table. As shown on the Balance Sheet, the **total of both entity and non-entity assets** decreased from \$862 million at the end of FY 1998, to a total of \$757 million at the end of FY 1999, a decrease of \$105 million or twelve percent. However, as disclosed in Footnote 9 in the financial statements, seized property reported increased from \$249 million at the end of FY 1998, to \$273 million at the end of FY 1999, an increase of \$24 million or ten percent. This accounts for the majority of the increased costs of the seized property contract discussed in the Statements of Net Cost above. However, we also experienced an increase in forfeited physical inventory of \$3 million from the end of FY 1998 to the end of FY 1999, further contributing to increased costs of the seized contract in FY 1999. Overall, seized and forfeited property on hand at year end increased by \$24 million from the end of FY 1998 to the end of FY 1999.

Assets Owned by the Fund (Entity Assets):

Cash and Other Monetary Assets totaled \$140 million on September 30, 1999, as compared to a balance of \$137 million on September 30, 1998. 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, 1999 the Fund had entity **investments and related interest** in Treasury securities of \$288 as compared to \$248 million on September 30, 1998. The balance for total **accounts receivable** intragovernmental and non-

intragovernmental totaled about \$1 million on September 30, 1999, similar to that reported for September 30, 1998. The value of **forfeited property, held for sale, net of mortgages, liens and claims** on September 30, 1999, was \$26 million, up from \$24 million reported on September 30, 1998. The value of **forfeited property, to be shared with Federal, state, local or foreign governments** totaled about \$1 million, similar to that reported at the end of FY 1998. Advances totaled about \$1 million on September 30, 1999, down from \$28 million reported on September 30, 1998. Minimizing advances serves to increase balances available for investment for the Fund, improving investment earnings.

Assets not Owned by the Fund (Non-Entity Assets):

Finally, the total for seized cash and other monetary assets, invested and not invested, on September 30, 1999, was \$300 million, a decrease from the \$423 million reported on September 30, 1998.

Entity and Non-Entity Assets of the Fund End of Year (Dollars in Millions)		
	1999	1998
Entity Assets (Assets Owned by the Fund)		
<u>Intragovernmental</u>		
Investments and related interest	\$288	\$248
Accounts receivable	(*)	2
Advances	<u>1</u>	<u>28</u>
<i>Subtotal, intragovernmental assets</i>	<u>289</u>	<u>278</u>
<u>Public</u>		
Cash/monetary assets	140	137
Accounts receivable	<u>1</u>	<u>(*)</u>
<i>Carried forward</i>	\$141	\$137

Entity and Non-Entity Assets of the Fund End of Year (Continued) (Dollars in Millions)		
	1999	1998
<i>Brought forward</i>	\$141	\$137
Forfeited property		
Held for sale, net of mortgages, liens and claims	26	24
To be shared with federal, state or local or foreign governments	<u>1</u>	<u>(*)</u>
<i>Subtotal Public</i>	<u>168</u>	<u>161</u>
<i>Total, entity assets</i>	<u>457</u>	<u>439</u>
Non-Entity Assets (Not Owned by the Fund)		
Seized currency		
Cash and other monetary assets*	47	80
Investments*	<u>253</u>	<u>343</u>
<i>Total, non-entity assets</i>	<u>300</u>	<u>423</u>
Total Assets	<u>\$757</u>	<u>\$862</u>

*Under the Statement of Financial Accounting Standards (SFAS) No. 3, effective September 30, 1994, and thereafter, seized currency is reported as a custodial asset upon seizure. The amount cited here represents seized currency held by Treasury in a suspense account, invested, or on hand at field office locations.

Liabilities and Net Position:

A summary of the **liabilities and net position** of the Fund as of September 30, 1999, as compared with September 30, 1998 is presented in the following table. The large decrease in **intragovernmental liabilities covered by budgetary resources** is associated with a decrease in seized currency, of \$123 million from last year. This merely reflects the variable nature of asset forfeiture from year to year.

Revenue from forfeited property held for sale is deferred until the property is sold. When compared to FY 1998, slightly more forfeited property was held for sale on September 30, 1999, which accounts for the increase in **deferred revenue from forfeited assets** of \$2 million from the end of FY 1998 to the

end of FY 1999. **Accounts payable** (both intragovernmental accounts and public accounts) totaled \$44 million on September 30, 1999, an increase of about \$14 million over the total reported at the end of FY 1998 of \$30 million.

Seized currency totaled \$300 million on September 30, 1999, forming the largest liability of the Fund. The liability for seized currency compares to a total on September 30, 1998, of \$423 million. The net position of the Fund on September 30, 1999, totaled \$325 million, as compared to \$344 million on September 30, 1998, a decrease of \$19 million or 5.5 percent from FY 1998.

Liabilities and Net Position End of Year (Dollars in Millions)		
	1999	1998
Liabilities Covered by Budgetary Resources		
<u>Intragovernmental</u>		
Distributions payable		
Other federal agencies	\$ 1	\$ 1
Accounts payable	<u>38</u>	<u>25</u>
<i>Total, intragovernmental liabilities</i>	<u>\$ 39</u>	<u>\$ 26</u>
<u>Liabilities to the Public</u>		
Seized currency	\$ 300	\$ 423
Distributions payable		
State, local and foreign law enforcement agencies	31	7
Victim restitution	29	33
Accounts payable	6	5
Deferred revenue from forfeited assets	<u>27</u>	<u>24</u>
<i>Total liabilities to the Public</i>	<u>393</u>	<u>492</u>
<i>Total Liabilities covered by budgetary resources</i>	<u>\$ 432</u>	<u>\$ 518</u>

Liabilities and Net Position End of Year (Continued) (Dollars in Millions)		
	1999	1998
Liabilities not Covered by Budgetary Resources		
Commitments and Contingencies	\$ -	\$ -
<i>Total Liabilities</i>	<u>432</u>	<u>518</u>
Net Position		
Retained Capital	230	117
Unliquidated obligations	114	156
Results of Operations	(19)	35
Transfers from ONDCP	-	36
<i>Total Net Position</i>	<u>325</u>	<u>344</u>
Total Liabilities and Net Position	<u>\$757</u>	<u>\$862</u>

Summary of Financial Highlights

Net Position. In summary, the Fund concluded FY 1999 "in the black," with more than sufficient resources necessary to commence the business of the next fiscal year. This outcome was achieved even though there was a \$18.9 million deficit in the results of operations in FY 1999. This deficit arose largely due to increases in non-discretionary expenses associated with investigative costs and asset management, and, increased super surplus expenses in FY 1999.

Additionally, equitable sharing expenses reported for the year includes approximately 29.1 million accrued for certain probable equitable sharing liabilities existing at year end (treated as contingent liabilities of the Fund in prior years).

Policy Issuance. During FY 1999, 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.

Seizing Motor Vehicles, Payment of Liens and Official Use Requirements. In FY 1999, the Executive Office for Asset Forfeiture issued Directive No. 33 - *Seizure of Motor Vehicles, Payment of Liens and Official Use Requirements*. (the Directive) The purpose of the new directive is to update the policies for seizing, forfeiting and retaining motor vehicles for official use found in the Department's Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies (dated October 1, 1996), and EOAF Directives 20 and 22.

Highlights of the Directive are as follows:

1. Establishment of a \$5,000 minimum net equity requirement for retention of motor vehicles for official use;
2. Elimination of the \$25,000 ceiling for payments of liens to retain vehicles for official use; and
3. Establishment of a uniform motor vehicle appraisal methodology using the N.A.D.A. "Blue Book's" "low retail value."

From time to time, it is necessary to update official use policies of the Treasury asset forfeiture program to ensure that while the goals and objectives of the program are satisfied, the relative law enforcement needs of our participating agencies are also satisfied. In this particular instance, Fund Management determined that more than one policy associated with the retention of vehicles for official use was out of date and in need of updating.

FY 1999 Audit. The Fund's independent auditors have given the FY 1999 financial statements an Unqualified Opinion.

Program Performance

Financial and Program Performance - What is needed and planned. OMB Bulletin No. 97-01, *Form and Content of Agency Financial Statements*, as amended, requires that agencies include an explanation of what needs to be done and what is planned to be done to improve financial or program performance. In that regard, Fund Management provides the following information with regard to material weaknesses and reportable conditions identified by auditors during the FY 1999 financial statement audit.

Material Weaknesses. The following material weaknesses were identified in the FY 1999 audit report:

- (i) Accounting records are maintained on a cash basis;
- (ii) The Fund's general ledger does not record all balances and transactions that are reflected in the financial statements;
- (iii) System controls deficiencies continue to exist in the U.S. Customs Services' seized property and forfeited assets tracking system, the Seized Asset and Case Tracking System (SEACATS). These deficiencies may result in SEACATS generating property and currency case data that is not complete, accurate or authorized;

Reportable Conditions. The following reportable conditions were identified in the FY 1999 audit report:

- (i) Forfeited property is not recorded in the subsidiary system during the year at its fair value at the time of forfeiture;
- (ii) The Fund does not adequately monitor property placed with the National Seized Property Contractor (the Property Custodian) during the year, and as a result the Fund is unable to accurately report the quantity and value of property held by the

Property Custodian at any particular time during the year;

- (iii) The Fund's property management functions require improvement to ensure that: (i) funds, property, and other assets are safeguarded against loss from unauthorized use or disposition; and (ii) transactions are properly recorded and accounted for to permit the preparation of reliable financial statements and to maintain accountability over the assets; and, asset specific revenue and expenses are not recorded and accounted for accurately by the Fund in the various property management systems. As a result, the Fund is unable to accurately assess the revenue and costs related to individual seizures.

Background. We have previously reported that the three material weaknesses would be corrected with the complete deployment of the Customs' Seized Asset and Case Tracking System (SEACATS). SEACATS was intended to serve as the financial system of record for the Fund and 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 would, once fully operational and interfaced with the general ledger, rectify all three of the prior year's material weaknesses identified by the Fund's auditors. 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. However, upon deployment in November 1996, the SEACATS system was beset with a number of start-up problems, including data conversion difficulties. Assisting the U.S. Customs Service with resolution of these problems has been among the highest priorities for Fund Management.

Short Term Plans - Material Weaknesses. Fund Management has contracted to deploy a version of the IRS seized property and forfeited assets tracking system, Asset Forfeiture Tracking and Retrieval System (AFTRAK), to the two smaller agencies participating in the Fund that are currently using the Department of Justice Consolidated Asset Tracking System (CATS). In this manner, we intend to reduce the use of two separate systems used among the three non-Customs agencies to one system. Meanwhile, in FY 1999 significant enhancements were made to the property processing and reporting capabilities of SEACATS. However, system control deficiencies continue to exist. It is expected that the currency processing capability of SEACATS will be corrected in a manner that will support year end reporting for FY 2000.

Long Term Plans - Material Weaknesses. Before the Fund's general ledger can automatically record all accrual transactions associated with Fund's financial statements, it will be necessary to integrate all asset tracking systems supporting the Fund's financial statements with Customs' Asset Information Management System (AIMS). Only in this manner can fully automated accrual transaction accounting occur through the general ledger.

Until SEACATS performance issues are fully resolved, Fund Management has determined that the current priority is the ability to document the inventory of all our agencies in a manner that can be substantiated through audit, and the general ledger manually adjusted from there.

Fund Management's Plan Regarding Reportable Conditions. Management concurs with the auditor's recommendation that forfeited property be properly valued on inventory records and will work with Customs and the other agencies to ensure that a statistical adjustment is made for future financial statements until such time as automated systems are able to track such changes in value from seizure to forfeiture.

Fund Management concurs with the Auditor's recommendation that semi-annual reconciliations between Customs and the Property Custodian's

inventory reports be performed. This will ensure that the property held as reported by all agencies agrees with the amount recorded by the Property Custodian.

Fund Management will work with the Accounting Services Division of Customs (ASD) regarding the handling of accounting transactions associated with either the Suspense Account or the Forfeiture Fund to ensure that revenue and expenses are reflected in the most accurate manner.

Look Forward. Fund Management continues refreshed attention to Treasury's national asset forfeiture program during FY 2000. The Executive Office for Asset Forfeiture has published an Action Plan for FY 1999 and 2000 that brings new resolve to properly managing the needs of the Fund, and establish a "roadmap" to higher levels of efficiency. Fund Management takes pride in reporting the progress made in FY 1999 and assures its constituency that creative and vital problem-resolution will continue. Already in FY 2000, the Fund management has received the prestigious "Hammer Award," for innovative program initiatives.

Limitations of the Financial Statements. As required by OMB Bulletin 97-01, *Form and Content of Agency Financial Statements*, as amended, Fund management makes the following statements regarding the limitations of the financial statements:

- The financial statements have been prepared to report the financial position and results of operations of the entity, pursuant to the requirements of 31 USC 3515(b).
- While the financial statements have been prepared from the books and records of the entity in accordance with the formats prescribed by the Office of Management and Budget, the statements are in addition to the financial reports used to monitor and control budgetary resources which are

prepared from the same books and records.

- The financial statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity. One implication of this is that liabilities cannot be liquidated without legislation that provides resources to do so.

SECTION II
FINANCIAL STATEMENTS

Gardiner, Kamya & Associates, P.C.

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 Principal Statements (balance sheets and the related statements of net costs, changes in net position, budgetary resources and financing, hereinafter referred to as "financial statements") of the Department of the Treasury Forfeiture Fund (the Fund) as of, and for the years ended, September 30, 1999 and 1998. These financial statements are the responsibility of Fund Management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with 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. 98-08, *Audit Requirements for Federal Financial Statements*, as amended. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by Fund Management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Fund as of September 30, 1999 and 1998, and its net costs, changes in net position, budgetary resources, and the reconciliation of net costs to budgetary obligations, for the years then ended, in conformity with generally accepted accounting principles.

In accordance with *Government Auditing Standards*, we have also issued a report dated January 7, 2000, on our consideration of the Fund's internal control structure and a report dated January 7, 2000, on its compliance with laws and regulations.

Our audits were conducted for the purpose of forming an opinion on the financial statements referred to in the first paragraph of this report as a whole. The information presented in Fund Management's Overview of the Fund and Other Accompanying Information sections is not a required part of the financial statements but is supplementary information required by OMB Bulletin No. 97-01, *Form and Content of Agency Financial Statements*, as amended, or the *Treasury Forfeiture Fund Act of 1992*. Although we have read the information presented, such information has not been subjected to the auditing procedures applied in the audits of the financial statements and, accordingly, we express no opinion on it.

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

January 7, 2000

Gardner, Kanyo & Associates

Treasury Forfeiture Fund
Balance Sheets
September 30, 1999 and 1998
(Dollars in Thousands)

Assets		
	<u>1999</u>	<u>1998</u>
Entity Assets:		
Intragovernmental Assets:		
Cash and other monetary assets	\$ 126,724	\$ 119,577
Investments and related interest (Note 3)	287,498	248,131
Accounts receivable (Note 4)	112	1,037
Advances (Note 5)	<u>1,476</u>	<u>28,059</u>
Total Intragovernmental Assets	<u>415,810</u>	<u>396,804</u>
Cash and other monetary assets (Note 6)	13,266	17,538
Accounts receivable (Note 4)	<u>690</u>	<u>53</u>
	<u>13,956</u>	<u>17,591</u>
Forfeited property (Note 7)	26,101	24,034
Held for sale, net of mortgages, liens and claims		
To be shared with Federal, state or local, or foreign governments	<u>767</u>	<u>186</u>
Total forfeited property, net of mortgages, liens and claims	<u>26,868</u>	<u>24,220</u>
Total Entity Assets	<u>456,634</u>	<u>438,615</u>
Non-Entity Assets:		
Intragovernmental Assets:		
Seized currency:		
Investments (Note 3)	<u>253,139</u>	<u>343,247</u>
Total Intragovernmental Assets	<u>253,139</u>	<u>343,247</u>
Seized currency:		
Cash and other monetary assets	<u>47,055</u>	<u>79,920</u>
Total Non-Entity Assets	<u>300,194</u>	<u>423,167</u>
Total Assets	<u>\$ 756,828</u>	<u>\$ 861,782</u>

The accompanying notes are an integral part of these financial statements.

**Treasury Forfeiture Fund
Balance Sheets
September 30, 1999 and 1998
(Dollars in Thousands)**

Liabilities and Net Position

	<u>1999</u>	<u>1998</u>
Liabilities Covered by Budgetary Resources:		
Intragovernmental Liabilities:		
Distributions payable:		
Other Federal agencies	\$ 1,320	\$ 1,390
Accounts payable	<u>37,465</u>	<u>24,757</u>
Total Intragovernmental Liabilities	<u>38,785</u>	<u>26,147</u>
Seized currency (Note 9)	300,194	423,167
Distributions payable:		
State and local agencies and foreign governments (Note 10)	31,470	7,225
Victim restitution (Note 11)	28,675	32,075
Accounts payable	6,088	5,095
Deferred revenue from forfeited assets	<u>26,906</u>	<u>24,460</u>
	<u>393,333</u>	<u>492,022</u>
Total Liabilities Covered by Budgetary Resources	<u>432,118</u>	<u>518,169</u>
Liabilities not Covered by Budgetary Resources:		
Commitments and Contingencies (Note 16)	<u>-</u>	<u>-</u>
Total Liabilities not Covered by Budgetary Resources	<u>-</u>	<u>-</u>
Total Liabilities	<u>432,118</u>	<u>518,169</u>
Net Position (Note 12)		
Cumulative results of operations	<u>324,710</u>	<u>343,613</u>
Total Liabilities and Net Position	<u>\$ 756,828</u>	<u>\$ 861,782</u>

The accompanying notes are an integral part of these financial statements

**Treasury Forfeiture Fund
Statements of Net Cost
September 30, 1999 and 1998
(Dollars in Thousands)**

	<u>1999</u>	<u>1998</u>
Non-Discretionary:		
Intragovernmental:		
Seizure investigative costs and asset management	\$ 78,059	\$ 54,663
Other asset related contract services	1,460	1,530
Awards to informer	305	650
Data systems, training and others	17,576	12,259
Super Surplus (Note 14)	41,015	17,150
Secretary's Enforcement Fund (Note 15)	<u>5,633</u>	<u>5,160</u>
Total Intragovernmental	<u>144,048</u>	<u>91,412</u>
With the Public:		
National seized property contract services	32,797	28,323
Joint operations	<u>10,086</u>	<u>3,255</u>
Total with the Public	<u>42,883</u>	<u>31,578</u>
Total Non-Discretionary	<u>186,931</u>	<u>122,990</u>
Discretionary:		
Intragovernmental:		
Awards for information or assistance	2	84
Federal law enforcement conveyance	13	726
Data systems, training and others	<u>(17)</u>	<u>6,704</u>
Total Intragovernmental	<u>(2)</u>	<u>7,514</u>
Total Program Costs	186,929	130,504
Less: earned revenues	<u>-</u>	<u>-</u>
Net Cost of Operations	\$ <u>186,929</u>	\$ <u>130,504</u>

The accompanying notes are an integral part of these financial statements

Treasury Forfeiture Fund
Statements of Changes in Net Position
September 30, 1999 and 1998
(Dollars in Thousands)

	<u>1999</u>	<u>1998</u>
Net Cost of Operations	\$ <u>186,929</u>	\$ <u>130,504</u>
Financing Sources (Non-Exchange Revenues):		
Intragovernmental		
Investment interest income	22,789	21,221
Public		
Forfeited currency and monetary instruments	261,255	167,183
Sales of forfeited property net of mortgages and claims	23,192	36,656
Proceeds from participating with other Federal agencies	12,420	13,569
Value of property transferred in equitable sharing	6,385	5,528
Payments in lieu of forfeiture, net of refund	5,536	1,754
Reimbursed costs	2,006	1,997
Others	<u>862</u>	<u>857</u>
Total Gross Non-Exchange Revenues	<u>334,445</u>	<u>248,765</u>
Less: Equitable Sharing		
Intragovernmental		
Federal	<u>(12,058)</u>	<u>(8,454)</u>
Public		
State and local agencies	(150,480)	(71,934)
Foreign countries	(2,416)	(1,179)
Victim restitution	<u>(1,465)</u>	<u>(1,473)</u>
	<u>(154,361)</u>	<u>(74,586)</u>
Total Equitable Sharing	<u>(166,419)</u>	<u>(83,040)</u>
Total Non-Exchange Revenues, Net	<u>168,026</u>	<u>165,725</u>
Transfers-In		
Intragovernmental		
Transfer from ONDCP	<u>-</u>	<u>35,679</u>
Total Financing Sources	<u>168,026</u>	<u>201,404</u>
Net Results of Operations	(18,903)	70,900
Net Position-Beginning of Year	<u>343,613</u>	<u>272,713</u>
Net Position-End of Year	<u>\$ 324,710</u>	<u>\$ 343,613</u>

The accompanying notes are an integral part of these financial statements

Treasury Forfeiture Fund
Statements of Budgetary Resources
September 30, 1999 and 1998
(Dollars in Thousands)

	<u>1999</u>	<u>1998</u>
Budgetary Resources:		
Budget authority	\$ 346,738	\$ 295,014
Unobligated balance - beginning of year	165,588	204,121
Adjustments	<u>27,574</u>	<u>8,375</u>
Total Budgetary Resources	<u>539,900</u>	<u>507,510</u>
Status of Budgetary Resources:		
Obligations incurred	348,953	341,922
Unobligated balance - available	<u>190,947</u>	<u>165,588</u>
Total, Status of Budgetary Resources	<u>539,900</u>	<u>507,510</u>
Outlays:		
Obligations incurred	348,953	341,922
Less: adjustments	(27,574)	(8,375)
Obligated balance, net - beginning of year	200,905	141,155
Less: obligated balance, net - end of year	<u>(221,982)</u>	<u>(200,905)</u>
Total Outlays	<u>\$ 300,302</u>	<u>\$ 273,797</u>

The accompanying notes are an integral part of these financial statements

**Treasury Forfeiture Fund
Statements of Financing
September 30, 1999 and 1998
(Dollars in Thousands)**

	<u>1999</u>	<u>1998</u>
Obligations and Nonbudgetary Resources		
Obligations incurred	\$ 348,953	\$ 341,922
Less: Spending authority from offsetting collections and adjustments	(27,574)	(8,375)
Transfers-in	<u>-</u>	<u>(35,679)</u>
Total Obligations and Non-budgetary Resources	<u>321,379</u>	<u>297,868</u>
Resources That Do Not Fund Net Cost of Operations		
Changes in amount of goods, services, and benefits ordered but not yet received or provided	46,515	(73,530)
Financing sources that do not fund cost of operations		
Mortgages and claims	(9,703)	(5,207)
Refunds	(4,843)	(5,587)
Equitable sharing (Federal, state/local and foreign)	(164,954)	(81,567)
Victim restitution	<u>(1,465)</u>	<u>(1,473)</u>
Total Resources That do Not Fund Net Cost of Operations	<u>(134,450)</u>	<u>(167,364)</u>
Costs That Do Not Require Resources	<u>-</u>	<u>-</u>
Financing Sources Yet to be Provided	<u>-</u>	<u>-</u>
Net Cost of Operations	<u>\$ 186,929</u>	<u>\$ 130,504</u>

The accompanying notes are an integral part of these financial statements

Note 1: Reporting Entity

The Department of the Treasury Forfeiture Fund (Treasury Forfeiture Fund or the Fund) was established by the Treasury Forfeiture Fund Act of 1992, Public Law 102-393 (the TFF Act), and is codified at 31 U.S.C. 9703. The Fund was created to consolidate all Treasury law enforcement agencies under a single forfeiture fund program administered by the Department of the Treasury (Treasury). Treasury law enforcement agencies 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 (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 agencies. FinCEN and FLETC did not previously participate in any forfeiture fund. Prior to fiscal year (FY) 1994, only Customs and Coast Guard participated in the Fund.

The Fund is a special fund that is accounted for under Treasury symbol number 20 X 5697. From this no-year account, expenses may be incurred consistent with 31 U.S.C. 9703, as amended. A portion of these expenses, referred to as discretionary expenses, are subject to annual appropriation limitations. Others, referred to as non-discretionary (mandatory) expenses, are limited only by the availability of resources in the Fund. Both expense categories are limited in total by the amount of revenue in the Fund. The Fund is managed by the Treasury's Executive Office for Asset Forfeiture (EOAF).

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

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

Note 2: Summary of Significant Accounting Policies

Basis of Accounting

The Fund began preparing audited financial statements in fiscal year 1993 as required by the Fund's

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enabling legislation 31 U.S.C. 9703(f)(2)(H), and the Chief Financial Officers Act of 1990. Beginning with the Fiscal Year 1996 report, the Government Management Reform Act of 1994 (GMRA) required executive agencies, including the Treasury, to produce audited consolidated annual reports and related footnotes for all activities and funds.

The Fund's financial statements are presented in accordance with OMB Bulletin 97-01, *Form and Content of Agency Financial Statements*, as amended.

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

Financial Statements Presented

The financial statements are provided to meet the requirements of the Chief Financial Officers Act of 1990, and the Government Management Reform Act of 1994. They consist of the balance sheets, the statements of net cost, the statements of changes in net position, the statements of budgetary resources, and the statements of financing, all of which are prescribed by OMB Bulletin 97-01, as amended.

The form and content of the balance sheet, as suggested by OMB, has been adjusted to present non-entity assets (and offsetting liabilities) to reflect the custodial/fiduciary nature of certain activities of the Fund.

These financial statements should be read with the realization that they are for a component of a sovereign entity, that liabilities not covered by budgetary resources cannot be liquidated without the enactment of an appropriation, and that the payment of all liabilities other than for contracts can be abrogated by the sovereign entity.

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

Allowable Fund Expenses

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

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

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

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

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

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

Revenue and Expense Recognition

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

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

As provided for in the TFF Act, the Fund invests seized and forfeited currency that is not needed for current operations. Treasury's Bureau of 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 as revenue in the general ledger.

Equitable Sharing (Assets Distributed)

Forfeited property, currency, or proceeds from the sales of forfeited property may be shared with Federal,

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

Entity Assets

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

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

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

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related asset is sold and is reflected as a reduction of sales of forfeited property.

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

Non-Entity Assets

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

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

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

- **Investments** - This balance includes seized cash on deposit in a Customs' suspense account held by Treasury which has been invested in short term U.S. Government Securities.
- **Cash and Other Monetary Assets** - This balance represents the aggregate amount of the Fund's seized currency on deposit in a Customs' suspense account held by Treasury, seized cash on deposit held with other financial institutions, and, cash on hand in vaults held at field office locations.

Liabilities Covered by Budgetary Resources

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

- **Distributions Payable** - Distributions payable to Federal and non-Federal agencies is primarily

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related to equitable sharing payments and payments to be made by the Fund to the victims of fraud.

- **Accounts Payable** - Amounts reported in this category include accrued expenses authorized by the TFF Act (see "Allowable Fund Expenses") for which payment was pending at year-end.
- **Seized Currency** - Amounts reported in this category represents the value of seized currency that is held by the Fund which equals the amount of seized currency reported as an asset.
- **Deferred Revenue from Forfeited Assets** - At year end, the Fund held forfeited assets, which had not yet been converted into cash through a sale. The amount reported here represents the value of these assets, net of mortgages and claims.

Liabilities Not Covered by Budgetary Resources

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

Net Position

The components of net position are classified as follows:

- **Retained Capital** - There is no cap on amounts that the Fund can carry forward into FY 1999. The cap was removed by the fiscal year 1997 Omnibus Appropriations Act (PL 104-208).
- **Unliquidated Obligations** - This category represents the amount of undelivered purchase orders, contracts and equitable sharing requests which have been obligated with current budget resources or delivered purchase orders and contracts that have not been invoiced. An expense and liability are recognized and the corresponding obligations are reduced as goods are received or services are performed. In FY 1999, Fund Management decided to recognize as liabilities, a portion of the equitable sharing requests that were in final stages of approval subsequent to year end. Prior experience with the nature of this account indicated that a substantial portion of these requests were certain liabilities at year end. Prior to FY 1999, expenses and liabilities were recognized and the corresponding obligations reduced when final management approval for an equitable sharing request was given (See also Distributions Payable at Note 10).
- **Results of Operations** - This category represents the net difference, (for the activity during the year), between: (i) financing sources including revenues and transfers, and (ii) expenses.
- **Distributions to ONDCP's Special Forfeiture Fund** - This category represents the balance to be transferred to ONDCP or received from ONDCP. See "Transactions with the Office of National Drug Control Policy (ONDCP)" at Note 12.

Note 3: Investments and Related Interest

All investments are intragovernmental short-term (35 days or less) non-marketable par value Federal debt securities issued by, and purchased through Treasury's Bureau of the Public Debt. Investments are always

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purchased at a discount and are reported at acquisition cost (market value), net of discount. The discount is amortized into interest income over the term of the investment. The investments are always held to maturity. They are made from cash in the Fund and from seized currency held in the Customs' Suspense Account. The Customs' Suspense Account became the depository for seized cash for the Fund following enactment of the TFF Act. The investment, net, represents the required market value.

The following schedule presents the investments on hand as of September 30, 1999 and 1998, respectively (dollars in thousands):

<u>Description</u>	<u>Cost</u>	<u>Unamortized Discount</u>	<u>Investment, (Net)</u>
Entity Assets			
September 30, 1999:			
Treasury Forfeiture Fund - 35 days			
4.40% U.S. Treasury Bills	\$287,801	\$(1,230)	\$286,571
Interest Receivable - on entity investments			493
- on non-entity investments			<u>434</u>
Total Investment, Net, and Interest Receivable			<u>\$287,498</u>
September 30, 1998:			
Treasury Forfeiture Fund - 28 days			
4.44% U.S. Treasury Bills	\$248,038	\$(857)	\$247,181
Interest Receivable - on entity investments			396
- on non-entity investments			<u>554</u>
Total Investment, Net, and Interest Receivable			<u>\$248,131</u>
Non-entity Assets			
September 30, 1999:			
U.S. Customs Suspense Account - 35 days 4.40%			
U.S. Treasury Bills	\$254,225	\$(1,086)	<u>\$253,139</u>
September 30, 1998:			
U.S. Customs Suspense Account - 28 days			
4.44% U.S. Treasury Bills	\$ 344,436	\$ (1,189)	<u>\$343,247</u>

Interest receivable includes interest earned on seized currency investments (non-entity investments) which belongs to the Fund once it is earned.

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Note 4: Accounts Receivable

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

Note 5: Advances

Advances of \$28.1 million were carried forward from the prior year, of which \$26 million represented undelivered orders of the Treasury's Working Capital Fund for Year 2000 (Y2K) expenses, for which the Fund had agreed to provide the funding through its various authorities. In fiscal year 1999, Treasury refunded \$21.8 million to the Fund and \$4.8 million was utilized towards Y2K expenses leaving a balance of \$1.5 million at year end.

Note 6: Cash and Other Monetary Assets

Cash and Other Monetary Assets held on hand include forfeited currency not yet deposited, as well as forfeited currency held as evidence, amounting to \$13.3 million and \$17.5 million in fiscal year 1999 and 1998, respectively.

Note 7: Forfeited Property

The following summarizes the components of forfeited property (net), as of September 30, 1999 and 1998, respectively (dollars in thousands):

	<u>1999</u>	<u>1998</u>
Held for Sale	\$28,904	\$25,632
To be shared with Federal, state or local, or foreign government	<u>767</u>	<u>186</u>
Total forfeited property (Note 8)	29,671	25,818
Less: Allowance for mortgages and claims	<u>(2,803)</u>	<u>(1,598)</u>
Total forfeited property, net	<u>\$26,868</u>	<u>\$24,220</u>

Forfeited property held for sale, net of allowance for mortgages and claims as of September 30, 1999 and 1998 was \$26 million and \$24 million respectively, and is reported in the Balance Sheet.

Note 8: Analysis of Changes in Forfeited Property and Currency

The following schedule presents the changes in the forfeited property and currency balances from October 1, 1998, to September 30, 1999. The amounts provided below represent the combined amounts of forfeited property and currency on hand at September 30, for all law enforcement agencies participating in the Fund. The amounts belonging to individual agencies are reported in the financial statements of each agency. Dollar value is in thousands.

	<u>10/1/98 Financial Statement Balance</u>		<u>Adjustments</u>		<u>10/1/99 Carrying Value</u>		<u>Forfeitures</u>		<u>Deposits/Sales</u>		<u>Deposits/Transfers</u>	
	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number
Currency	\$ 17,538	-	\$ -	-	\$ 17,538	-	\$ 257,360	(1)	\$ (258,232)	-	\$ (4,170)	-
Other Monetary Instruments	259	-	66	-	325	-	6,592	(2)	(5,388)	-	(646)	-
Real Property	16,407	141	2,399	-	18,806	141	16,937	111	(16,862)	-	(565)	(4)
General Property	3,702	4,370	13,587	-	17,289	4,370	21,294	12,866	(22,456)	(3,268)	(2,088)	(1,403)
Vessels	573	45	191	-	764	45	6,770	136	(5,485)	(78)	(547)	(17)
Aircraft	190	1	(25)	-	165	1	1,246	8	-	-	(864)	(6)
Vehicles	4,687	1,488	666	-	5,353	1,488	15,804	7,346	(11,279)	(6,664)	(3,474)	(252)
Subtotal	25,818	6,045	16,884	-	42,702	6,045	68,643	20,465	(61,470)	(10,121)	(8,184)	(1,682)
Grand Total	\$ 43,356	6,045	\$ 16,884	-	\$ 60,240	6,045	\$ 326,003	20,465	\$ (319,702)	(10,121)	\$ (12,354)	(1,682)

	<u>Victim Restitution</u>		<u>Destroyed</u>		<u>Other Adjustments</u>		<u>Value Change</u>		<u>1999 Carrying Value</u>		<u>Fair Market Value Adjustment</u>		<u>9/30/99 Financial Statement Balance</u>	
	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number
Currency	\$ -	-	\$ -	-	\$ 409	-	\$ 36	-	\$ 13,266	-	\$ -	-	\$ 13,266	-
Other Monetary Instruments	-	-	-	-	565	-	-	-	1,448	-	(161)	-	1,287	-
Real Property	-	-	-	-	3,711	30	107	-	22,134	167	(2,822)	-	19,312	167
General Property	-	-	(172)	(8,169)	(134)	(142)	(899)	-	12,834	4,254	(10,023)	-	2,811	4,254
Vessels	-	-	(13)	(38)	(16)	2	(87)	-	1,386	52	(257)	-	1,129	52
Aircraft	-	-	-	-	(80)	1	-	-	487	4	70	-	537	4
Vehicles	-	-	(4)	(13)	(267)	(2)	(118)	-	5,995	1,903	(1,400)	-	4,595	1,903
Subtotal	-	-	(189)	(8,218)	3,759	(111)	(997)	-	44,264	6,380	(14,593)	-	29,671	6,380
Grand Total	\$ -	-	\$ (189)	(8,218)	\$ 3,759	(111)	\$ (997)	-	\$ 57,530	6,380	\$ (14,593)	-	\$ 42,937	6,380

Adjustments to opening forfeited property balances are necessary to reverse fair market value adjustments made in fiscal year 1998 and to restate forfeited property held at the beginning of the year back to the carrying (appraised) value. The fair market value adjustments at 9/30/99 are necessary to convert forfeited property from appraised value (market value at the time of seizure) to an estimate of the fair market value at the end of the fiscal year, 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 for each class or property represents the number of seizure line items recorded regardless of the unit of measure or unit quantity.

(1) Represents 4,718 forfeiture cases which were fully or partially forfeited in fiscal year 1999.

(2) Represents 129 forfeiture cases which were fully or partially forfeited in fiscal year 1999.

Note 9:

Analysis of Changes in Seized Property and Currency

Seized property and currency result primarily from enforcement activities. Seized property is not legally owned by the Fund until judicially or administratively forfeited. Accordingly, seized property is not recorded as an asset of the Fund. Instead, the category and value of seized property on hand at September 30, is disclosed in the financial statements of the Fund. Seized currency is reported as a custodial asset upon seizure because of the fungible nature of currency and the high level of control necessary over these assets and the possibility that these monies may be returned to their owners in lieu of forfeiture. Seized property and currency held on hand at year end are reported in the financial statements in accordance with Statement of Federal Accounting Standards No. 3, Accounting for Inventory and Property. The amounts provided below represent the combined amounts of seized property and currency on hand at September 30, for all law enforcement agencies participating in the Fund. The amounts belonging to individual agencies are presented in the financial statements of each agency. Dollar value is in thousands.

	<u>9/30/98 Financial Statement Balance</u>		<u>Seizures</u>		<u>Remissions</u>		<u>Forfeitures</u>		<u>Adjustments</u>		<u>Value Change</u>		<u>9/30/99 Financial Statement Balance</u>	
	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number
Currency	\$ 423,167	-	\$ 234,419	(1)	\$ (107,329)	-	\$ (257,360)	-	\$ 6,548	-	\$ 749	-	\$ 300,194	-
Other Monetary Instruments	15,498	-	5,844	(2)	(4,845)	-	(6,592)	-	1,998	-	44	-	11,947	-
Real Property	88,804	352	24,829	119	(13,241)	(60)	(18,937)	(111)	(2,447)	(34)	(8,126)	-	72,882	266
General Property	133,656	10,661	211,742	23,068	(162,312)	(9,789)	(21,294)	(12,866)	14,031	880	(6,376)	-	169,447	11,954
Vessels	5,735	125	7,152	144	(2,957)	(42)	(6,770)	(136)	(309)	(6)	(800)	-	2,051	85
Aircraft	2,267	20	34,394	22	(27,426)	(19)	(1,246)	(8)	917	-	343	-	9,247	15
Vehicles	18,550	3,065	65,150	11,114	(48,136)	(4,398)	(15,804)	(7,346)	2,016	(215)	(2,937)	-	18,637	2,220
Subtotal	264,510	14,223	349,111	34,465	(258,921)	(14,308)	(68,643)	(20,467)	18,208	625	(17,852)	-	284,411	14,540
Grand Total	\$ 687,677	14,223	\$ 583,530	34,465	\$ (366,250)	(14,308)	\$ (326,003)	(20,467)	\$ 22,754	625	\$ (17,852)	-	\$ 584,605	14,540

Due to the varied mix of specific types of assets within each asset category, the number of items presented for each class of property represents the number of seizure line items recorded regardless of the unit of measure or unit quantity.

(1) Represents 4,482 seizure cases processed in fiscal year 1999.

(2) Represents 117 seizure cases processed in fiscal year 1999.

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Note 10: Distributions Payable (state and local agencies and foreign governments)

Included in the amount for Distributions Payable (state and local agencies and foreign governments) for FY 1999 is \$29.1 million arising from a decision made by Fund Management to recognize as a liability a portion of the equitable sharing requests (based on a historical pay-out percentage), that were approved or in final stages of approval on September 30, 1999. Prior experience with the nature of this account indicated that a substantial portion of these requests were certain to be paid out by the Fund during the following fiscal year.

Prior to fiscal 1999, equitable sharing amounts were disclosed as "Commitments" in the Footnotes to the Fund's financial statements (1998: \$24.7 million).

Note 11: Victim Restitution - U.S. vs. Bulldog Medical Case

The "Bulldog Medical case" was a culmination of a 3-year investigation that ultimately led to Federal charges of criminal mail fraud, interstate transportation, money laundering, witness tampering, conspiracy, aiding and abetting, and criminal forfeiture. Although over \$32 million associated with this case was forfeited during FY 1997, the majority of the forfeited proceeds remain undistributed to victims of the underlying crime of fraud. The reason for the delay in distributing payments is related to litigation associated with a *qui tam* relator, that is, an individual who provides information to the Government in a case can file for a portion of proceeds from the case. The *qui tam* relator in this case filed outside of the district in which the principal case was filed and came to the attention of Fund Management only after forfeiture. The referenced *qui tam* relator's claim must be resolved before any distribution of the proceeds can be returned to victims or otherwise distributed. The claim was resolved in FY 1999. Approximately \$3.4 million was distributed during fiscal year 1999, leaving a balance of 28.7 million to be distributed shortly.

Note 12: Net Position

Cumulative Results

The following summarizes the components of the cumulative results for the years ended September 30, 1999 and 1998, respectively, (dollars in thousands):

	<u>1999</u>	<u>1998</u>
Retained Capital	\$229,809	\$116,290
Unliquidated Obligations	113,804	156,423
Results of Operations	(18,903)	35,221
Transfers from ONDCP	<u> - </u>	<u>35,679</u>
	<u>\$324,710</u>	<u>\$ 343,613</u>

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Unliquidated Obligations

The following summarizes the components of unliquidated obligations as of September 30, 1999 and 1998, respectively, (dollars in thousands):

	<u>1999</u>	<u>1998</u>
Discretionary	\$ 348	\$ 2,432
Equitable Sharing	9,489	42,473
Non-Discretionary	<u>103,967</u>	<u>111,518</u>
	<u>\$113,804</u>	<u>\$156,423</u>

Transfers to and from the Office of National Drug Control Policy (ONDCP)

The Fund did not transfer and was not required to transfer any amounts to the ONDCP in fiscal year 1999 or 1998.

No funds were due to be received from ONDCP in FY 1999. During fiscal year 1998, the Fund received \$35.7 million transferred from the ONDCP per Public Law 104-208. The Secretary of the Treasury is authorized to receive all unavailable collections transferred from the ONDCP as a deposit into the Fund pursuant to Public Law 104-208 and 105-61.

Note 13: Related Party Transactions

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

Note 14: Super Surplus

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

Amounts distributed to other Federal agencies for law enforcement activities under "Super Surplus" requirements amounted to \$41.0 million and \$17.1 million in FY 1999 and 1998, respectively.

Note 15: Secretary's Enforcement Fund

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

NOTES TO FINANCIAL STATEMENTS

representing Treasury's share of forfeiture proceeds from Justice and USPS cases.

Amounts distributed for Federal law enforcement purposes to Treasury law enforcement organizations amounted to \$5.6 million and \$5.2 million in FY 1999 and 1998, respectively.

Note 16: Commitments and Contingencies

Commitments:

In FY 1999, Fund Management decided to recognize the liability for equitable sharing requests that were approved or in final stages of approval subsequent to September 30 (See also Note 10, Distributions Payable).

In FY 1998 the Fund identified equitable sharing requests in the amount of approximately \$24.7 million, which were approved or in the final stages of approval subsequent to September 30, 1998. They were not recorded as liabilities of the Fund because final approval had not been obtained as of September 30. The forfeited currency revenue will be 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 amounts estimated above, there are additional amounts which may ultimately be shared, which are not identified at this time.

Contingencies:

Possible claims of potential significance include the following:

1. In recent decisions, the United States Court of Appeals for the Ninth Circuit ruled that it is unconstitutional to forfeit currency based upon a violation of a Federal currency reporting statute. Accordingly, the court has ruled that in returning currency, the government must return the benefit that is received from holding the currency. The interest to be returned will be payable out of the income of the Fund, and, at present, represents a possible claim of potential significance.
2. In a recent decision, the Supreme Court has ruled that the government must return forfeited currency in those cases of individuals convicted for currency reporting violations who have had currency forfeited due to the violation. The amount of the currency that might be refunded will be payable from the Fund, and, at present, represents a possible claim of potential significance.

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

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

NOTES TO FINANCIAL STATEMENTS

Note 17: Disclosures Related to the Statements of Net Cost

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

	<u>1999</u>	<u>1998</u>
Gross Costs	\$ 186,929	\$ 130,504
Earned Revenues	<u>-</u>	<u>-</u>
Net Costs	\$ <u>186,929</u>	\$ <u>130,504</u>

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

Note 18: Disclosures Related to the Statement of Budgetary Resources

The Fund's net amount of budgetary resources obligated for undelivered orders at the end of fiscal year 1999 and 1998 are \$113.8 million and \$156.4 million, respectively. This amount is fully covered by cash on hand in the Fund. The Fund does not have borrowing or contract authority, and, therefore, has no repayment requirements, financing sources for repayment, or other terms of borrowing authority. No adjustments were required during the reporting period to budgetary resources available at the beginning of the year. There are no legal arrangements, outside of normal government wide restrictions, specifically affecting the Fund's use of unobligated balances of budget authority.

Adjustments to budgetary resources available at the beginning of fiscal year 1999 and 1998 consist of the following (in thousands):

	<u>1999</u>	<u>1998</u>
Recoveries of Prior Years Obligations	\$ 27,566	\$ 8,289
Spending Authority from Offsetting Collections	<u>8</u>	<u>86</u>
Total	\$ <u>27,574</u>	\$ <u>8,375</u>

Note 19: Dedicated Collections

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

NOTES TO FINANCIAL STATEMENTS

fiscal year 1997 in accordance with existing statute that required the necessary balances to be transferred to ONDCP.

Additionally, during fiscal years 1998 and 1997, the Fund received \$35,679,000 and \$66,876,000, respectively, transferred from the ONDCP per Public Law 104-208. The Secretary of the Treasury is authorized to receive all unavailable collections transferred from the ONDCP as a deposit into the Fund pursuant to Public Law 104-208 and 105-61.

Note 11: Related Party Transactions

The Fund reimbursed agencies for the purchase of certain capital assets. These assets are reported by the participating agencies. During the fiscal year ended September 30, 1998, \$726,000 of capital assets purchased by participating agencies was reimbursed by the Fund and is reported as a part of discretionary expenses in the Statement of Net Cost.

Note 12: Victim Restitution - U.S. vs. Bulldog Medical Case

The "Bulldog Medical case" was a culmination of a 3-year investigation that ultimately lead to Federal charges of criminal mail fraud, interstate transportation, money laundering, witness tampering, conspiracy, aiding and abetting, and criminal forfeiture. Although over \$32 million associated with this case was forfeited during FY 1997, the forfeited proceeds remain undistributed to victims of the underlying crime of fraud. The reason for the delay in distributing payments is related to litigation associated with a *qui tam* relator, that is, an individual who provides information to the Government in a case can file for a portion of proceeds from the case. The *qui tam* relator in this case filed outside of the district in which the principal case was filed and came to the attention of Fund management only after forfeiture. The referenced *qui tam* relator's claim must be resolved before any distribution of the proceeds can be returned to victims or otherwise distributed. Therefore, this sum remains a proper expense of FY 1997, and a continuing accounts payable for FY 1998 financial statements.

Note 13: Super Surplus

31 U.S.C. 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 FY 1997, this was approved by Congress in FY 1998.

NOTES TO FINANCIAL STATEMENTS

Amounts distributed to other Federal agencies for law enforcement activities under "Super Surplus" requirements amounted to \$17,150,000 in FY 1998.

Note 14: Secretary's Enforcement Fund

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

Amounts distributed for federal law enforcement purposes of Treasury law enforcement organizations amounted to \$5,160,000 in FY 1998.

Note 15: Commitments and Contingencies

COMMITMENTS

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, they are not recorded as liabilities of the Fund. The Fund identified equitable sharing requests in the amount of approximately \$24,701,000 and \$22,283,000, which were approved or in the final stages of approval subsequent to September 30, 1998 and 1997, 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.

CONTINGENCIES

Possible claims of potential significance include the following:

1. In recent decisions, the United States Court of Appeals for the Ninth Circuit ruled that it is unconstitutional to forfeit currency based upon a violation of a federal currency reporting statute. Accordingly, the court has ruled that in returning currency, the government must return the benefit that is received from holding the currency. The interest to be returned will be payable out of the income of the Fund, and, at present, represents a possible claim of potential significance.
2. In a recent decision, the Supreme Court has ruled that the government must return forfeited

NOTES TO FINANCIAL STATEMENTS

currency in those cases of individuals convicted for currency reporting violations who have had currency forfeited due to the violation. The amount of the currency that might be refunded will be payable from the Fund, and, at present, represents a possible claim of potential significance.

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

3. **Funding For Settlement of Litigation and 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 Treasury.

Note 16: Disclosures Related to the Statement of Net Cost

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

<u>Functional Classification</u>	<u>Gross Cost</u>	<u>Earned Revenue</u>	<u>Net Cost</u>
Administration of Justice	\$130,504	\$0	\$130,504

Note 17: Disclosures Related to the Statement of Budgetary Resources

The Fund's net amount of budgetary resources obligated for undelivered orders at the end of the year is \$156,423,000. This amount is fully covered by cash on hand in the Fund. The Fund does not have borrowing or contract authority and, therefore, has no repayment requirements, financing sources for repayment, or other terms of borrowing authority used. No adjustments were required during the reporting period to budgetary resources available at the beginning of the year. There are no legal arrangements, outside of normal government wide restrictions, specifically affecting the Fund's use of unobligated balances of budget authority.

Adjustments to budgetary resources available at the beginning of fiscal year 1998 consist of the following (in thousands):

Recoveries of Prior Years Obligations	\$8,289
Spending Authority from Offsetting Collections	<u>86</u>
Total	<u>\$8,375</u>

Note 18: Dedicated Collections

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

SECTION III

INDEPENDENT AUDITOR'S REPORTS ON COMPLIANCE WITH LAWS AND REGULATIONS AND INTERNAL CONTROL

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Independent Auditor's Report on Compliance with Laws and Regulations

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

We have audited the accompanying balance sheets of the Department of the Treasury Forfeiture Fund (the Fund) as of September 30, 1998 and 1997, and the statement of net cost, statement of changes in net position, statement of budgetary resources and statement of financing for the year ended September 30, 1998, and have issued our report thereon dated January 15, 1999. Our responsibility is to report on the Fund's compliance with laws and regulations based on our audits. Under the Federal Financial Management Improvement Act of 1996 (FFMIA), we are required to report whether the Fund's financial management systems substantially comply with the federal financial management systems requirements, 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 Customs and, consequently, we did not perform tests of Customs' compliance with the above requirements using the implementation guidance for FFMIA included in Appendix D of the Office of Management and Budget (OMB) Bulletin 98-08, *Audit Requirements for Federal Financial Statements*, as amended. 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 audits 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, OMB Bulletin No. 98-08, 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 statement amounts and certain other laws and regulations specified in OMB Bulletin 98-08, as amended, including the requirements referred to in FFMIA.

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The results of our tests of compliance with the laws and regulations described in the preceding paragraph exclusive of FFMIA disclosed instances of noncompliance with the following laws and regulations that is required to be reported under *Government Auditing Standards* and OMB Bulletin 98-08, as amended, which is 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 Control dated January 15, 1999, 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 results of our tests of compliance disclosed no instances of noncompliance with other laws and regulations discussed in the preceding paragraph exclusive of FFMIA, that are required to be reported under *Government Auditing Standards* or OMB Bulletin 98-08, as amended.

The report of the other auditors on the substantial compliance of Customs with the requirements of FFMIA disclosed instances where Custom's financial management systems did not substantially comply with Federal Financial Management Systems Requirements. These instances and Customs' planned remedial actions and time frames to implement such actions are described in the schedule titled "Open Section 4 Non-conformances as of September 30, 1998" on page 47 of the U. S. Customs Service Fiscal Year 1998 Accountability Report.

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

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

Gardner, Kanya Associates.

January 15, 1999

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Independent Auditor's Report on Internal Control

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

We have audited the accompanying balance sheets of the Department of the Treasury Forfeiture Fund (the Fund) as of September 30, 1998 and 1997, and the statement of net cost, statement of changes in net position, statement of budgetary resources and statement of financing for the year ended September 30, 1998, and have issued our report thereon dated January 15, 1999. We conducted our audits 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. 98-08, *Audit Requirements for Federal Financial Statements*, as amended.

In planning and performing our audits, we considered the Fund's internal control over financial reporting by obtaining an understanding of the agency's internal controls, determined whether these internal controls had been placed in operation, assessed control risk, and performed tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. Consequently, we do not provide an opinion on internal controls.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of the internal controls that, in our judgment, could adversely affect the Fund's ability to record, process, summarize, and report financial data consistent with the assertions by management in the financial statements. Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. However, we noted

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certain matters discussed in the following paragraphs involving the internal controls and its operation that we consider to be material weaknesses and reportable conditions.

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

Material Weaknesses

Prior Year Material Weaknesses

The material weakness identified below was reported in prior years and is of continuing significance:

1. **Accounting Records are Primarily 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 law enforcement bureau participating in the Fund 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.

2. **All Balances and Transactions that Comprise the Fund Are Not Captured By the 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.

3. **U.S. Customs Service's Inadequate Asset Tracking System**

The U.S. Customs Service's (Customs) property and currency asset 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, 1998, 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, 1998, for financial reporting purposes.

Current Year Material Weakness:

The following additional material weakness was identified in fiscal year 1998:

4. **Internal Revenue Service (Criminal Investigation Division) - Inadequate Accounting and Reporting of Seized and Forfeited Property Transactions.**

The Analysis of Changes in Seized and Forfeited Property and currency (the Rollforwards) of the Internal Revenue Service (IRS) provided at year end did not account for and properly report property and currency transactions for financial reporting purposes. Year end balances presented on the Rollforwards were incorrect, and in other instances had not been captured. Consequently, substantial manual procedures and reconciliations were undertaken to correct balances for year end financial reporting purposes.

Reportable Conditions

Prior Year Reportable Conditions:

The reportable conditions identified below were reported in prior years and are of continuing significance:

1. **Differing Asset Tracking Systems**

The four Treasury law enforcement bureaus used different asset tracking systems to prepare the individual Rollforwards. These 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 Rollforwards for the Fund.

2. **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. An adjustment is made at year end to record forfeited property at an estimate of fair value.

3. **Lack of Control Over Assets**

The Fund does not adequately monitor property placed with the national seized 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.

4. **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 on an asset by asset basis. 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.

Current Year Reportable Conditions:

The following additional reportable conditions were identified for FY 1998:

5. **Inadequate Property Management Functions**

The Fund's property management functions require improvement to ensure that: (i) funds, property, and other assets are safeguarded against loss from unauthorized use or disposition; and (ii) transactions are properly recorded and accounted for to permit the preparation of reliable financial statements and to maintain accountability over the assets. The following issues/concerns were noted:

5.1 **Seizure Activities**

(i) *Differing property identification numbers*

Differing identification numbers are being used to track the seized and forfeited property (assets). The law enforcement bureau originating the seizure assigns a case/seizure number that is supposed to facilitate asset tracking through seizure, forfeiture, holding and disposition. The property custodian for the Fund tracks the same property by assigning an identification number that is different and at times unknown to the law enforcement bureau responsible for originating the case. The Customs Accounting Services Division (ASD) records transactions related to these properties using either the property custodian's assigned number or the law enforcement bureau's tracking number, and in certain instances appears to have assigned a tracking number to record the transaction that has no relationship to either the originating bureau's or the property custodian's tracking number. In certain instances, the case/seizure number is unidentifiable or erroneous resulting in properties that remain unidentifiable until extensive research is conducted.

(ii) *Untimely and inaccurate recording of assigned values*

Values assigned to seized property are not captured in a timely and accurate manner in the Fund's asset management records. Upon seizure an asset is assigned a value (appraised

value) by the seizing officer, several instances were noted whereby recorded assets had no values.

(iii) Untimely recording of seized and forfeited property

Seized property is not recorded timely in the Fund's asset management records. We noted several instances of seizures that were seized in prior periods and recorded as current year seizures. Significant delays were noted between the time the transaction occurred and the time it was recorded. Additionally, changes to the legal status of property (through correction, amendment, and cancellation) are not incorporated in a timely manner. Significant delays were noted between the date the change in status occurred and time of recordation in the asset management system. Also, in certain instances the disposition instructions that change/correct the status of property are not followed when recording the transaction resulting in the erroneous recordation of property transactions.

(iv) Inadequate accounting and recording of Liens and Claims

There are no controls in place to track and record liens and claims either by the individual law enforcement bureaus or by the property custodian during the year. Manual procedures are developed at year end to compensate for this weakness. However, due to the lack of controls during the year, information accumulated at year end may be incomplete.

5.2 Asset Disposition Activities

Asset Specific Expenses are not Recorded and Accounted for Accurately by the Fund

Asset specific expenses generated from asset disposition activities are not recorded and accounted for accurately by the Fund in the various asset tracking systems. As a result, the Fund is unable to accurately assess the costs related to individual seizures. The Fund's property custodian EG&G Dynatrend (EG&G) incurs costs on behalf of the Fund from the time of seizure until the asset is ultimately disposed. The Fund requests cost information from EG&G from time to time for purposes of calculating the net dollar value realized for those assets that are subject to equitable sharing with other federal, state and local agencies, and relies on the information provided by EG&G. In some instances, the cost data provided by EG&G is incomplete, not supported, or absent due to various reasons. Consequently, the net amount arrived at for equitable sharing purposes may be overstated or understated. The Fund does not monitor costs for those assets not subject to equitable sharing.

6. Improper Recording of Remissions/Returns

All or part of amounts related to remissions/returns of seized and forfeited currency to individuals who have successfully challenged the Government's right to seizure were recorded by the Fund as revenue, thereby overstating the revenue of the Fund. In other instances, significant delays existed between the order to remit as per the disposition instructions and the time of payment. Additionally, although disposition instructions were

clear as to the distribution of the Funds, these instructions were not adhered to for the processing of these transactions.

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 January 15, 1999.

In addition, with respect to internal controls related to performance measures reported in Chapter 2, "Program Performance and Financial Highlights" we obtained an understanding of the design of significant controls relating to the existence and completeness assertions, as required by OMB Bulletin 98-08, as amended. Our procedures were not designed to provide assurance on internal control over reported performance measures, and, accordingly, we do not provide an opinion on such controls.

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

Gardner, Kuzma & Associates

January 15, 1999

EXHIBIT I

MATERIAL WEAKNESSES

1. **ACCOUNTING RECORDS ARE PRIMARILY MAINTAINED ON A CASH BASIS**
(REPEAT CONDITION)

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 are 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 or Fund Management) in the updated directive issued by the Department of the Treasury, titled Number 14, "Expeditionary 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 Customs 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 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 an 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 97-01, *Form and Content of Agency Financial Statements*, as amended, 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 law enforcement bureau participating in the Fund, 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 to Fund management at any time during the year. This prevents the periodic preparation of accrual-basis financial information on 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 reaffirm our recommendation from previous financial statement audits that the following procedures be implemented by the Fund 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 a 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 the end of each month. 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 the law enforcement bureaus record lien and mortgage information in their asset 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 bureaus' tracking systems.

Forfeited Currency - We recommend that ASD performs 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 updated timely 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.

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. These 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.

MANAGEMENT RESPONSE

Management Assessment on Progress: Asset tracking systems (inventory systems) deficiencies represent the vast majority of the reason for non-accrual accounting during the year. To meet this mandate, sufficient data about assets must be collected with an audit trail. This means that inventory systems of the asset forfeiture program would have to track not only the entity versus non-entity status of the asset, but also information about liabilities that confer to the Fund upon forfeiture, including liabilities incurred through policy or judicial mandate, including liens, mortgages, equitable sharing and innocent third party interests against the forfeited asset. Until such time as the inventory systems can accrue the seized and forfeited asset and liability information required to support financial statement preparation, this material weakness will remain. Fund management has initiated a review of the accrual requirements for the Fund's financial statements.

Planned Actions/Events (Short Term - Next 12 Months):

Fund management has undertaken to provide funding to Customs to resolve performance problems associated with the Seized Asset Case Tracking System (SEACATS). In addition, Fund management has rejoined the Customs working group designated to identify and coordinate resolution of SEACATS performance problems. Seized and forfeited property tracking capabilities

of the SEACATS system had been significantly corrected in time to support financial reporting at year end. However, SEACATS could not adequately support currency transactions for FY 1998 year end financial reporting purposes. Customs has been working to initiate enhancements so that SEACATS will be able to support currency tracking for the FY 1999 financial statements. The latter is significant because the Fund is currency-intensive, with cash seizures forming the majority of asset-types seized by the Fund's law enforcement bureaus.

At present, Customs' information specialists indicate that programming necessary for SEACATS to capture all accrual expense information needed to properly document the financial statements using the automated system is in the execution phase. Funding requested in the near term by Customs to meet SEACATS performance problems has been recommended for approval by Fund management.

Fund management will work diligently with Customs to identify and resolve SEACATS performance requirements needed to support the Fund's financial statements.

Fund management has also undertaken to deploy a single inventory system to support the three non-Customs bureaus participating in the Fund. In this manner, Fund management intends to relieve the use of two separate systems used among the three bureaus to one system used by the three bureaus. Contracting for the deployment of IRS' AFTRAK system to support the change in inventory analysis requirements of the financial statements should be completed by the end of FY 2000. Contract provisions pertaining to accrual information will be deferred pending management's review of the matter.

Planned Actions/Events (Long Term):

Before the AIMS general ledger can automatically record all accrual transactions associated with the Fund's financial statements, it will be necessary to integrate all inventory systems supporting the Fund's financial statements with the AIMS financial systems or successor financial system. Only in this manner, can fully automated accrual transaction accounting occur through the general ledger.

However, Fund management has concerns regarding SEACATS ability to properly document the change in inventory analysis requirements for non-Customs bureaus and considers it imperative that IRS' AFTRAK system be diversified and further deployed to the Secret Service and the ATF to ensure their inventory is tracked in a manner that will support their individual changes in inventory analyses.

Until SEACATS performance issues are resolved, Fund management is taking the position that the current priority is the ability to document the change in inventory analysis in a manner that can be substantiated through an audit, and that the general ledger can be manually adjusted from there for accrual data. Fund management sees no benefit to an automated-transaction level general ledger if the automated data is so flawed that it cannot be substantiated through audit. It is more important to Fund management that the valid net position of the Fund is established and validated so that year-

end and year-out efforts to support the asset forfeiture sanction by our law enforcement bureaus can continue with financial confidence.

Fund management will continue to review the financial needs of Customs in this regard and will work assertively toward ensuring that this area of stewardship receives proper attention, and is reviewing the accrual issue.

Additionally, AFTRAK system requirements needed to support the change in inventory analysis for the three non-Customs bureaus will also be addressed in ongoing contracting efforts by Fund management.

**2. ALL BALANCES AND TRANSACTIONS THAT COMPRISE THE FUND
ARE NOT CAPTURED BY THE GENERAL LEDGER
(REPEAT CONDITION)**

CONDITION

The Asset Information Management System (AIMS) which is the general ledger system maintained by the U.S. Customs Service (Customs), processes, groups and 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 reaffirm our recommendations from previous financial statement audits, specifically:

1. 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. Existing procedures should be followed on a monthly basis 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
2. Alternatively, the Fund should develop and implement an integrated financial 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.

MANAGEMENT RESPONSE

Management Assessment on Progress: This material weakness will continue to be identified until such time as the inventory system(s) can integrate to the Fund's financial system, to accrue the seized and forfeited asset and liability information required to support financial statement preparation. It is Fund management's priority to be able to document and substantiate through audit the respective change in inventory analyses of the various bureaus supporting the Treasury asset forfeiture program. Management review and contracting are currently being applied in this regard. The existence of two diverse inventory systems among the three non-Customs bureaus of the Fund is identified for current remedial action. These priorities may result in the continuing need to manually adjust the standard general ledger of the Fund as Fund management proceeds through priority deficiencies.

Planned Actions/Events (Short Term - Next 12 Months):

Fund management has undertaken to provide funding to Customs to resolve performance problems associated with SEACATS. In addition, Fund management has rejoined the Customs working group designated to identify and coordinate resolution of SEACATS performance problems. Property tracking of the SEACATS system had been significantly corrected in time to support FY 1998 year end financial reporting.

However, information to date indicates that SEACATS did not adequately support currency asset transactions for FY 1998 year end financial reporting. However, Customs personnel indicate that the SEACATS system will support currency inventory transactions for FY 1999. Also, the Customs

SEACATS Project Director indicates that current SEACATS performance plans include an automated interface with the standard general ledger.

Fund management will work diligently with Customs to identify and resolve SEACATS performance requirements needed to support the Fund's financial reporting requirements.

Additionally, Fund management has undertaken to deploy a single inventory system to support the three non-Customs bureaus participating in the Fund. In this manner, Fund management intends to relieve the use of two separate systems used among the three bureaus to one system used by the three bureaus. It is identified that complete contracting for the deployment of IRS' AFTRAK system to support the change in inventory analysis requirements of the financial statements should be completed by FY 2000.

Planned Actions/Events (Long Term):

Before the AIMS general ledger can automatically record all transactions associated with the Fund's financial reporting requirements, it would be necessary to integrate all inventory systems supporting the Fund's financial statements with the AIMS financial systems or successor financial system. Only in this manner, can fully automated transaction-level accounting occur through the general ledger.

Fund management remains concerned regarding SEACATS ability to properly document the change in inventory analysis requirements for non-Customs bureaus and views it currently imperative that IRS' AFTRAK system be diversified and further deployed to the Secret Service and the ATF to ensure their inventory is tracked in a manner that will support their individual changes in inventory analyses.

Until SEACATS performance issues are resolved, Fund management is taking the position that the current priority is the ability to document the change in inventory analysis in a manner that can be substantiated through audit, and that the general ledger can be manually adjusted from there. Fund management sees no benefit to an automated-transaction level general ledger if the automated data is so flawed that it cannot be substantiated through audit. It is more important to Fund management that the valid net position of the Fund is established and validated so that year-end and year-out efforts to support the asset forfeiture sanction by our law enforcement bureaus can continue with financial confidence.

Additionally, AFTRAK system requirements needed to support the change in inventory analysis for the three non-Customs bureaus will be addressed in ongoing contracting efforts by Fund management.

3. U.S. CUSTOMS SERVICES' INADEQUATE ASSET TRACKING SYSTEM **(REPEAT CONDITION)**

CONDITION

The U.S. Customs Service's (Customs) seized and forfeited property and currency (asset) 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 seized and forfeited property and currency, not recorded correctly in SEACATS as of September 30, 1998, and to adjust the financial statements for the value of seized and forfeited 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: (i) support management's fiduciary role; (ii) support budget formulation and execution functions; (iii) support fiscal management of program delivery and program decision making; (iv) 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 (v) monitor the financial management system.

Additionally, Statement of Federal Financial Accounting Standards (SFFAS) No. 3, *Accounting for Inventory and Related Property* requires disclosure of an analysis of changes in seized and forfeited property and currency (Rollforwards). The standard requires presentation of both dollar amounts and quantity changes. Therefore, asset tracking systems should provide all data necessary to produce the Rollforwards, with minimal manual intervention and reconciliation, and to provide management with meaningful information.

CAUSE

Comprehensive system documentation has not yet been compiled. Additionally, SEACATS continues to experience programming problems that are yet to be corrected.

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 erroneous information in certain instances. Consequently, year-end procedures were developed to identify seized and forfeited property not recorded in SEACATS as of September 30, 1998. As a result of the implementation of these procedures, a number of adjustments were made to the SEACATS data to adjust to the value of seized and forfeited 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 seized and forfeited currency as of September 30, 1998, for financial reporting purposes.

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 for both property and currency transactions in fiscal year 1999. We strongly reaffirm the following recommendations from the previous financial statement audit:

1. The shortfalls identifiable to SEACATS must be immediately corrected to allow for cradle to grave tracking of all property and currency from case initiation to final resolution including Statement of Federal Financial Accounting Standards No. 3, *Accounting for Inventory and Related Property* requirements;
2. Customs must provide user training and also, provide comprehensive system documentation to conform to user requirements; and
3. Customs must conduct post conversion audits to ensure that the system works as purported, if any further systems changes are made.

MANAGEMENT RESPONSE

Management Assessment on Progress: It is anticipated that this material weakness will continue to be identified until such time as the inventory system(s) can properly document seized and forfeited property in a manner sufficient to support the change in inventory analysis for financial reporting purposes.

Planned Actions/Events (Short Term – Next 12 Months):

Fund management has approved funding to resolve performance problems associated with SEACATS. In addition, Fund management has rejoined the Customs working group designated to identify and coordinate resolution of SEACATS performance problems. Property tracking by the SEACATS system had been significantly corrected in time to support year end financial reporting requirements for FY 1998. However, while SEACATS could provide the original seized currency

amount, the system couldn't fully track currency transactions. Customs has indicated that SEACATS will be enhanced to support currency inventory tracking in FY 1999. In addition, as mentioned previously, Customs indicates that an automated interface between SEACATS and the general ledger is in the testing phase of SEACATS development and should be implemented during FY 1999. All funding requested in the near term by Customs to meet SEACATS performance problems has been recommended for approval by Fund management.

Fund management will work diligently with Customs to identify and resolve SEACATS performance requirements needed to support the Fund's financial reporting requirements.

Planned Actions/Events (Longer Term):

Fund management will continue to monitor the long-term requirements of the SEACATS system and resolve appropriate financial requirements of the system.

**4. INTERNAL REVENUE SERVICE (CRIMINAL INVESTIGATION
DIVISION) - INADEQUATE ACCOUNTING AND REPORTING OF SEIZED
AND FORFEITED PROPERTY AND CURRENCY TRANSACTIONS
(FISCAL YEAR 1998 CONDITION)**

CONDITION

The Analysis of Changes in Seized and Forfeited Property and Currency (the Rollforwards) of the Internal Revenue Service (IRS) compiled at year end did not account for and properly report property and currency transactions for financial reporting purposes in accordance with Statement of Federal Financial Accounting Standards (SFFAS) No.3, *Accounting for Inventory and Related Property*. Year end balances presented on the Rollforwards were incorrect, and in other instances had not been captured. Supporting schedules to the Rollforwards revealed significant differences from the amounts reported on the Rollforwards, and amounts deposited into the Fund resulting from forfeited currency or sale of property could not be reconciled to amounts reported on the Rollforwards. Consequently, substantial manual procedures and reconciliations were undertaken to correct balances for year end financial reporting purposes.

CRITERIA

SFFAS No. 3 requires seized and forfeited property and currency to be accounted for in property management records so that reliable financial and statistical reports may be prepared. Specifically, SFFAS No. 3 requires the preparation of an analysis of changes in seized and forfeited property and currency including the dollar value and number of seized property and currency that are: (i) on hand at the beginning of the year; (ii) seized during the year; (iii) disposed of during the year and the method of disposition; and (iv) are on hand at the end of the year. Additionally, the General Accounting Office (GAO) internal control objectives require that proper internal controls are in place to ensure that transactions are properly recorded, processed and summarized to permit the preparation of reliable financial statements and to maintain accountability over the assets.

CAUSE

Instructions issued by the Fund for compiling year end information were not being followed. Additionally, seizure activities and related asset disposition activities were not updated timely in the inventory tracking system, the Asset Forfeiture Tracking System (AFTRAK) maintained by the IRS. Regular reconciliations and reviews were not being conducted during the year to monitor AFTRAK generated information and documentation to the transactions that are recorded by the Fund. Additionally, certain system enhancements effected in FY 1998 were not documented and implemented with sufficient user analysis.

EFFECT

The status of seized and forfeited property and currency reported at year end are not presented accurately, resulting in substantial manual adjustments to ending balances or to beginning balances in the following year. The accountability of the assets is impaired accordingly. The manual adjustments process was a time consuming and cumbersome process which delayed the completion of the annual audit.

RECOMMENDATION

We have the following recommendations to correct the deficiencies identified:

1. Fund management must provide guidance or policy that specifies uniform procedures to be followed by all of the law enforcement agencies participating in the Fund, in order to strengthen controls over the collecting, processing, maintaining, transmitting, and reporting of data relating to seized and forfeited property and currency transactions;
2. Procedures must be implemented to regularly (on a quarterly basis) reconcile seized and forfeited property and currency amounts reported by AFTRAK to that reported by the Fund and the property custodian, EG&G Dynatrend;
3. Periodic training must be provided to staff that are involved in the accounting and reporting process so that they are well versed in the nature of the Fund's programs and activities and the various internal and external reporting requirements for the Fund. Additionally, we also recommend periodic training to familiarize staff (both at Field Offices and Headquarters) with the AFTRAK System who are involved in the recording and processing of transactions through AFTRAK. The staff must also be required to be familiar with the input documents and the nature of the information required for input into AFTRAK and this should form a part of the training; and
4. Any system changes/enhancements must be documented as to the changes themselves, impact of changes to the current procedures and new procedures to be followed.

MANAGEMENT RESPONSE

Management Assessment on Progress: Fund management concurs with the audit recommendation that we request IRS management to re-examine and revise procedures and training necessary to ensure proper collection, processing, maintenance, transmission and reporting of data involving the seized and forfeited property of the IRS asset forfeiture program. Additionally, Fund management agrees that such procedures must include the regular reconciliation between financial accounting transactions reported by the Fund and the financial information reported by AFTRAK.

The AFTRAK inventory systems itself appears sound. Therefore, Fund management fully expects that this material weakness can be resolved with IRS attention to improved management function associated with the use of the system.

Planned Actions/Events (Short Term – Next 12 Months):

Fund management will work closely with IRS to ensure that management issues related to AFTRAK are fully resolved.

EXHIBIT II

REPORTABLE CONDITIONS

1. DIFFERING ASSET TRACKING SYSTEMS **(REPEAT CONDITION)**

CONDITION

U.S. Customs Service (Customs), Internal Revenue Service (IRS), U.S. Secret Service (Secret Service), and the Bureau of Alcohol, Tobacco and Firearms (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 Seized and Forfeited Property and Currency schedules (the Rollforwards). 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 Rollforwards. 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

Statement of Federal Financial Accounting Standards (SFFAS) No. 3, *Accounting for Inventory and Related Property* requires disclosure of an analysis of changes in seized and forfeited property and currency. The standard requires presentation of both dollar amounts and quantity changes. Therefore, each of the law enforcement bureaus' asset tracking systems should provide all data necessary to produce the Rollforwards, 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 bureaus participating in the Fund. As a result of SEACATS deficiencies, 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 year end analysis of changes for property, Customs relied on the property reports produced by SEACATS and manually manipulated them to meet the reporting requirements. Manual adjustments were required to prepare the year end analysis of changes for property. SEACATS provided unreliable information for currency, therefore, manually compiled information was used to produce the Customs' Currency Rollforward for FY 1998.

IRS, Secret Service and ATF - In order to produce the SFFAS No. 3 exhibits, IRS, Secret Service and ATF produced a variety of standard reports from their asset tracking systems and manually manipulated them to meet the year end 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 reports generated from the CATS system.

EFFECT

The difficulties encountered in preparing the Rollforwards by the law enforcement bureaus referred to above indicate that the Fund lacks the ability to properly, fully and accurately account for seized and forfeited property and currency.

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 reaffirm our recommendations from previous financial statement audits that:

1. Customs immediately evaluate and correct the shortfalls identified within SEACATS so that Customs can process property and currency transactions for fiscal year 1999 both for Customs and non-Customs bureaus;
2. IRS, Secret Service and the ATF should continue to manually reconcile information generated from their individual tracking systems to that reported by the Fund until such time as SEACATS is fully functional.
3. Additionally, we recommend that IRS, Secret Service, and ATF manually reconcile periodically to SEACATS as SEACATS is used by the property custodian as their system of record. If SEACATS still cannot be correctly updated, then inventory should be accounted for using information generated from the bureau's individual asset tracking systems.

MANAGEMENT RESPONSE

Management Assessment on Progress: Management concurs with the auditors' recommendations. Currently, it is anticipated that the national seized property contractor will resume recording of seized property into SEACATS, both for Customs and non-Customs bureaus and that this data will be reconciled against the non-Customs bureaus asset tracking systems for purposes of supporting

the FY 1999 financial statements. In the interim, Fund management will continue to rely on AFTRAK for IRS inventory reconciliation at year-end, and once deployed to Secret Service and ATF, AFTRAK would be relied upon for the inventory reporting of those two bureaus as well.

Discussion/Background and Planned Action: We agree with the auditors recommendation that Customs evaluate and correct SEACATS deficiencies so that Customs can process property and currency transactions; and that the three non-Customs bureaus should manually reconcile information generated from their individual asset tracking systems until such time as SEACATS is fully functional. Fund management will work diligently with Customs and the non-Customs bureaus to ensure that the recommendations are implemented.

2. IMPROPER TIMING FOR VALUATION OF FORFEITED PROPERTY (REPEAT CONDITION)

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' asset 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 were then applied to the ending forfeited property value to determine the financial statement value of forfeited property. In fiscal year 1998, the Internal Revenue Service (IRS), U.S. Secret Service (Secret Service) and the Bureau of Alcohol, Tobacco and Firearms (ATF) did not provide 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, *Accounting for Inventory and Related Property*, requires forfeited property to be stated at fair market value at the time of forfeiture, in the bureaus' general ledger (asset tracking systems).

CAUSE

The Fund does not perform an appraisal to determine the 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 or understated and therefore do not present an accurate picture of the net realizable value to the Fund.

RECOMMENDATION

We reaffirm our recommendations from previous financial statement audits that:

1. 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;

2. 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 a monthly analysis to properly value and record month-end forfeited property values;
3. Individual agencies participating in the Fund must prepare the 'sales value' to 'appraised amounts' ratio in order that the fair market value for property disclosed in the financial statements is reported at the best estimate.

MANAGEMENT RESPONSE

Management Assessment on Progress: Management concurs with the auditor's recommendation that forfeited property be properly valued on inventory records and will work with Customs and the non-Customs bureaus to ensure that a "modeled" adjustment is made for financial reporting purposes until such time as automated systems are able to track such changes in value from seizure to forfeiture.

Discussion/Background and Planned Action: Fund management will continue to work to resolve this reportable condition, to ensure that forfeited property is most properly valued for year end financial reporting purposes.

3. LACK OF CONTROL OVER ASSETS (REPEAT CONDITION)

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, also manages and records the seized and forfeited property transferred to and held by them on behalf of all Treasury law enforcement bureaus 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 information on the inventory reports generated by SEACATS. The year end physical inventory value and count per Customs's SEACATS inventory records requires 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 and resolve 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: (i) support management's fiduciary role; (ii) support budget formulation and execution functions; (iii) support fiscal management of program delivery and program decision making; (iv) 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 (v) monitor the financial management system.

CAUSE

Although asset tracking systems (SEACATS) were in place to track property seizures and forfeitures, design flaws within SEACATS made it impossible for EG&G to update the SEACATS system to correctly report asset movements, and consequently there were no reliable inventory records during the year for reconciliation purposes.

The Fund has no procedures in place requiring the regular reconciliation of inventory records maintained by Customs with those maintained by EG&G.

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

EFFECT

Due to non-integrated inventory and general ledger systems, the lack of inventory reconciliation and untimely 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 reaffirm our recommendations from previous financial statements audits to have the following procedures implemented:

1. Quarterly reconciliations between Customs and EG&G's inventory reports must be conducted to ensure that the property held as reported by Customs is compared with what has been included in the custodian's (EG&G) system and any differences identified and resolved timely.
2. All law enforcement agencies participating in the Fund must conduct a physical inventory of properties held prior to year end and compare the information compiled to their respective inventory records and EG&G's inventory records.
3. IRS, Secret Service, and ATF must manually reconcile assets in EG&G's custody against EG&G inventory produced by SEACATS. If it continues to be impossible to record inventory properly in SEACATS for these bureaus, the Fund's Management should consider having EG&G conduct the year-end inventory using reports from the asset tracking systems used by IRS, Secret Service and ATF (AFTRAK and CATS), rather than SEACATS.

MANAGEMENT RESPONSE

Management Assessment on Progress: Fund management concurs with the auditor's recommendation that quarterly reconciliations between the law enforcement bureaus' inventory reports and those of EG&G's be performed. This will ensure that the property held as reported by the law enforcement bureaus agrees with the amount recorded and reported by EG&G.

Discussion/Background and Planned Action: Fund management will continue to work to resolve this reportable condition. It is Fund management's understanding that the national property contractor will resume recording seized property in the SEACATS system, which will then be reconciled to the information recorded by AFTRAK and CATS data where applicable. Fund management will work with Customs to ensure that SEACATS data integrity is routinely verified prior to year-end physical inventory requirements.

4. LACK OF SALES REVENUE RECONCILIATIONS (REPEAT CONDITION)

CONDITION

EG&G Dynatrend (EG&G), the national seized property contractor, provides property management services to the U.S. Customs Service (Customs), such as: storage of property seized by any law enforcement bureau participating in the Fund; disposal of the properties through public auctions; and, collection of storage costs reimbursed by violators. Cash collections received 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 Customs' Accounting Services Division (ASD), who processes these transactions only records revenue upon receipt of a validated deposit slip, which is approximately one week later. Although sale proceeds are transferred and reported by EG&G to the Fund, the information provided does not itemize the sale proceeds by seizure. Consequently, the Fund is unable to reconcile on an asset by asset basis to what is recorded as sales revenue in the Fund and to what is recorded as sold in the various asset tracking systems. Additionally, 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 and 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 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 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

Since FY 1997 the Fund discontinued the practice of reconciling proceeds received from sales to EG&G sales reports, due to the difficulties encountered in identifying sales proceeds to specific seizures. Also, the Fund has no procedures in place to independently monitor the sales conducted by EG&G.

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 reaffirm our recommendations from previous financial statements audits that:

1. Sales be monitored by a representative of the Fund, independently of EG&G. This representative should compile records of sales, by seizure number which should be later reconciled to EG&G's sales reports. Alternatively, if a record of sales by seizure number cannot be compiled by the Fund's representative, then EG&G should be requested to provide an analysis of the sales by seizure number that agrees to the amounts deposited by EG&G. Any differences should be immediately resolved with EG&G.
2. ASD reconcile deposits from EG&G by seizure number on a monthly basis and investigate any differences immediately.

MANAGEMENT RESPONSE

Management Assessment on Progress: Fund management has worked to gain contract support to correct this program deficiency and anticipates that this reportable condition will be corrected during FY 1999.

Discussion/Background and Planned Action: Fund management will continue to work to resolve this reportable condition by the end of FY 1999.

5. INADEQUATE PROPERTY MANAGEMENT FUNCTIONS
(FISCAL YEAR 1998 CONDITION)

CONDITION

The Fund's property management functions require improvement to ensure that: (i) funds, property, and other assets are safeguarded against loss from unauthorized use or disposition; and (ii) transactions are properly recorded and accounted for to permit the preparation of reliable financial statements and to maintain accountability over the assets. The following issues/concerns were noted in this regard under the following functions:

5.1 Seizure Activities

(i) Differing property identification numbers

Differing property identification numbers are being used to track the seized and forfeited property (assets). The law enforcement bureau originating the seizure assigns a case/seizure number that is supposed to facilitate asset tracking through seizure, forfeiture, holding and disposition. The national seized property contractor (property custodian) for the Fund tracks the same property by assigning an identification number that is different and at times unknown to the law enforcement bureau responsible for originating the case. The Customs Accounting Services Division (ASD), who processes those transactions for the Fund, records transactions related to these properties using either the property custodian's assigned number or the law enforcement tracking number, and in certain instances appears to have assigned a tracking number to record the transaction that has no relationship to either the originating bureau's or the property custodian's tracking number. In certain instances, the case/seizure number is unidentifiable or erroneous resulting in properties that remain unidentifiable until extensive research is conducted.

(ii) Untimely and inaccurate recording of assigned values

Values assigned to seized property are not captured in a timely and accurate manner in the Fund's various asset tracking systems maintained by the law enforcement bureaus participating in the Fund. Upon seizure an asset is assigned a value (appraised value) by the seizing officer. Several instances were noted where recorded assets did not have values assigned.

(iii) Untimely recording of seized and forfeited property

Seized property is not recorded timely in the Fund's asset tracking systems. We noted several instances of assets that were seized in prior periods and recorded as current year seizures. Significant delays were noted between the time the transaction occurred and the time it was recorded.

Additionally, changes to the legal status of property (through correction, amendment, and cancellation) are not incorporated in a timely manner.

Significant delays were noted between the date the change in status occurred and the time of recordation in the various asset tracking systems. For example, property seized in September was recorded in the respective asset tracking system in November, a two month delay. In certain instances further delays were noted. Also, in certain instances the disposition instructions that change/correct the status of property are not followed when recording the transaction resulting in the erroneous recordation of property transactions.

(iv) *Inadequate accounting and recording of Liens and Claims*

There are no controls in place to track and record liens and claims either by the individual law enforcement bureaus or by the property custodian during the year. Manual procedures are developed at year end to compensate for this weakness. However, due to the lack of controls during the year, information accumulated at year end maybe incomplete.

5.2 **Asset Disposition Activities**

Asset Specific Expenses are not Recorded and Accounted for Accurately by the Fund

Asset specific expenses generated from asset disposition activities are not recorded and accounted for accurately by the Fund in the various asset tracking systems. As a result, the Fund is unable to accurately assess the costs related to individual seizures. The Fund's property custodian EG&G Dynatrend (EG&G) incurs costs on behalf of the Fund from the time of seizure until the asset is ultimately disposed. The Fund requests cost information from EG&G from time to time for purposes of calculating the net dollar value realized for those assets that are subject to equitable sharing with other federal, state and local agencies, and relies on the information provided by EG&G. In some instances, the cost data provided by EG&G is incomplete, not supported, or absent due to various reasons. The net amount arrived at for equitable sharing purposes may be overstated or understated as the case may be. The Fund does not monitor costs for those assets not subject to equitable sharing.

The Fund's asset management function will deteriorate if the above conditions are allowed to exist, resulting ultimately in a lack of accountability over the assets of 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 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 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

5.1 Seizure Activities

(i) *Differing property identification numbers*

There are no documented instructions issued by the Fund for end user purposes since the inception (November 1996) of the Seized Asset and Case Tracking System (SEACATS) for addressing uniformity of tracking numbers or the lack thereof. The law enforcement bureaus participating in the Fund that do not use SEACATS for tracking continue to track properties with their system tracking number and does not request a corresponding SEACATS number. In certain instances, when requests are made for a corresponding number, it is not provided. The property custodian and Customs both of whom use SEACATS for property management purposes do not request IRS, Secret Service and ATF for their identifying numbers. Periodic reconciliations are not carried out to reconcile properties that are unidentified.

(ii) *Untimely and inaccurate recording of assigned values*

For various reasons, in certain instances, field officers have not captured this information or record this information incorrectly. Valid reasons exist in some cases, and in other cases misinterpretation of the seizure notice or input errors caused this problem.

(iii) *Untimely recording of seized and forfeited property*

In certain instances, the delays in recording are caused by the untimely receipt of seizure/forfeiture documents, or inadequate disposition instructions from field offices that are required to either capture a seizure in the system or change the status of a seizure. Also, in some instances, although the appropriate document is on hand, processing is delayed for unknown reasons. In other instances, although the appropriate documents were received, it was not forwarded to the staff responsible for data entry.

(iv) *Inadequate accounting and recording of liens and claims*

Although the Fund has in place procedures for the process to be followed to establish liens and claims, the procedures do not address the specific recording and tracking requirements for liens and claims since the inception of SEACATS in November 1996, by requiring manual procedures for those systems (such as SEACATS) that do not have the capability to track liens and claims.

Additionally, the procedures do not address the specific tracking requirements for the non-customs law enforcement bureaus.

5.2 Asset Disposition Activities

Asset Specific Expenses are not Recorded and Accounted for Accurately by the Fund

The Fund relies on the property custodian, EG&G Dynatrend (EG&G) for providing asset specific expenses. This information is not requested by the Fund unless the case is subject to asset sharing. Additionally, in certain instances, asset specific expenses are not provided by EG&G for various reasons. Those instances are not followed up by the Fund as to the reasons why certain expenses could not or have not been provided.

EFFECT

5.1 Seizure Activities

(i) *Differing property identification numbers*

Properties remain unidentifiable until extensive research is conducted. The Fund could ultimately lose track of the assets concerned.

(ii) *Untimely and inaccurate recording of assigned values*

The value of properties held by the Fund is underestimated to the extent of those assets that have not been valued. Additionally, it compounds the work to be done at year end for accounting of property for year end financial reporting.

(iii) *Untimely recording of seized and forfeited property*

The erroneous recordation of property transactions results in an overstatement or understatement as the case maybe of the value of property at any time, and will impact valuation considerations for year end financial reporting purposes.

(iv) *Inadequate accounting and recording of liens and claims*

The value of properties will be overstated by the amount of the liens or claims outstanding. Additionally the situation may ultimately result in non-compliance with Statement of Federal Finance Accounting Standard (SFFAS) No. 3, *Accounting for Inventory and Related Property* which prescribes that a valuation allowance be established and recorded for liens and claims on forfeited property.

5.2 Asset Disposition Activities

Asset Specific Expenses are not Recorded and Accounted for Accurately by the Fund

The amount calculated by the Fund for distribution related to asset sharing maybe overstated

or understated as the case maybe. Also, the Fund will be deemed to be in non-compliance with the financial management system requirements for seized and forfeited assets, issued by the Joint Financial Management Improvement Program (JFMIP).

RECOMMENDATION

We recommend that the following actions are followed up by the Fund for either immediate implementation or incorporated as a part of future correction action plans.

5.1 Seizure Activities

(i) Differing property identification numbers

Issue procedures to each law enforcement bureau regarding the basic requirements for tracking an asset and specify the procedure to be followed by law enforcement bureaus with non-SEACATS tracking numbers. If management requires that both tracking numbers be recorded, then the procedures should state this requirement and insist on compliance.

(ii) Untimely and inaccurate recording of assigned values

Issue procedures to each law enforcement bureau regarding the recording and processing timelines that are to be adhered to.

(iii) Untimely recording of seized and forfeited property

Issue general procedures regarding the lines of communication between bureaus (Headquarters and Field Offices), management of the Fund, the seized property custodian (EG&G) and the Fund's accounting staff based in Indianapolis (the Accounting Services Division of the U.S. Customs Service). The procedures must identify the documents involved for transactions to be processed, as well as the timelines for ensuring that transactions are captured to satisfy the Fund's requirements.

(iv) Inadequate accounting and recording of liens and claims

Implement procedures to have field offices track liens and claims manually on a monthly basis and request that a quarterly list of liens and claims is prepared and forwarded to the Fund's accounting staff for monitoring purposes. Alternatively, system enhancements/changes must be made to accommodate this information as it is available.

5.2 Asset Disposition Activities

Asset Specific Expenses are not Recorded and Accounted for Accurately by the Fund

Fund management must consider meeting with EG&G to determine the reason/cause for the

lack of information related to asset specific expenses. Fund management must take steps to correct the problem once the proper cause has been identified.

MANAGEMENT RESPONSE

Management Assessment on Progress: Fund management has recognized these important financial information deficiencies. Most if not all of the auditor's recommendations are planned by Fund management for implementation in the course of deploying the AFTRAK system, and in working with Customs.

Discussion/Background and Planned Action: Fund management will continue to work to resolve this reportable condition in full.

6. IMPROPER RECORDING OF REMISSIONS/RETURNS
(FISCAL YEAR 1998 CONDITION)

CONDITION

All or part of amounts related to remissions/returns of seized and forfeited currency to individuals who have successfully challenged the Government's right to seizure were recorded by the Fund as revenue, thereby overstating the revenue of the Fund. In other instances, significant delays existed between the order to remit as per the disposition instructions and the time of payment. In other instances, although disposition instructions were clear as to the distribution of the Funds, these instructions were not adhered to for the processing of these transactions. Such instances were only corrected over an extended period of time. In other instances, although remissions/returns were accounted for correctly by the Fund, these were not properly captured by the asset tracking systems maintained (where applicable) by the various law enforcement bureaus participating in the Fund.

CRITERIA

Remissions/returns represent amounts that are required to be returned to the victim. This decision is rendered by the court and is stipulated in the Forfeiture Order or Court Orders both of which are documents issued by a Court after due process.

CAUSE

The Customs' asset tracking system, SEACATS, could not track partially forfeited currency cases for Customs related remissions/returns due to systems related deficiencies. Non-Customs bureaus on the other hand, transferred the correct forfeited amounts to the Fund and refunded/remitted the correct amounts, but these transactions were not recorded correctly in their individual asset tracking systems. In certain instances, the improper recording of remissions and returns were due to the improper interpretation of Forfeiture Orders and Court Orders that provide instructions for remittance and/or partial forfeitures.

EFFECT

Any amounts that have not been remitted/returned will ultimately result in an overstatement of revenue with respect to forfeited currency.

RECOMMENDATION

We have the following recommendations:

1. The Fund must take action to correct SEACATS deficiencies relating to partial forfeitures. Alternatively, if all asset tracking systems used by the various law enforcement bureaus participating in the Fund have similar systems deficiencies, then, corrective action must be

taken to correct the system deficiencies or manual compensating procedures must be implemented.

2. Field officers and other staff dealing with such cases must ensure that Forfeiture Orders and Court Orders are strictly followed as to the disposition instructions.
3. Fund management must implement policies and procedures to ensure uniform tracking of remissions/returns by all the asset tracking systems used by the law enforcement bureaus participating in the Fund.

MANAGEMENT RESPONSE

Management Assessment on Progress: Fund management has been apprized of this issue during the FY 1998 audit process and will act promptly to resolve the issue.

Discussion/Background and Planned Action: The Fund has authority to deposit forfeited proceeds whether or not these funds are successfully appealed and returned to the property holder. Management will review this issue with the Customs' Accounting Services Division (ASD) to determine the proper recording of the transaction, and once successfully appealed and dispositioned, has to be returned to the property owner.

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, 1998
(Dollars in thousands)
(Unaudited)

<u>State/U.S. Territories</u>	<u>Currency Value</u>	<u>Property Value</u>
Alabama	\$ 210	\$ 5
Alaska	21	--
Arizona	1,084	248
California	7,078	293
Colorado	115	1
Connecticut	2	--
D.C. Washington	58	2
Delaware	3	4
Florida	19,521	160
Georgia	909	72
Hawaii	295	6
Idaho	--	13
Illinois	2,207	19
Indiana	694	35
Iowa	--	25
Kentucky	56	104
Louisiana	350	4
Maryland	537	49
Massachusetts	1,015	8
Michigan	895	8
Minnesota	--	15
Mississippi	62	--
Missouri	20	25
Montana	157	190
Nevada	6	--
New Jersey	1,950	--
New Mexico	21	6
New York	20,718	594
North Carolina	<u>2,948</u>	<u>157</u>
Subtotal carried forward	60,932	2,043

SUPPLEMENTAL FINANCIAL AND MANAGEMENT INFORMATION

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Equitable Sharing Summarized by State and U.S. Territories
For the year ended September 30, 1998
(Dollars in thousands)
(Unaudited)

<u>State/U.S. Territories</u>	<u>Currency Value</u>	<u>Property Value</u>
Subtotal brought forward	60,932	2,048
North Dakota	\$ --	\$ 17
Ohio	347	48
Oklahoma	7	6
Oregon	90	36
Pennsylvania	384	49
Puerto Rico	1,612	163
South Carolina	283	12
Tennessee	158	8
Texas	7,519	598
Virginia	443	19
Washington	121	115
West Virginia	<u>137</u>	<u>64</u>
Totals	<u>\$72,033</u>	<u>\$3,178</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 presented on this schedule represents assets physically transferred during the year and, therefore, does not agree with total assets shared with state and local agencies in the financial statements. In addition, the above numbers do not include the adjustment to present property distributed at net realizable value.

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, 1998
(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		
California	4	\$1,427
Florida	11	3,912
New York	1	540
Texas	<u>1</u>	<u>1,064</u>
Total Customs	17	6,943
Internal Revenue Service (IRS)	<u>4</u>	<u>858</u>
Grand Total	<u>21</u>	<u>\$7,801</u>

31 U.S.C. 9703(f)(2)(E) requires the Secretary of 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, Transfers, Expenses, and Distributions
For the year ended September 30, 1998
(Dollars in thousands)
(Unaudited)

Revenues, Transfers, Expenses and Distributions by Asset Category:

	<u>Revenues and Transfers</u>	<u>Expenses and Distributions</u>
Vehicles	\$ 10,365	\$ 16,058
Vessels	2,879	20,460
Aircraft	2,879	6,591
General Property	9,214	64,940
Real Property	32,248	2,544
Currency and monetary instruments	<u>201,974</u>	<u>78,067</u>
	259,559	188,660
Less:		
Mortgages and claims	(5,207)	(5,207)
Refunds	<u>(5,587)</u>	<u>(5,587)</u>
Add:		
ONDCP allocation	--	35,679
Excess of net revenues and financing sources over total program expenses	<u>--</u>	<u>35,220</u>
	<u><u>\$248,765</u></u>	<u><u>\$248,765</u></u>

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

Sales of property and forfeited currency and monetary instruments	\$174,521	\$ 35,845
Reimbursed storage costs	1,997	18,866
Assets shared with state and local agencies	71,934	71,934
Assets shared with other federal agencies	8,454	8,454
Assets shared with foreign countries	1,179	1,179
Victim Restitution	1,474	1,474
Destructions	--	22,639
Pending disposition	<u>--</u>	<u>28,269</u>
	259,559	188,660
Less:		
Mortgages and claims	(5,207)	(5,207)
Refunds	<u>(5,587)</u>	<u>(5,587)</u>
Add:		
ONDCP allocation	--	35,679
Excess of net revenues and financing sources over total program expenses	<u>--</u>	<u>35,220</u>
	<u><u>\$248,765</u></u>	<u><u>\$248,765</u></u>

Revenue/Transfers amount (\$248,765) combines gross non-exchange revenue of (\$235,196) and transfers-in proceeds from participating with other federal agencies (\$13,569) from the statement of net position. This supplemental schedule "Analysis of Revenues, Expenses and Distributions" is required under the Treasury Forfeiture Fund Act of 1992. Because the Fund does not have a cost accounting system, the method used does not provide reliable information in the analysis of revenue and expenses and distributions by type of disposition. The information is presented to comply with the requirements of the Treasury Forfeiture Fund Act of 1992.

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Information Required by 31 U.S.C. 9703(f)
For the year ended September 30, 1998
(Unaudited)

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

(1) A report on:

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

As reported in the audited financial statements, at September 30, 1998, the Fund had forfeited property held for sale of \$24,034,000. The realized proceeds will be deposited in the Fund when the property is sold.

Upon seizure, currency, and other monetary instruments not needed for evidence in judicial proceedings are deposited in a U.S. Customs Service (Customs) suspense account. Upon forfeiture, it is transferred to the Treasury Forfeiture Fund. At September 30, 1998, there was \$17,797,000 of forfeited currency and other monetary instruments that had not yet been transferred to the Fund. This is reported as a part of "Cash and Other Monetary Assets" in the audited financial statements.

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

The estimated total value of all property transferred to any state or local law enforcement bureau is summarized by state and U.S. territories. Total currency transferred was \$72,033,000 and total property transferred was \$3,178,000 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, 1997, which became the beginning balance for the Fund on October 1, 1997, as reported in the audited financial statements is \$272,713,000.

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

Mortgages and claims expense as reported in the audited financial statements was \$5,207,000. The amount actually paid on a cash basis was not materially different.

The amount of forfeited currency and property shared with federal, and distributed to state, local and foreign law enforcement

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Information Required by 31 U.S.C. 9703(f)
For the year ended September 30, 1998
(Unaudited)

bureaus as reported in the audited financial statements was as follows:

State and local agencies	\$ 71,934,000
Foreign countries	1,179,000
Other federal agencies	8,454,000
Victim restitution	1,473,000

(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 cost of operations of the Fund as shown in the audited financial statements is \$130,504,000.

The amount of seized currency not on deposit in the Fund's suspense account at September 30, 1998, was \$50,643,000. This amount includes some funds in the process of being deposited at year end; cash seized in August or September 1998, 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 \$165,588,000 for fiscal year 1998.

(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 the bureau and contractor's officials, and the number of seizures is as follows:

U.S. Customs Service

\$ 274,289,000	61 Seizures
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IRS

\$ 109,269,000	42 Seizures
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U.S. Secret Service

\$ 4,003,000	1 Seizure
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(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 \$7,801,000. A separate schedule is presented on page 88.

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

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Information Required by 31 U.S.C. 9703(f)
For the year ended September 30, 1998
(Unaudited)

The total net position of the Fund at September 30, 1998, as reported in the audited financial statements is \$343,613,000.

(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 1999 per Fiscal Year 1997 Omnibus Appropriations Act (PL 104-208). The amount carried over to fiscal year 1999 is \$187,190,000.

(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 89.

