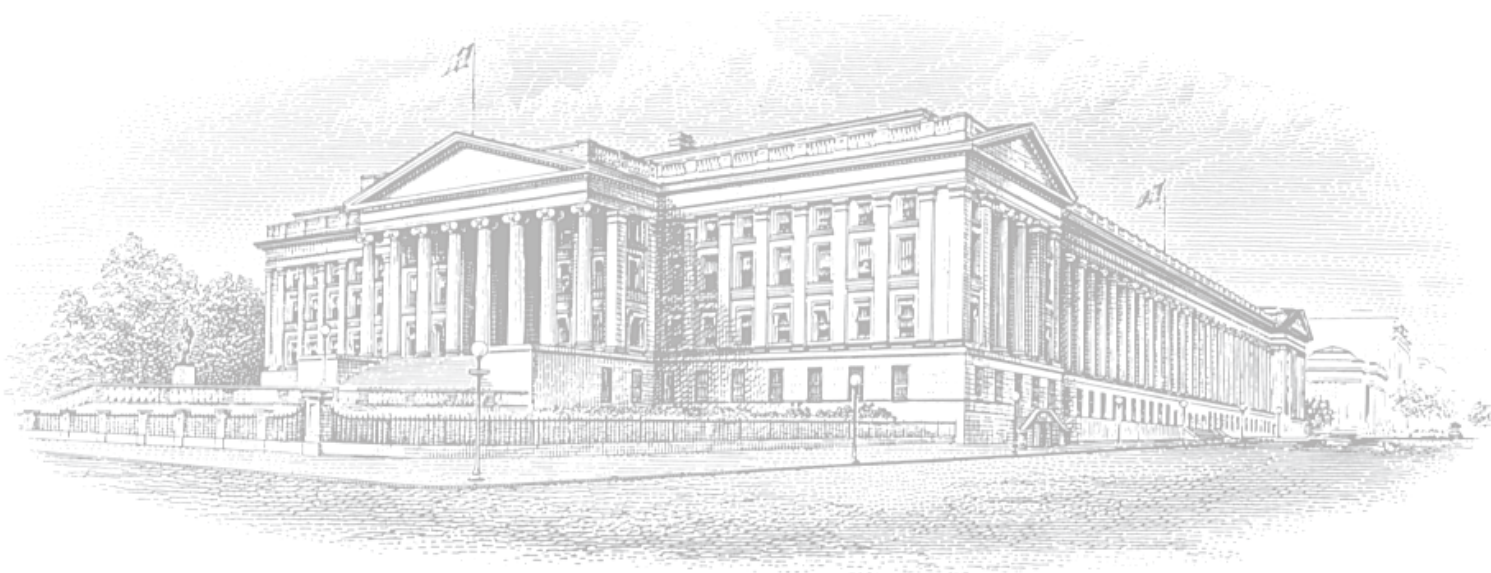


# DEPARTMENT OF THE TREASURY

Office of the Under Secretary for  
Terrorism and Financial Intelligence



## *Guidelines for Treasury Forfeiture Fund Agencies on Refunds Pursuant to Court Orders, Petitions for Remission, or Restoration Requests*

July 2008



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REFUND GUIDELINES FOR TREASURY FORFEITURE FUND AGENCIES

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**GUIDELINES FOR TREASURY FORFEITURE FUND AGENCIES ON  
REFUNDS PURSUANT TO COURT ORDERS, PETITIONS FOR REMISSION,  
OR RESTORATION REQUESTS**

**I. PURPOSE**

This policy is intended to provide guidance to the Treasury Forfeiture Fund (TFF) member agencies when requesting that the Treasury Executive Office for Asset Forfeiture (TEOAF) make payments (“refunds”) pursuant to a court order, a petition for remission or mitigation, or a restoration request. This policy places particular emphasis on the correct procedures for handling refunds in victim cases.

Because of situations that have arisen concerning funds that were not timely obligated (or that were prematurely de-obligated) for a pending or potential refund, **TEOAF is now mandating that the TFF member agencies request that TEOAF post an obligation on forfeited funds for all victim cases, and for any case in which a petition may be filed or in which a restitution order may be entered by the court.**

***Background:***

Presently, each participating law enforcement agency handles refund requests in accordance with its own agency procedures, with the request eventually reaching TEOAF. These guidelines aim to clarify the overall process for requesting such payments. While TFF law enforcement agencies and TEOAF typically have few problems coordinating such requests, on occasion the premature expenditure or de-obligation of funds has occurred. This is particularly true in judicial forfeiture cases involving petitions for remission or restoration requests. Because petitions for remission or restoration requests, particularly in victim cases, take precedence over other uses for the funds, including equitable sharing, it is important to ensure that the funds remain available pending resolution of the petition or restoration request.

***Scope:***

This directive intends to explain and streamline the process for handling refund requests and includes the appropriate forms and instructions for the agencies to use with the accompanying request.

In addition, this directive establishes a special procedure for the handling of requests for reconsideration of a denial of a petition for remission. A request for reconsideration is an appeal made to the Department of Justice’s Asset Forfeiture and Money Laundering Section (AFMLS), in judicial forfeiture cases, of a

petition for remission that has been denied. To ensure the efficient handling of reconsiderations requests, the agency, from the field level up, must work closely with the appropriate Assistant United States Attorney (AUSA), AFMLS and TEOAF.

All TFF participating law enforcement agencies will implement the following procedures.<sup>1</sup>

## II. NEW AGENCY RESPONSIBILITIES:

Agencies must familiarize themselves with these procedures and processes in order to ensure full compliance. The new, specific agency responsibilities are as follows:

- A. **In all forfeitures where at least one victim has been identified**, agencies shall request an obligation of forfeited funds. This request for obligation must occur in all cases where at least one victim has been identified, even if no victim has yet filed a petition.<sup>2</sup>
1. Agencies must request an obligation by filling out the TFF Member Agency Obligation Request Form. See Exhibit A.
  2. The form must be sent by email to [Refund.Obligations@do.treas.gov](mailto:Refund.Obligations@do.treas.gov), or by fax to TEOAF Program Analyst Antoinette (Toni) Davis at (202) 622-9610.<sup>3</sup>
- B. To request that funds be de-obligated, the agency must send TEOAF written confirmation from the United States Attorneys Office (USAO) or an agency headquarters official that there will be no victim petitions filed or that no restoration request will be made in the given case. The written confirmation may be a memo or an email but must clearly state that the funds are no longer needed for remission, reconsideration, restitution,

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- 1 This directive does not create or confer any rights, privileges or benefits on prospective or actual claimants, defendants, petitioners, victims or other payees. Likewise, this directive is not intended to have force of law. See *United States v. Caceres*, 440 U.S. 471 (1979).
  - 2 Only funds in the Treasury Forfeiture Fund can be obligated. Funds that are not yet forfeited, and therefore still are in the Treasury Suspense Account, need not be obligated until they are moved into the TFF. Further, if no petition or restoration request has been filed but is anticipated, the TFF Member Agency Obligation Form must be used in order to satisfy the requirements of 31 U.S.C. 1501 requiring written documentation in support of an obligation.
  - 3 This requirement may be in addition to any requirements imposed by your agency. Each agency must develop procedures for sending obligation requests to TEOAF in an efficient, timely manner. For example, IRS and the U.S. Secret Service send their obligation requests monthly through Headquarters. For ICE and CBP, it may be more efficient for the Fines, Penalties & Forfeitures (FP & F) Office to send the requests directly to TEOAF with a copy to Headquarters.

restoration, or any other victim purposes. The written confirmation shall be sent to Toni Davis, TEOAF Program Analyst.<sup>4</sup>

- C. Agencies must actively remain aware of the status of their cases, particularly where victims are involved.
- D. When conducting an investigation of a petition for a remission or a restoration request, the agency **MUST** be thorough in its report and support any conclusions as to the merits of any victim claim with documentation or explanation.
  - 1. Agencies must also include the agency seizure number(s) in the report so that AFMLS may include the seizure numbers in its ruling letters.<sup>5</sup>
- E. Once AFMLS issues a ruling that a petition for remission has been DENIED, the agency must ensure that the obligation remains for 90 days from the date of the letter to allow for time for any reconsideration request to be filed.
- F. Agencies must develop and maintain procedures to ensure that case agents and forfeiture personnel remain in communication with the USAOs so that the agency is up-to-date on the status of any cases in which seized or forfeited funds maybe be sought for victim or other third-party payment.

Failure to comply with the requirements of this policy may result in a reprogramming of TFF funds or other remedies in order to comply with a ruling on a timely petition or restoration request. This applies as well if the agency has already equitably shared funds that were properly subject to a victim payment. Such remedies include, but are not limited to, reprogramming funds from certain agency initiatives to pay the victims or taking the funds from current year funding. The Director of TEOAF has the sole discretion in determining the proper remedy for a failure to properly obligate funds.

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4 Absent such written confirmation for de-obligation, an obligation shall remain for 5 years pursuant to appropriations law.

5 For ICE/CBP case, the FP & F seizure number is preferred.

### III. FORMS AND INSTRUCTIONS

Please See Exhibit B.

### IV. COURT ORDERS

#### A. Overview of Legal Authority

Often, the court will specifically direct the government to make a payment to a certain party. The court may direct that the payment be made either from seized funds in the suspense account or from forfeited funds.<sup>6</sup> Examples include, but are not limited to, payments to a lienholder or innocent owner, proceeds of a negotiated or interlocutory sale, certain attorney's fees, or a return of seized and/or forfeited currency for various reasons. The court order should state the legal authority and/or reason for making such a payment, and the name of the payee.

#### B. Agency Requirements

When submitting payments pursuant to a court order, the agency must use Form 2 or Form 7, pursuant to Exhibit B, depending on whether the funds are coming from seized funds in the suspense account or from forfeited funds in the TFF. Along with the appropriate form, the agency shall include:

1. The court order or other relevant legal document specifying the payment to be made;
2. A completed Automated Clearing House (ACH) form if the agency is seeking to make the payment electronically, which is the preferred payment method;
3. Any other relevant or helpful documentation or identifying information.

TEOAF will then process the request for payment through the Customs & Border Protection (CBP) National Finance Center (NFC). Where requested by TEOAF staff, TEOAF Legal Counsel will review the request to ensure that the court order complies with all applicable legal standards. When needed, TEOAF may request additional documentation from the agency in order to properly document the request. TEOAF will not process a request without all of the requested documentation.

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<sup>6</sup> Generally, the court should not enter orders instructing the government to take any particular action with forfeited (as opposed to seized) funds, but sometimes this does happen.



## V. PETITIONS FOR REMISSION OR MITIGATION OF FORFEITURE

### A. Overview of Legal Authority

The remission or mitigation of forfeiture is a remedy designed to lessen the harshness of the forfeiture sanction. A remission or mitigation is the pardon of the property or an interest therein, based on either the good faith of the petitioner and his/her innocence or the lack of knowledge of the underlying unlawful conduct, or on the petitioner's status as a victim. In the case of the violator, it is a plea for leniency. The majority of petitions filed are from victims, although lien holders, innocent owners and other claimants often file as well. Petitions for remission take priority over other potential uses for forfeited funds, including official use requests and equitable sharing.

In administrative forfeitures, the agencies have sole responsibility pursuant to their various authorities to remit and mitigate forfeitures.<sup>7</sup> However, the Attorney General has the sole responsibility for ruling on petitions for remission or mitigation with respect to property involved in a judicial forfeiture proceeding, even in cases in which a TFF member agency was the lead agency. See, e.g., 18 U.S.C. 981(d); 21 U.S.C. 853(i)(1). This responsibility has been delegated to the Department of Justice, AFMLS. The regulations governing petitions for remission or mitigation of judicial forfeitures are found at 28 C.F.R. Part 9.

The next sections explain the procedures for agencies to follow for petitions in administrative and judicial forfeitures.

### B. Process for Administrative Forfeitures:

In administrative forfeitures, the agency handles any petitions for remission or mitigation. CBP processes its own refunds from the suspense account of seized but not-yet-forfeited funds.<sup>8</sup> **For all other agencies and for all forfeited funds** that have been moved into the TFF, the request must come from the agency to TEOAF to process the payment through the NFC.

1. Once the agency is aware of a petition, it must ensure that the funds are obligated so that the funds are not available to be expended for another purpose.

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<sup>7</sup> See, e.g., 19 C.F.R. parts 171 and 172.2; 26 C.F.R. Part 403, Subpart D. The TFF's authority to make payments authorized by law with respect to remission and mitigation is in 31 U.S.C. 9703(a)(1)(E).

<sup>8</sup> This directive does not intend to cover on-site mitigation or remission done by U.S. Immigration & Customs Enforcement (ICE) or CBP.

- a. To ensure that the funds are obligated, the agency must notify TEOAF and request an obligation.
2. If a petition has been denied in whole by the agency, and the time for any appeal or reconsideration has expired, the agency must request that TEOAF de-obligate the funds.
3. If a petition has been denied in part by the agency, and the time for any appeal or reconsideration has expired, the agency must keep the obligation for the amount necessary to satisfy the part of the petition granted, and de-obligate the remainder of the funds.
4. Once a petition has been granted, the agency must complete Form 7 pursuant to Exhibit B, and send the package to TEOAF Program Analyst Toni Davis for processing through the NFC for payment.

IMPORTANT: If a claim has been filed and the case becomes judicial, coordination with the AUSA is important for determining the status of the petition. The AUSA may wish to settle with the petitioner or deal with their claim before the court and have the petitioner withdraw their petition. The best practice is to maintain an obligation of the funds until final resolution.

If a vehicle or other personal property is at issue, sometimes a decision will be made to sell the property pending resolution of the petition. This is not favored, but occurs sometimes in cases where the litigation is protracted and lengthy, and thus sale of the asset is sometimes necessary to ensure that the cost of storage does not fully negate the value of the property. The petitioner would then receive the sale proceeds, after costs, if his or her petition is granted. **Agencies must track the sale of property subject to a refund, and must request obligation of the sales proceeds of the property.**

**C. Process for Judicial Forfeitures:**

In judicial forfeiture cases, pursuant to 28 C.F.R. Part 9, the following generally occurs:

1. Entity files a petition.<sup>9</sup> Petitioner may be a victim, lienholder, innocent owner, etc. Petitioners may include individuals, corporations, businesses, non-profits or other organizations, or local, state, or federal agencies. The petition should be sent to the USAO, AFMLS, and the seizing agency, though this does not always happen.

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<sup>9</sup> In large victim cases, the USAOs will often send notice to victims informing them of their opportunity to file a petition.

- a. Note that in major victim cases, USAOs have access to a model victim petition developed by AFMLS. Agencies should work with their AUSAs to get this model petition to their victims to fill out for ease. Petitioners should include any documentation they have available with their petitions.
2. When the agency receives a copy or otherwise learns of the petition, it should request that TEOAF post an obligation against any funds that were forfeited or resulted from the forfeiture (such as sales proceeds) and track the disposition of all real and/or personal property that resulted from the forfeiture for possible return to a successful petitioner.
3. USAO asks the seizing agency to investigate the merits of the petition. **The seizing agency's report is given heavy weight by the USAO and AFMLS, so this is the agency's opportunity to be thorough and to clearly justify any conclusions it may reach about the merits of any particular claim.**<sup>10</sup>
4. USAO makes a recommendation on the merits of the petition. Some USAOs defer to the agency. Others are very proactive and will assist in determining the actual amounts (or percentages) each victim/petitioner should receive.
5. These recommendations are forwarded to AFMLS. AFMLS reviews all the documentation and recommendations in light of applicable federal laws and regulations and issues a ruling either granting or denying the petition. AFMLS sends the ruling letter to the petitioner.
6. In cases involving Treasury agencies or assets, AFMLS sends a copy of the ruling letter to: TEOAF Legal Counsel, the Seizing Agency Field Office, and the appropriate asset forfeiture contact at agency headquarters. Upon the seizing agency's receipt of notification that a petition has been GRANTED, if the agency has not already done so, the agency shall request that TEOAF post an obligation against forfeited funds and any sales proceeds from the sale of forfeited property.
  - a. If the petition is DENIED: Petitioners have ten days from the date they RECEIVE the ruling letter to file a reconsideration request. Under 29 C.F.R. 9.4(k), the reconsideration request must

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<sup>10</sup> Conclusions in a petition investigation that are unsupported by documentation or explanation may not be given fullest deference. Agencies are **strongly encouraged** to be as clear and as thorough as possible, particularly when recommending that a petition be denied. Additionally, agencies must include the agency case and seizure numbers on their investigation reports so that AFMLS may include these numbers in its ruling letters.

- be sent only to the USAO.
- b. AFMLS, by agreement, will email TEOAF Legal Counsel once it receives a reconsideration request.
    - i TEOAF Legal Counsel will forward the email to the appropriate agency personnel, with a copy to TEOAF Program Analyst Toni Davis, so that the agency can ensure that an obligation remains.
  - c. **The agency should maintain an obligation on ANY denial for 90 days from the date of the ruling letter to ensure that no reconsideration request has been filed.**<sup>11</sup>
7. If no reconsideration request is received after the 90 days, or if a reconsideration request is received and denied, the funds must be de-obligated and disposed of pursuant to 31 U.S.C. 9703.
8. If a petition or a reconsideration request is GRANTED, the agency must fill out Form 7 and include the appropriate documentation pursuant to Exhibit B.
- a. Additionally, once a petition or reconsideration request is granted, if needed, TEOAF will work with the USAO and/or the agency to get ACH information and Taxpayer ID Numbers to make electronic payments.
9. TEOAF will forward the paperwork to the NFC for payment.

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<sup>11</sup> Why 90 days when the petitioner has only 10 days to file a reconsideration request? Ninety days will allow enough time for: (1) the petitioner to receive the ruling; (2) the petitioner to file its reconsideration request; (3) the USAO to receive it and forward it to AFMLS; (4) AFMLS to notify TEOAF.

**VI. REQUESTS FOR RESTORATION OF FORFEITED ASSETS TO VICTIMS TO SATISFY A RESTITUTION ORDER<sup>12</sup>**

**A. Overview of Legal Authority and Policy for Restoration:**

The Attorney General has the authority to restore forfeited property to the victims of crimes underlying the forfeiture or of related criminal offenses, in satisfaction of a restitution order in a criminal case related to the forfeiture.<sup>13</sup> The property at issue may be forfeited judicially (criminally or civilly) or administratively. The purpose of this authority is to be able to use forfeited assets to compensate victims for whom there is a restitution order without requiring these victims to file petitions for remission.<sup>14</sup>

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12 See Exhibit C, the Department of Justice's Forfeiture Policy Directive 02-1, for DOJ's full restoration policy.

13 See, e.g., 21 U.S.C. 853(I)(1); 18 U.S.C. 981(e)(6). The Secretary of the Treasury has his own restoration authority in civil forfeiture under 18 U.S.C. 981(e)(6). However, this authority has not been delegated. Additionally, by agreement, the TFF agencies are subject to AFMLS's currently established procedures for restoration in TFF cases.

14 Victims may still file petitions. Owners, lien holders and owner-victims, whether in the remission or the restoration process, have priority over non-owner victims. A restoration request may be granted *subject to* pending decisions on the petitions filed by owners and lien holders. Restoration payments would be made after costs and after recognizing the interests of owners and lien holders.

Restoration is appropriate only in cases where there has been a criminal conviction and a restitution order entered.<sup>15</sup> Restoration is generally appropriate only where:

1. ALL (not just some) of the victims have been included in the restitution order.
2. The USAO has consulted with the seizing agency and determined that: The restitution order reflects the victim's remaining loss after considering any other sources of compensation (such as insurance) the victim may have received;
  - a. no other assets are available; and
  - b. the victims were not complicit in or willfully blind to the offenses underlying the forfeiture or to related offenses.
3. The property to be restored was forfeited pursuant to a statute that expressly authorizes restoration or remission.<sup>16</sup>

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<sup>15</sup> The following items are examples of situations that are INAPPROPRIATE for restoration and will not be processed. Cases in which there is:

- A restitution order only with no associated forfeiture
- A civil forfeiture only (whether it is administrative or judicial) with no restitution order in the related criminal case
- A Judgment & Conviction (J & C) that states that restitution will be made from seized or forfeited assets. (This situation would still require a restitution order AND a formal request, granted by AFMLS, from the USAO that forfeited assets be used to satisfy the restitution order.)
- Various other documentation but no ruling letter from AFMLS

**Should a TFF agency receive an inappropriate or incomplete request to use to forfeited assets from a USAO, the agency shall not process the request but shall refer it back to the USAO with a reference to this policy. The obligation shall remain, or shall be posted on the funds if one has not yet been posted, pending written confirmation from the USAO, AFMLS, or other appropriate agency headquarters official, that the proceeds will not be needed to compensate victims. The legal basis for maintaining the obligation of the funds despite the lack of complete documentation is 31 U.S.C. 1501(a)(6), which allows for an obligation to be posted due to pending litigation. Thus, the agency must make TEOAF aware of a potential restoration even when the agency has returned the package so that TEOAF can maintain the obligation.**

<sup>16</sup> For example, such statutes include 18 U.S.C. 981(e)(6), 982(b)(1)(by cross-reference to 21 U.S.C. 853), and 21 U.S.C. 853(i) authorize remission and restoration. Other federal laws may also authorize remission and restoration.

**B. Process for Restoration Requests:**

1. The USAO must make a formal request to AFMLS to apply the forfeited proceeds to that restitution order. The USAO must forward the request to AFMLS within 30 days of entry of the restitution order into DOJ's system of record for forfeited assets, the Consolidated Asset Tracking System (CATS). Restitution orders must be entered into CATS within 5 days of sentencing.
2. In making a restoration request, the USAO may ask the agency to investigate the merits of the victims' claims, just as in a petition investigation, and to submit a report on its investigation to the USAO. This report, along with the USAOs recommendation, shall be forwarded to AFMLS.
  - a. In DOJ cases, the USAO may place a 12-month hold on the use of assets through the CATS system pending the resolution of the restoration request. This includes assets that may not be part of the criminal case and may be subject to administrative forfeiture proceedings by the agency.
    - i. CATS is not the Treasury inventory system of record and therefore the agency must remain aware of the status of their victim cases through other communication with the USAO. **Once a TFF agency receives information that a USAO is considering making a restoration request, the agency shall request that TEOAF post an obligation against the forfeited funds or the proceeds from the sale of the forfeited property in that case.**
    - ii. In cases involving **administratively forfeited assets by a TFF agency**, in order to place a hold on assets, the USAO must obtain written concurrence of the TFF seizing agency Special Agent in Charge (SAC) or other appropriate TFF agency official. A hold placed in CATS for Treasury administrative cases, absent the written concurrence of the TFF agency SAC or other appropriate official, will not apply.
      1. When the TFF agency receives a request from a USAO for written concurrence to place the assets on hold, the TFF agency should also request that TEOAF post an obligation on the assets.
      2. If this written concurrence was not obtained and

the funds are no longer in the TFF, TEOAF will not honor the restoration ruling.

- iii. Additionally, because this policy now requires the TFF agencies to obligate all funds (whether forfeited administratively or judicially) for which there may be victims, the TFF agency must request that TEOAF obligate those funds.<sup>17</sup>
3. AFMLS reviews all the documentation and recommendations in light of applicable federal laws and regulations and issues a ruling either granting or denying the restoration request. AFMLS sends the ruling letter to the seizing agency with a copy to the USAO.
  - a. If the restoration request is granted, the ruling will also include sample language for the seizing agency to include in its cover letter to the clerk of the court when forwarding the payment.<sup>18</sup>
  - b. Additionally, before granting restoration of an **asset administratively forfeited by a TFF agency**, AFMLS must obtain the concurrence of the TFF seizing agency.
  - c. If this written concurrence was not obtained and the funds (or proceeds of sale of the forfeited property) are no longer in the TFF, TEOAF will not honor the restoration ruling.
4. In cases involving Treasury agencies or assets, AFMLS also sends a copy of the ruling letter to TEOAF Legal Counsel.
5. If the restoration request is GRANTED, the seizing agency then must fill out Form 7, pursuant to Exhibit B, with the appropriate paperwork, to TEOAF Program Analyst Toni Davis for processing. TEOAF will forward it to the NFC for payment.
6. If the restoration request is DENIED, the agency must promptly de-obligate funds.

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<sup>17</sup> Agencies must educate and instruct their field offices and agents to inform the forfeiture personnel at HQ of restoration requests. It is incumbent upon the agencies to be aware of every case in which the USAO is filing a restoration request and to inform agency HQ. The agency HQ must then inform TEOAF so that TEOAF can obligate the funds pending resolution of the claims. Because the Treasury agencies shall now obligate funds in all victim cases, the funds, in practice, should already be obligated.

<sup>18</sup> Payments are not made directly to the victim in a restoration case; rather, payments are made to the clerk of the court. This is because the court will need to keep track of the defendant's restitution liability. Additionally, TEOAF will no longer issue checks to any federal court. TEOAF is working with NFC and the Administrative Office of the United States Courts to ensure to that all federal courts are capable of receiving payments via IPAC.



## VII. AFMLS COURTESIES AND OBLIGATIONS:

AFMLS currently copies the TFF agency and TEOAF Legal Counsel on all ruling letters in petitions for remission, reconsiderations requests, and restoration requests involving TFF participating agencies. This practice will continue. By agreement, AFMLS has agreed to assist the TFF agencies and TEOAF in tracking petitions, reconsideration requests, and restoration requests by undertaking the following additional activities:

1. AFMLS will email TEOAF Legal Counsel when a reconsideration request has been filed.
  - a. TEOAF will then forward the email to the agency with a copy to TEOAF Program Analyst Toni Davis. The agency must work with TEOAF and the NFC to ensure that the funds remain obligated pending AFMLS's decision on the reconsideration request. Because no law or regulation currently mandates that anyone (the petitioner, the USAO, or AFMLS) notify TEOAF or the agency of a reconsideration request, this courtesy is extremely helpful to TEOAF in ensuring that the funds are not prematurely de-obligated.
2. On all decision letters (restoration, remission, or reconsideration), to the extent available, AFMLS will include the TFF agency seizure number and any other identifying case or asset numbers available. (The CATS numbers currently provided are for DOJ use only.)
3. AFMLS will provide TEOAF with a bi-annual to quarterly list of all pending TFF remission, restoration, and reconsideration requests, along with a notation as to whether AFMLS will likely grant or deny the request.
  - a. In the meantime, TEOAF will work with DOJ to get regular electronic updates on Treasury petitions for remission and restoration requests pending at AFMLS.

These courtesies provided by AFMLS do not negate or alleviate the obligation of the TFF agencies to remain current on the status of their victim cases and to be diligent in their communication efforts with the USAOs.

Any questions about this policy should be directed to your agency headquarters personnel or to TEOAF Legal Counsel Melissa Nasrah or TEOAF Program Analyst Toni Davis at (202) 622-9600.



**EXHIBIT A**  
**TFF MEMBER AGENCY**  
**OBLIGATION FORM**





DATE: _____ / _____ / _____
Treasury Agency: _____
Case Number: _____
Case Name: _____

## Department of the Treasury Executive Office for Asset Forfeiture

### Treasury Forfeiture Fund Member Agency Obligation Request Form

This form is to be used by the TFF agencies to request an obligation on forfeited funds or proceeds of sale of forfeited property due to pending petitions, restoration, or other anticipated refunds pursuant to the *Guidelines for Treasury Forfeiture Fund Agencies on Refunds Pursuant to Court Orders, Petitions for Remission, or Restoration Requests*. This form and supporting documentation may be faxed to Toni Davis, TEOAF, at 202-622-9610, or emailed to Refund.Obligations@do.treas.gov.

Seizure Number(s)	Cash Receipt (CR) #	Amount Seized	Collect Date*	Forfeiture Date	DCR Date*	Amount to be Obligated
<b>Totals:</b>						

**Reason for Obligation Request:**

- Petition for Remission or Mitigation of Forfeiture filed (attach copy of petition if available)  
 Date filed: \_\_\_\_\_  
 Petitioner(s): \_\_\_\_\_  
 Amount Sought (if known): \_\_\_\_\_
  
- Restitution Order Sought or Entered, and AUSA has filed (or indicated he/she will file) a restoration request with the Department of Justice, Asset Forfeiture & Money Laundering Section (attach written supporting documentation of AUSA's filing of, or intent to file, a restoration request)
  
- Victim Case and at least one victim has been identified; Petition for Remission or Mitigation of Forfeiture anticipated to be filed.  
 Name of at least one victim: \_\_\_\_\_

<b>FOR TEOAF USE ONLY</b>			
FUND:	COST CENTER:	98999000	
FUND CENTER:	MATERIAL GROUP:	4429 or 4425	ORDER: ZFX5
FUNCTIONAL AREA:	HQ01	AMOUNT:	
ORDER:	ZFX5	SIGNATURE:	

\* The collect date is the date the funds were deposited into the suspense account. If the funds were never deposited into the CSA, for example, because they were directed to be paid to the registry of the court, use the seizure date. The DCR date is the date the funds were deposited into the Treasury Forfeiture Fund.



# **EXHIBIT B: INSTRUCTIONS AND FORMS**





## DISPOSITION INSTRUCTIONS GUIDELINES





**FORM 2**  
**DISPOSITION INSTRUCTIONS FOR CURRENCY HELD  
IN TREASURY SUSPENSE ACCOUNT**

Form 2 is used by IRS and Secret Service to take action on funds in the Treasury Suspense Account (TSA). ICE and CBP perform this function electronically using their Automated Commercial System (ACS).

**Form 2 requires the Final Order of Forfeiture, Proclamation or Declaration of Forfeiture, Settlement Agreement or Letter of Declination (when AUSA refuses the case and the funds are being returned to owner/third party).**

**FORM 7**  
**REQUEST FOR POST FORFEITURE REFUND**

Form 7 is used by all Treasury Forfeiture Fund (TFF) participating agencies to request a refund of monies that were previously forfeited and deposited into the TFF. The funds should already have been obligated pursuant to the requirements of this policy.

**Form 7 requires the Final Order of Forfeiture and any additional documentation related to the forfeited assets.**

## FORM 2

### “DISPOSITION INSTRUCTIONS FOR CURRENCY HELD IN TREASURY SUSPENSE ACCOUNT”



#### WHEN TO USE FORM 2

- **Forfeited Monies** – Move the entire amount from the TSA to the Treasury Forfeiture Fund (TFF)
- **Partial Forfeitures** – Move the forfeited portion of the funds to the TFF and leave the pending portion in the TSA
- **Return or Release of Monies** – Return the entire amount to owner or third party (i.e., a full refund)
- **Partial Return of Monies** – Return a portion of funds and either transfer forfeited portion to the TFF or leave the remaining portion in the Suspense Account (i.e., a partial refund)

#### Suspense Account Needed Documentation “The Importance of Final Orders”

- **Form 2**
- **Final Order/Decree/Proclamation or Declaration of Forfeiture/Settlement Agreement**

TEOAF and the National Finance Center do not have the legal authority to move any funds to the TFF without the proper supporting documentation from a court in the case of a judicial (civil or criminal) forfeiture, or from the Agency in the case of an administrative forfeiture.

If funds are to be returned to a Petitioner or other third party, proper legal and supporting documentation must accompany the request.

The Agency **MUST** send the entire *Final Order of Forfeiture signed by the Judge* with the *Form 2* to transfer funds into the TFF. Make certain to include any pertinent court documents or official memorandum.



## HOW TO COMPLETE FORM 2

### ■ SEIZURE #

Enter the SEIZURE number and subasset number for the funds.

### ■ FORFEITURE DATE

Enter the forfeiture date, which will be the date a judge signs the Forfeiture Order/ Decree/Proclamation or Declaration of Forfeiture signed by the SAC.  
If the funds were not forfeited enter “N/A” in the box.

### ■ ENTER AMOUNT OF FUNDS SEIZED UNDER THIS ASSET NUMBER

Enter the entire amount of money that was deposited into the Treasury Suspense Account for this asset.

### ■ ENTER AMOUNT PREVIOUSLY FORFEITED OR REFUNDED

If applicable enter the amount of money previously forfeited or refunded.  
Leave blank if there has not been any previous action on the asset.

### ■ ENTER AMOUNT TO REMAIN IN SUSPENSE PENDING FUTURE ACTION

Enter the amount of money that is to remain in the Treasury Suspense Account pending future action.  
If not applicable, enter \$0.00.

### ■ ENTER THE AMOUNT FORFEITED

Enter the amount of money that has been forfeited.  
If not applicable, enter \$0.00.

■ **ENTER THE AMOUNT(S) TO BE RETURNED TO OWNER OR OTHER THIRD PARTIES**

Enter the Party Name(s) and the Amount of Funds to be returned in the spaces provided.

If there are more than three parties, attach a list to the Form 2.

*DO NOT include Sharing Agencies in this section.*

If not applicable then enter \$0.00.

**NOTE:** *The amount of funds seized under the asset number must always be equal to the sum of the amounts listed on each of the following action lines. The entire sum of the funds originally deposited into the TSA must be accounted for on each disposition regarding the asset.*

*If there is a frozen bank account that has accrued interest, make notation of this in Additional Instructions Section.*

■ **PLEASE ISSUE CHECKS PAYABLE TO THE ABOVE-LISTED PARTIES AND MAIL TO**

The preferred method of issuing refunds is an ACH payment. In the rare instance where a check must be issued, please enter the full name and address of the payee.

■ **HOW MANY SHARING REQUESTS WERE FILED**

Enter the number of sharing requests that were submitted for the asset. If there are no sharing requests, enter “0” and leave the rest of this section blank. If sharing requests have not been submitted but will be forthcoming, mark with an asterisks, and indicate in Additional Instruction Section.

**DO NOT LEAVE THIS BOX BLANK.**

*Do not include the lead agency in the number of sharing agencies.*

■ **EXPENSES**

This section **MUST** be completed for each disposition where equitable sharing request(s) have been or will be filed. If a case involves more than one asset, expenses may be divided among all of the assets or all of the expenses can be taken out of one asset. If expenses are accounted for on another asset, reference that fact in this section.

**Case Related Expenses:** This includes advertising and travel costs and any costs incurred by the agency while perfecting the forfeiture. This does not include Seized Property Contractor expenses.

**Award Payments Made To Treasury Informants:** Enter the dollar amount of any payment(s) approved by headquarters that have been or will be made to a Treasury informant. If the amount is not yet known, note that on this line or in the “Additional Instructions”.

**Prior Reimbursements to Requesting Agency:** Enter amount of any reimbursements for expenses related to this seizure that were made to the sharing agencies.

■ **WAS A COST BOND FILED?**

Indicate if a cost bond was filed for this Seizure number.

Cost Bonds were filed in Pre-CAFRA cases (i.e. where the seizure occurred prior to August 23, 2000), and are still filed in Title 19 cases and certain other cases as specified in 18 U.S.C. 983(i).

■ **WAS THE COST BOND DEPOSITED TO THE TREASURY SUSPENSE ACCOUNT?**

Indicate whether the cost bond was deposited into the Treasury Suspense Account.

***NOTE:** If there was a cost bond filed and deposited into the Treasury Suspense Account a Form 3 - Cost Bond Disposition Instruction - must be completed.*

■ **ADDITIONAL INSTRUCTIONS**

Indicate if there are any additional instructions for TEOAF regarding the disposition of the asset.

Examples of information to be included in this section include unique information regarding the asset, how it ties to the forfeiture order, and status of sharing requests or **petitions for remission or restoration request**.

**NAME/ TELEPHONE NUMBER/APPROVAL/DATE**

The name and telephone number of the individual with signature authority completing this form.

Agency management official must **REVIEW, SIGN, and DATE** document before sending.



**FORM 7**  
**“REQUEST FOR POST FORFEITURE REFUND”**



**WHEN TO USE FORM 7**

For *ANY* payments out of the TFF – refunds, payments to Petitioners, payments to the courts pursuant to a restoration ruling, Transfer of Funds via I-PAC to another government agency.

**Needed Documentation**

The agency **MUST** submit a Form 7 **and** the supporting court or administrative documentation to complete the post-forfeiture payment of funds to the Petitioner. Such supporting documentation includes the AFMLS ruling letter on the petition, reconsideration, or restoration request in judicial forfeitures, and the agency ruling letter or decision document in administrative forfeitures.

The Form 7 is required by TEOAF to make payments from the TFF in response to a ruling from AFMLS on a petition for remission or reconsideration request, or a restoration request. It is also required to return funds to a payee - whether it is the defendant, a third party, or another government agency.



## How to Complete Form 7

### ■ SEIZURE #

Enter the SEIZURE number and the subasset number.

### ■ DATE OF FORFEITURE

Enter the forfeiture date.

### ■ REASON FOR REFUND

Mark the reason for the refund: **Court Order, Petition Granted, Restoration Granted or Other**

### ■ AMOUNT (S) TO BE REFUNDED

Enter the name(s) of the person(s) receiving the refund and the amount.

### ■ MAIL TO:

Enter the full mailing address for payee.

### ■ NAME/ TITLE/PHONE NUMBER

Enter the information as requested for the person initiating the transmission of and signing the form.

**WHEN COMPLETED, SEND PACKAGE TO EOAF FOR  
REVIEW AND PROCESSING.**



## APPENDIX

## ACH FORM

This form is used to expedite court ordered refunds and sharing payments. The funds can be transferred to either the owner/claimant's, or to their attorney's account.

### HOW TO COMPLETE ACH INSTRUCTIONS FORM

**The following information must be supplied by the claimant for EOAF in order to initiate the payment:**

1. The payee/agency name:
2. The payee address:
3. The payee SSN or taxpayer ID number:
4. The payee/agency contact person:
5. The telephone number of the payee/agency point of contact:
6. The name and street address of bank receiving the ACH transfer:
7. The bank's nine-digit routing transit number:
8. The bank account number receiving the transfer:
9. The depositor account title, account number and account type:
10. The name of a contact person at the bank:
11. The telephone number of the point of contact at the bank:
12. Signature and title of Authorized official (ACH Coordinator):

### **AFTER RECEIVING THE ABOVE INFORMATION FROM THE CLAIMANT:**

1. Enter the dollar amount to be transferred.
2. Email the ACH form with the appropriate Form (i.e., either Form 2 or Form 7) to [Antoinette.Davis@do.treas.gov](mailto:Antoinette.Davis@do.treas.gov) or [Latrece.Ivery@do.treas.gov](mailto:Latrece.Ivery@do.treas.gov). Or, if you can not email, you may fax the ACH form with the appropriate Form (Form 2 or 7) to Toni Davis at 202-622-9610.

## I-PAC FORM

The Intra-Governmental Payment and Collection (IPAC) form is necessary to transfer funds to another government agency, such as the DOJ Forfeiture Fund. The IPAC Form must be accompanied by the Court Order or Official Memoranda directing the funds be transferred to an agency, and if the funds have been forfeited the package must include a Form 7. If the DOJ agency is unable to receive IPAC payments, a letter to that effect must accompany the package.

### HOW TO FILL OUT AN I-PAC FORM

#### All Boxes With An Asterisk Must Be Filled In.

1. Fill in Last 4 ALC numbers of Transferee's ALC Account Number.
2. Enter the SEIZURE number in the Purchase Order box; the Invoice Number box; and the Obligating Document Number box.
3. Enter "1" in Quantity Box indicating a One-Time payment
4. Enter full amount to be transferred into the Unit Price box; and Detail Amount box.
5. Enter "EA" into Unit of Issue box, indicating "Each" unit.
6. Enter name of the agency into the Transaction Contact.\*
7. Enter agency's telephone number into Contact Phone.\*
8. Enter Court Docket Number and/or seizure number into the Miscellaneous Information.

\* If payment is going to the courts, IPAC agreement is set up through TEOAF and NFC. Refund form should indicate payment being to: Clerk of the Court, U.S. District Court for the [insert name of judicial district; i.e. Eastern District of New York].



## FORMS 2





# BUREAU OF CUSTOMS & BORDER PROTECTION

## DISPOSITION INSTRUCTIONS FOR CURRENCY HELD IN TREASURY SUSPENSE ACCOUNT

This form is to be faxed to the Treasury Executive Office for Asset Forfeiture (TEOAF) to initiate the final disposition of funds held in the Treasury Suspense Account. The TEOAF fax number is 202-622-9610.

Cash Receipt Number (entered by National Office/TEOAF):

Seizure #:  -  -  -  Forfeiture Date

Enter the Amount of Funds Seized Under This Asset Number: \$

Enter the Amount Previously Forfeited or Refunded: \$

Enter the Amount to Remain in the Treasury Suspense Account

Pending Future Action: \$

Enter the Amount Forfeited (Account Code \_\_\_\_\_ (Entered by TEOAF)): \$

Enter the Amounts to be Returned to Owner or

Other Third Parties (other than sharing agencies):

Party #1: \_\_\_\_\_ Amount: \$

Party #2: \_\_\_\_\_ Amount: \$

Party #3: \_\_\_\_\_ Amount: \$

Please issue checks payable to the above-listed parties, and mail these checks to the following address:

Mail to: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

How Many Sharing Requests Were Filed in Regard to This Asset?

Expenses (Complete only if equitable sharing request(s) has been filed):

Case Related Expenses: \$

Award Payments Made to Treasury Informants: \$

Prior Reimbursements to Requesting Agency: \$

Was a Cost Bond Filed In Regard to These Funds?  Yes  No

Was the Cost Bond Deposited to the Treasury Suspense Account?  Yes  No

**If you answered "Yes" to BOTH of the above questions, you must complete the form titled Cost Bond Disposition Instructions.**

Additional Instructions: \_\_\_\_\_

### TEOAF Use Only:

SEIZURE#: \_\_\_\_\_

FUND: \_\_\_\_\_ COST CENTER: \_\_\_\_\_

FUNDS CENTER: \_\_\_\_\_ MATERIAL GROUP: \_\_\_\_\_

FUNCTIONAL AREA: \_\_\_\_\_ AMOUNT: \_\_\_\_\_

ORDER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

This transmission was initiated by:

Name: \_\_\_\_\_

Approval: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date: \_\_\_\_\_



# IMMIGRATION & CUSTOMS ENFORCEMENT

## DISPOSITION INSTRUCTIONS FOR CURRENCY HELD IN TREASURY SUSPENSE ACCOUNT

This form is to be faxed to the Treasury Executive Office for Asset Forfeiture (TEOAF) to initiate the final disposition of funds held in the Treasury Suspense Account. The TEOAF fax number is 202-622-9610.

Cash Receipt Number (entered by National Office/TEOAF):

Seizure #:  -  -  -  Forfeiture Date

Enter the Amount of Funds Seized Under This Asset Number: \$ \_\_\_\_\_

Enter the Amount Previously Forfeited or Refunded: \$ \_\_\_\_\_

Enter the Amount to Remain in the Treasury Suspense Account

Pending Future Action: \$ \_\_\_\_\_

Enter the Amount Forfeited (Account Code \_\_\_\_\_ (Entered by TEOAF)): \$ \_\_\_\_\_

Enter the Amounts to be Returned to Owner or

Other Third Parties (other than sharing agencies):

Party #1: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Party #2: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Party #3: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Please issue checks payable to the above-listed parties, and mail these checks to the following address:

Mail to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How Many Sharing Requests Were Filed in Regard to This Asset?

Expenses (Complete only if equitable sharing request(s) has been filed):

Case Related Expenses: \$ \_\_\_\_\_

Award Payments Made to Treasury Informants: \$ \_\_\_\_\_

Prior Reimbursements to Requesting Agency: \$ \_\_\_\_\_

Was a Cost Bond Filed In Regard to These Funds?  Yes  No

Was the Cost Bond Deposited to the Treasury Suspense Account?  Yes  No

**If you answered "Yes" to BOTH of the above questions, you must complete the form titled Cost Bond Disposition Instructions.**

Additional Instructions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### TEOAF Use Only:

SEIZURE#: \_\_\_\_\_

FUND: \_\_\_\_\_ COST CENTER: \_\_\_\_\_

FUNDS CENTER: \_\_\_\_\_ MATERIAL GROUP: \_\_\_\_\_

FUNCTIONAL AREA: \_\_\_\_\_ AMOUNT: \_\_\_\_\_

ORDER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

This transmission was initiated by:

Name: \_\_\_\_\_

Approval: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date: \_\_\_\_\_



# INTERNAL REVENUE SERVICE

## DISPOSITION INSTRUCTIONS FOR CURRENCY HELD IN TREASURY SUSPENSE ACCOUNT

This form is used to **initiate the final disposition of funds** held in the Treasury Suspense Account.

Please e-mail this form to the Internal Revenue Service Headquarters' mailbox: HQ-W&F@ci.irs.gov

Cash Receipt Number (entered by National Office/TEOAF):

Seizure #:











Forfeiture Date (if applicable)

CATS ID #:


- I R S -








Enter the Amount of Funds Seized Under This Asset Number:

\$ \_\_\_\_\_

Enter the Amount Previously Forfeited or Refunded:

\$ \_\_\_\_\_

Enter the Amount to Remain in the Treasury Suspense Account

Pending Future Action:

\$ \_\_\_\_\_

Enter the Amount Forfeited (Account Code \_\_\_\_\_ (Entered by TEOAF)):

\$ \_\_\_\_\_

Enter the Amounts to be Returned to Owner or

Other Third Parties (other than sharing agencies):

Party #1: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

Party #2: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

Party #3: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

Please issue checks payable to the above-listed parties, and mail these checks to the Internal Revenue Service at the following address:

Mail to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

How Many Sharing Requests Were Filed in Regard to This Asset?

0

Expenses (Complete only if equitable sharing request(s) has been filed):

Case Related Expenses:

\$ 0

Award Payments Made to Treasury Informants:

\$ 0

Prior Reimbursements to Requesting Agency:

\$ 0.00

Was a Cost Bond Filed In Regard to These Funds?

Yes  No

Was the Cost Bond Deposited to the Treasury Suspense Account?

Yes  No

**If you answered "Yes" to BOTH of the above questions, you must complete the form titled Cost Bond Disposition Instructions.**

Additional Instructions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### TEOAF Use Only:

SEIZURE#: \_\_\_\_\_

FUND: \_\_\_\_\_ COST CENTER: \_\_\_\_\_

FUNDS CENTER: \_\_\_\_\_ MATERIAL GROUP: \_\_\_\_\_

FUNCTIONAL AREA: \_\_\_\_\_ AMOUNT: \_\_\_\_\_

ORDER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

This transmission was initiated by:

Name: \_\_\_\_\_

AFC: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date: \_\_\_\_\_

HQ Approval &  
Date \_\_\_\_\_



# United States Secret Service

## DISPOSITION INSTRUCTIONS FOR CURRENCY HELD IN TREASURY SUSPENSE ACCOUNT

This form is to be faxed to the Treasury Executive Office for Asset Forfeiture (TEOAF) to initiate the final disposition of funds held in the Treasury Suspense Account. The TEOAF fax number is 202-622-9610.

Cash Receipt Number (entered by National Office/TEOAF):

Seizure #:  -  -  -  Forfeiture date (if applicable)

CATS ID #:  - **U S S** -

Enter the Amount of Funds Seized Under This Asset Number: \$

Enter the Amount Previously Forfeited or Refunded: \$

Enter the Amount to Remain in the Treasury Suspense Account

Pending Future Action: \$

Enter the Amount Forfeited (Account Code \_\_\_\_\_ (Entered by TEOAF)): \$

Enter the Amounts to be Returned to Owner or

Other Third Parties (other than sharing agencies):

Party #1: \_\_\_\_\_ Amount: \$

Party #2: \_\_\_\_\_ Amount: \$

Party #3: \_\_\_\_\_ Amount: \$

Please issue checks payable to the above-listed parties, and mail these checks to the Internal Revenue Service at the following address:

Mail to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How Many Sharing Requests Were Filed in Regard to This Asset?

Expenses (Complete only if equitable sharing request(s) has been filed):

Case Related Expenses: \$

Award Payments Made to Treasury Informants: \$

Prior Reimbursements to Requesting Agency: \$

Was a Cost Bond Filed In Regard to These Funds?  Yes  No

Was the Cost Bond Deposited to the Treasury Suspense Account?  Yes  No

**If you answered "Yes" to BOTH of the above questions, you must complete the form titled Cost Bond Disposition Instructions.**

Additional Instructions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### TEOAF Use Only:

SEIZURE #: \_\_\_\_\_

FUND: \_\_\_\_\_ COST CENTER: \_\_\_\_\_

FUNDS CENTER: \_\_\_\_\_ MATERIAL GROUP: \_\_\_\_\_

FUNCTIONAL AREA: \_\_\_\_\_ AMOUNT: \_\_\_\_\_

ORDER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

This transmission was initiated by:

Name: \_\_\_\_\_

Approval: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date: \_\_\_\_\_





# FORMS 7



**REQUEST FOR REFUND FROM FORFEITURE FUND  
BUREAU OF CUSTOMS & BORDER PROTECTION**

TREASURY FORFEITURE FUND

This form is to be used to request a refund of monies that were previously forfeited and deposited to the Treasury Forfeiture Fund. Please FAX this form, with backup documentation, to the Treasury Executive Office for Asset Forfeiture (FAX: 202-622-9610).

Seizure #:     -     -       -

Date of Forfeiture: \_\_\_\_\_

Cash Receipt Number :           Sale #:   -   -

Reason for Refund:  Petition  Court Order  Other  
State Reason Below

Special Instructions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Amounts to be Refunded or Transferred:

Amount: _____	Amount: _____
Pay To: _____	Pay To: _____
Address: _____	Address: _____
_____	_____
Amount: _____	Amount: _____
Pay To: _____	Pay To: _____
Address: _____	Address: _____
_____	_____

BCBP Authorized Representative:

Name: _____	Port: _____	Title: _____
Signature & Date: _____	Phone: _____	Fax: _____

**SEIZURE#:**

<b>FUND:</b> 08640	<b>COST CENTER:</b> 98999000
<b>FUNDS CENTER:</b> RM400	<b>MATERIAL GROUP:</b> 4429
<b>FUNCTIONAL AREA:</b> HQ01	<b>AMOUNT:</b>
<b>ORDER:</b> ZFX5	

\_\_\_\_\_  
EOAF Signature and Date

Accomplished by NFC: \_\_\_\_\_  
NFC Signature and Date



**REQUEST FOR REFUND FROM FORFEITURE FUND  
IMMIGRATION AND CUSTOMS ENFORCEMENT**

TREASURY FORFEITURE FUND

This form is to be used to request a refund of monies that were previously forfeited and deposited to the Treasury Forfeiture Fund. Please FAX this form, with backup documentation, to the Treasury Executive Office for Asset Forfeiture (FAX: 202-622-9610).

Seizure #:

-     -       -

Date of Forfeiture:

\_\_\_\_\_

Cash Receipt Number :

Sale #:

-   -

Reason for Refund:

Petition

Court Order

Other

State Reason Below

Special Instructions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Amounts to be Refunded or Transferred:

Amount: \_\_\_\_\_

Amount: \_\_\_\_\_

Pay To: \_\_\_\_\_

Pay To: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Amount: \_\_\_\_\_

Amount: \_\_\_\_\_

Pay To: \_\_\_\_\_

Pay To: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

ICE Authorized Representative:

Name: \_\_\_\_\_

Port: \_\_\_\_\_

Title: \_\_\_\_\_

Signature & Date: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

**SEIZURE#:**

**FUND:** 08640 **COST CENTER:** 98999000

**FUNDS CENTER:** RM410 **MATERIAL GROUP:** 4429

**FUNCTIONAL AREA:** HQ01 **AMOUNT:**

**ORDER:** ZFX5

\_\_\_\_\_  
EOAF Signature and Date

Accomplished by NFC:

\_\_\_\_\_  
NFC Signature and Date



# REQUEST FOR REFUND FROM FORFEITURE FUND INTERNAL REVENUE SERVICE

## TREASURY FORFEITURE FUND

This form is to be used to request a refund of monies that were previously forfeited and deposited to the Treasury Forfeiture Fund. Please e-mail this form to the Internal Revenue Service Headquarters' mailbox: HQ-W&F@ci.irs.gov

Seizure #:  -

Date of Forfeiture: \_\_\_\_\_

Cash Receipt Number :  Sale # :  -  -

Reason for Refund:  Petition  Court Order  Other  
State Reason Below

Special Instructions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Amounts to be Refunded or Transferred:

Amount: \_\_\_\_\_  
Pay To: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Amount: \_\_\_\_\_  
Pay To: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Amount: \_\_\_\_\_  
Pay To: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Amount: \_\_\_\_\_  
Pay To: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

IRS Authorized Representative:

Name: \_\_\_\_\_ Field Office: \_\_\_\_\_ Title: \_\_\_\_\_  
Signature & Date: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
HQ Approval: \_\_\_\_\_

**SEIZURE#:**  
**FUND:** 08640 **COST CENTER:** 98999000  
**FUND CENTER:** RM500 **MATERIAL GROUP:** 4429  
**FUNCTIONAL AREA:** HQ01 **AMOUNT:**  
**ORDER:** ZFX5

EOAF Signature and Date

Accomplished by NFC: \_\_\_\_\_  
NFC Signature and Date





**REQUEST FOR REFUND FROM FORFEITURE FUND  
UNITED STATES SECRET SERVICE**

TREASURY FORFEITURE FUND

This form is to be used to request a refund of monies that were previously forfeited and deposited to the Treasury Forfeiture Fund. Please FAX this form, with backup documentation, to the Treasury Executive Office for Asset Forfeiture (FAX: 202-622-9610).

Seizure #:  -  -  -

Date of Forfeiture: \_\_\_\_\_

Cash Receipt Number :  Sale #:  -  -

Reason for Refund:  Petition  Court Order  Other  
State Reason Below

Special Instructions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Amounts to be Refunded or Transferred:

Amount: _____	Amount: _____
Pay To: _____	Pay To: _____
Address: _____	Address: _____
_____	_____
Amount: _____	Amount: _____
Pay To: _____	Pay To: _____
Address: _____	Address: _____
_____	_____

USSS Authorized Representative:

Name: _____	Field Office: _____	Title: _____
Signature & Date: _____	Phone: _____	Fax: _____

**SEIZURE#:**  
**FUND:** 08640 **COST CENTER:** 98999000  
**FUNDS CENTER:** RM600 **MATERIAL GROUP:** 4429  
**FUNCTIONAL AREA:** HQ01 **AMOUNT:**  
**ORDER:** ZFX5

EOAF Signature and Date

Accomplished by NFC: \_\_\_\_\_  
NFC Signature and Date



## FORMS 3



# TREASURY FORFEITURE FUND

## Bureau of Customs and Border Protection

### COST BOND DISPOSITION INSTRUCTIONS

This Form is to be faxed to the Treasury Executive Office for Asset Forfeiture (TEOAF) to initiate the final disposition of a cost bond held in the Treasury Suspense Account. The TEOAF FAX number is 202-622-9610.

Cash Receipt Number (entered by National Office/TEOAF):

Seizure #:

<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>
----------------------	----------------------	---	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	---	----------------------	----------------------

Enter the Amount of this Cost Bond: \$ \_\_\_\_\_

If the entire cost bond was forfeited, check this box:

If a court order states that part of the cost bond is to be applied to expenses, please itemize those expenses below:

<u>Expense</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

If the court order states that part or all of the cost bond is to be returned to the claimant OR if the court order is silent in regard to the cost bond, please provide the following information:

Claimant's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional Instructions: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### TEOAF Use Only:

SEIZURE#: \_\_\_\_\_  
FUND: \_\_\_\_\_ COST CENTER: \_\_\_\_\_  
FUNDS CENTER: \_\_\_\_\_ MATERIAL GROUP: \_\_\_\_\_  
FUNCTIONAL AREA: \_\_\_\_\_ AMOUNT: \_\_\_\_\_  
ORDER: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_

This transmission was initiated by:

Name: \_\_\_\_\_

Approval: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date: \_\_\_\_\_



# TREASURY FORFEITURE FUND

## Immigration and Customs Enforcement

### COST BOND DISPOSITION INSTRUCTIONS

This Form is to be faxed to the Treasury Executive Office for Asset Forfeiture (TEOAF) to initiate the final disposition of a cost bond held in the Treasury Suspense Account. The TEOAF FAX number is 202-622-9610.

Cash Receipt Number (entered by National Office/TEOAF):

Seizure #:

		-								-				-		
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Enter the Amount of this Cost Bond: \$ \_\_\_\_\_

If the entire cost bond was forfeited, check this box:

If a court order states that part of the cost bond is to be applied to expenses, please itemize those expenses below:

<u>Expense</u>	<u>Amount</u>
	\$ _____
	\$ _____
	\$ _____

If the court order states that part or all of the cost bond is to be returned to the claimant OR if the court order is silent in regard to the cost bond, please provide the following information:

Claimant's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Additional Instructions: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

#### TEOAF Use Only:

SEIZURE#: _____	COST CENTER: _____
FUND: _____	MATERIAL GROUP: _____
FUNDS CENTER: _____	AMOUNT: _____
FUNCTIONAL AREA: _____	
ORDER: _____	
SIGNATURE: _____	

This transmission was initiated by:

Name: \_\_\_\_\_

Approval: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date: \_\_\_\_\_





# TREASURY FORFEITURE FUND

## Internal Revenue Service

### COST BOND DISPOSITION INSTRUCTIONS

This Form is to be faxed to the Treasury Executive Office for Asset Forfeiture (TEOAF) to initiate the final disposition of a cost bond held in the Treasury Suspense Account. The TEOAF FAX number is 202-622-9610.

Cash Receipt Number (entered by National Office/TEOAF):

Seizure #:

										-		
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Enter the Amount of this Cost Bond: \$ \_\_\_\_\_

If the entire cost bond was forfeited, check this box:

If a court order states that part of the cost bond is to be applied to expenses, please itemize those expenses below:

<u>Expense</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

If the court order states that part or all of the cost bond is to be returned to the claimant OR if the court order is silent in regard to the cost bond, please provide the following information:

Claimant's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Additional Instructions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

#### TEOAF Use Only:

SEIZURE#: \_\_\_\_\_

FUND: \_\_\_\_\_

COST CENTER: \_\_\_\_\_

FUNDS CENTER: \_\_\_\_\_

MATERIAL GROUP: \_\_\_\_\_

FUNCTIONAL AREA: \_\_\_\_\_

AMOUNT: \_\_\_\_\_

ORDER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

This transmission was initiated by:

Name: \_\_\_\_\_

Approval: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date: \_\_\_\_\_



# TREASURY FORFEITURE FUND

## United States Secret Service

### COST BOND DISPOSITION INSTRUCTIONS

This Form is to be faxed to the Treasury Executive Office for Asset Forfeiture (TEOAF) to initiate the final disposition of a cost bond held in the Treasury Suspense Account. The TEOAF FAX number is 202-622-9610.

Cash Receipt Number (entered by National Office/TEOAF):

Seizure #:

<input type="text"/>	<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>
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Enter the Amount of this Cost Bond: \$ \_\_\_\_\_

If the entire cost bond was forfeited, check this box:

If a court order states that part of the cost bond is to be applied to expenses, please itemize those expenses below:

<u>Expense</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

If the court order states that part or all of the cost bond is to be returned to the claimant OR if the court order is silent in regard to the cost bond, please provide the following information:

Claimant's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional Instructions: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### TEOAF Use Only:

SEIZURE#: \_\_\_\_\_

FUND: \_\_\_\_\_

FUNDS CENTER: \_\_\_\_\_

FUNCTIONAL AREA: \_\_\_\_\_

ORDER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

COST CENTER: \_\_\_\_\_

MATERIAL GROUP: \_\_\_\_\_

AMOUNT: \_\_\_\_\_

This transmission was initiated by:

Name: \_\_\_\_\_

Approval: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date: \_\_\_\_\_



# **ACH Form**



**ACH VENDOR/MISCELLANEOUS PAYMENT  
ENROLLMENT FORM**

OMB No. 1510-0056

This form is used for Automated Clearing House (ACH) payments with an addendum record that contains payment-related information processed through the Vendor Express Program. Recipients of these payments should bring this information to the attention of their financial institution when presenting this form for completion.

**PRIVACY ACT STATEMENT**

The following information is provided to comply with the Privacy Act of 1974 (P.L. 93-579). All information collected on this form is required under the provisions of 31 U.S.C. 3322 and 31 CFR 210. This information will be used by the Treasury Department to transmit payment data, by electronic means to vendor's financial institution. Failure to provide the requested information may delay or prevent the receipt of payments through the Automated Clearing House Payment System.

**AGENCY INFORMATION**

FEDERAL PROGRAM AGENCY <b>U.S. CUSTOMS AND BORDER PROTECTION</b>		
AGENCY IDENTIFIER: <b>7005</b>	AGENCY LOCATION CODE (ALC): <b>70-05-0800</b>	ACH FORMAT: <input checked="" type="checkbox"/> CCD+ <input type="checkbox"/> CTX <input type="checkbox"/> CTP
ADDRESS: <b>NATIONAL FINANCE CENTER, 6650 Telecom Drive, Suite 100</b>		
<b>INDIANAPOLIS, IN 46278</b>		
CONTACT PERSON NAME: <b>FORFEITURE FUND TEAM/Attn: Eliot VanVelzen</b>		TELEPHONE NUMBER: <b>( 317 ) 614-4613</b>
ADDITIONAL INFORMATION:		

**PAYEE/COMPANY INFORMATION**

NAME	SSN NO. OR TAXPAYER ID NO.
ADDRESS	
CONTACT PERSON NAME:	TELEPHONE NUMBER:
	(       )

**FINANCIAL INSTITUTION INFORMATION**

NAME:	
ADDRESS:	
ACH COORDINATOR NAME:	TELEPHONE NUMBER:
	(       )
NINE-DIGIT ROUTING TRANSIT NUMBER: _ _ _ _ _	
DEPOSITOR ACCOUNT TITLE:	
DEPOSITOR ACCOUNT NUMBER:	LOCKBOX NUMBER:
TYPE OF ACCOUNT: <input type="checkbox"/> CHECKING <input type="checkbox"/> SAVINGS <input type="checkbox"/> LOCKBOX	
SIGNATURE AND TITLE OF AUTHORIZED OFFICIAL: (Could be the same as ACH Coordinator)	TELEPHONE NUMBER: (       )





# IPAC Input Form



The Intra-Governmental Payment and Collection (IPAC) form is necessary to transfer funds to another government agency, such as the DOJ Forfeiture Fund. The IPAC form must be accompanied by a Form 2 or Form 7 along with back-up documentation.

(Accounting is handled by the DHS Customs and Border Protection National Finance Center)

### IPAC Input Form

<b>Originating ALC</b>	<input type="text" value="70050800"/>	<b>Customer ALC</b>	<input type="text"/>		
<b>ALC Contact</b>	Ron Ferguson	<b>Contact Phone</b>	317-614-4616		
<b>Receiver Treasury Account Symbol</b>	<input type="text" value="20x5697"/>	<b>Sender Treasury Account Symbol</b>	<input type="text"/>	<b>Receiver Dept. Code</b>	<input type="text"/>
<b>Purchase Order Number</b>	<input type="text"/>	<b>Invoice Number</b>	<input type="text"/>	<b>Obligating Document Number</b>	<input type="text"/>
<b>Requisition Number</b>	<input type="text"/>	<b>Contract Number</b>	<input type="text"/>	<b>CLIN</b>	<input type="text"/>
<b>JAS Number</b>	<input type="text"/>	<b>ACT (trace Number)</b>	<input type="text"/>	<b>Job (project Number)</b>	<input type="text"/>
<b>Quantity</b>	<input type="text"/>	<b>Unit Price</b>	<input type="text"/>	<b>Detail Amount</b>	<input type="text"/>
<b>Pay Flag</b>	<input type="text" value="Final"/>	<b>Unit of Issue</b>	<input type="text" value="ea"/>	<b>ACRN</b>	<input type="text"/>
<b>Accounting Classification</b>	<input type="text"/>	<b>FSN/AAA/ADSN</b>	<input type="text"/>	<b>DOD Activity Address Code</b>	<input type="text"/>
<b>Transaction Contact</b>	<input type="text"/>	<b>Contact Phone</b>	<input type="text"/>		

**Miscellaneous Information**



# **EXHIBIT C: DOJ RESTORATION POLICY**



October 15, 2002

MEMORANDUM

TO: All Criminal Division Section Chiefs and Office Directors  
All United States Attorneys  
Director, Asset Forfeiture Management Staff,  
Justice Management Division  
Director, Executive Office for U.S. Attorneys  
Director, U.S. Marshals Service  
Director, Federal Bureau of Investigation  
Administrator, Drug Enforcement Administration  
Commissioner, Immigration and Naturalization Service  
Chief Postal Inspector, Postal Inspection Service  
Commissioner, Food and Drug Administration

FROM: Michael Chertoff  
Assistant Attorney General

SUBJECT: Forfeiture Policy Directive 02-1: Guidelines and Procedures for Restoration of Forfeited Property to Crime Victims via Restitution in lieu of Remission

The Department of Justice's Forfeiture Policy Directive 02-1: Guidelines and Procedures for Restoration of Forfeited Property to Crime Victims via Restitution in lieu of Remission (Restoration Guidelines) is attached. The Restoration Guidelines are intended to be used in cases where both restitution to compensate victims and a related forfeiture, either civil, criminal or administrative, have been ordered.

Assistant U.S. Attorneys now will be able to forfeit the defendant's property and represent to the court and to victims that, where other property is insufficient to satisfy the order of restitution, the forfeited property will be applied to restitution. The Restoration Guidelines are a standardized alternative procedure to petitions for remission designed to accommodate victims and the courts to the extent possible while still meeting statutory requirements. They enable the United States to complete the forfeiture and recover costs and allow victims to obtain fair compensation from the forfeited assets in accordance with the court's restitution order without having to go through the process of filing petitions for remission with the Government and awaiting decision. The advantage for non-owner victims from application of the Restoration Guidelines is that the victims will not need to file a petition for remission in order to be compensated. Where there are no petitions for remission from owners or lienholders to be decided first, or where such petitions can be disposed of quickly, the Restoration Guidelines also will expedite the compensation of non-owner victims.

The remission process is still available to victims where prosecutors prefer that route, and where there is no court order of restitution, victims must file petitions for remission.

Questions concerning this policy directive should be addressed to John Roth, Chief, or Nancy L. Rider, Deputy Chief for Asset Forfeiture Programs, at the Asset Forfeiture and Money Laundering Section at (202) 514-1263.

Attachment

cc: Director, Department of the Treasury  
Executive Office for Asset Forfeiture



## FORFEITURE POLICY DIRECTIVE 02-1

### **Guidelines and Procedures for Restoration of Forfeited Property to Crime Victims via Restitution in lieu of Remission**

#### I. Purpose

The guidelines and procedures set forth in this policy directive are intended to expedite the transfer of forfeited property to the victims of the crimes underlying forfeitures, or related offenses, by releasing forfeited property, in appropriate cases, to satisfy victim restitution orders in forfeiture-related criminal cases in lieu of requiring such victims to petition the Attorney General for remission of the forfeited property.

#### II. Authority

With respect to property ordered forfeited under the criminal forfeiture statutes, the Attorney General has statutory authority to:

... grant petitions for remission or mitigation of forfeiture, restore forfeited property to victims of a violation of [the applicable chapter or subchapter], or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of [the applicable chapter or section] . . . .

18 U.S.C. §§ 1467(h)(1) (obscene material); 1963(g)(1), 2253(h)(1) (sexual exploitation of minors); 21 U.S.C. § 853(i)(1) (controlled substances); and by incorporation of 21 U.S.C. § 853(i)(1) by reference, 18 U.S.C. §§ 793(h)(3) and 794(d)(3) (espionage); 982(b)(1) (money laundering and other offenses).

In civil forfeitures also, the Attorney General is authorized to decide petitions for remission or mitigation. See, e.g., 18 U.S.C. § 981(d), 21 U.S.C. § 881(d). In addition, 18 U.S.C. § 981 authorizes the Attorney General, in section 981 civil forfeitures, to transfer the forfeited property “as restoration to any victim of the offense giving rise to the forfeiture, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity.” 18 U.S.C. § 981(e)(6).

The authority of the Attorney General to grant petitions for remission or mitigation in criminal and civil judicial forfeitures is delegated to the Chief, Asset Forfeiture and Money Laundering Section, Criminal Division (AFMLS) by title 28, Code of Federal Regulations, Part 9 (28 CFR 9), at 28 CFR 9.1(b)(2). In addition, the Attorney General has delegated to the Chief, AFMLS, the authority pursuant to any civil or criminal forfeiture statute enforced or administered by the Department of Justice (e.g. 18 U.S.C. §§ 981(e)(6), 1963(g)(1) and 982(b)(1) (incorporating 21 U.S.C. § 853(i)(1)), “to restore forfeited property to victims or take other actions to protect the rights of innocent persons in civil or criminal forfeitures that are in the interest of justice and that are not inconsistent with the provisions of the statute.” Attorney General Order No. 2088-97 (June 14, 1997). Accordingly, in appropriate cases, the Chief of AFMLS has discretionary authority to authorize the “restoration” of forfeited property to compensate victims by means of court-ordered restitution.

Pursuant to this “restoration” authority and applying the Guidelines for Restoration Decisions set forth in section III below and the Procedures for Restoration Decisions set forth in section IV below, the Chief of AFMLS, in appropriate cases, may authorize federally-forfeited property or proceeds to be transferred to the court for use in satisfaction of orders of restitution entered at sentencing pursuant to 18 U.S.C. § 3363 et seq. Such authority may be used by the Chief of AFMLS in lieu of the separate authority and procedures set forth at 28 CFR 9, governing Petitions for Remission or Mitigation of forfeited property to victims. However, insofar as is reasonably feasible, such authority will be used to accomplish results that are not inconsistent with the standards set forth at 28 CFR § 9.8 for determining remission of forfeited property to non-owner victims. Additionally, insofar as may be applicable and not inconsistent with the standards or procedures herein, the other provisions of 28 CFR Part 9 also shall apply.

### **III. Guidelines for Restoration Decisions**

- A. Representations. The Chief of AFMLS will grant restoration requests submitted in accordance with section IV. A. below only when the U.S. Attorney, or his or her delegee, has informed AFMLS of the following in writing:
  - 1. All known victims have been properly notified of the restitution proceedings and are properly accounted for in the restitution order;

2. To the best of knowledge and belief after consultation with the seizing agency, the losses described in the restitution order have been verified and reflect all sources of compensation received by the victims, including returns on investments, interest payments, insurance proceeds, refunds, settlement payments, lawsuit awards, and any other sources of compensation for their losses;
  3. To the best of knowledge and belief after consultation with the seizing agency, reasonable efforts to locate additional assets establish that the victims do not have recourse reasonably available to other assets from which to obtain compensation for their losses, including, other assets owned or controlled by the defendant(s); and
  4. There is no evidence to suggest that any of the victims knowingly contributed to, participated in, benefitted from, or acted in a willfully blind manner toward the commission of the offenses underlying the forfeiture, or related offenses.
- B. Statutory Authority. The property to be restored must be forfeited pursuant to a statute that explicitly authorizes restoration or remission of forfeited property to victims. See, e.g., 18 U.S.C. § 981(e)(6); 18 U.S.C. 982(b)(1) (incorporating the provisions of 21 U.S.C. § 853(i)(1)); and 18 U.S.C. § 1963(g)(1).
- C. Pro-Rata. Restoration will be granted only to the victims and in the amounts described in the court's restitution order, or a pro-rata percentage based on such amounts.
- D. Allowed Losses. The losses allowed in the restitution order should primarily represent monetary losses directly caused by the illegal activities underlying the forfeiture. The Chief of AFMLS may refuse to grant restoration where a pro-rata distribution to the victims would be unduly skewed in favor of one or more victims who suffered non-monetary losses or losses associated with torts, physical injuries, interest foregone, or collateral expenses incurred to recover lost property or to seek other recompense (although such expenses may constitute some of the losses allowed in the restitution order).

- E. Priority. Restoration decisions must not prejudice the judicial or administrative claims of owners, lienholders, and federal financial institution regulatory agencies pursuant to the Memorandum of Understanding Governing Financial Institution Reform, Recovery, and Enforcement Act Forfeiture Cases (FIRREA MOU (U.S. Attorneys' Manual, section 9-119.500)). Such claims shall have the same priority over non-owner victims in the restoration process as in the remission process. Accordingly, Petitions for Remission or Mitigation based upon such claims must be decided by the seizing agency (in administrative cases) or the Chief of AFMLS (in judicial cases) pursuant to 28 C.F.R. Part 9 and (if granted) paid prior to payment of restoration decisions. Restoration payments will be made from the net proceeds remaining after payment of allowed costs, and the claims of owners, lienholders, and others recognized in the final order of forfeiture and/or through petitions for remission.
- F. Petitions for Remission or Mitigation. To expedite resolution of restoration requests, when necessary, decisions on restoration requests may be made *subject to* pending decisions on Petitions for Remission by owners, lienholders and federal financial institution regulatory agencies (as opposed to *delaying* a decision on the restoration request until after all Petitions for Remission or Mitigation are decided).

#### IV. Procedures for Restoration Decisions

- A. Restoration Requests. The U.S. Attorney's Office will forward a copy of the restitution order to the Chief of AFMLS along with a written request that property forfeited in the same and/or related civil, criminal, or administrative forfeiture proceedings be used to compensate the victims and losses specified in the restitution order. The written request must identify each asset involved including the seizing agency involved and, where applicable, the agency seizure number. The request and order shall be accompanied by the written representations required of the U.S. Attorney, or his or her delegee, by section III. A. above. In cases where an order of restitution is anticipated but has not yet been signed and entered, a draft restitution order may be submitted to AFMLS at any time for an informal advance decision, which AFMLS will

formally finalize after receipt of a copy of the final restitution order entered. In addition, pursuant to section V. below, the U.S. Attorney, or his or her delegee, may place a 12-month “hold” on the final distribution of net proceeds of property subject to civil or administrative forfeiture pending issuance of a criminal restitution order. However, such holds will not apply to administrative forfeitures by non-Department of Justice seizing agencies unless the U.S. Attorney’s Office obtains the written concurrence of the local agency SAC or other appropriate agency official.

- B. Time Limits. Restoration requests must be sent to AFMLS within 30 days of the entry of the restitution order in the Consolidated Asset Tracking System (CATS). The U.S. Attorney’s Office must enter restitution orders in CATS within 5 days of sentencing.
- C. Evidentiary Basis. U.S. Attorneys’ Offices should work closely with the Probation Office and the investigative agency for the criminal case in formulating restitution awards to ensure that the victims’ losses are supported by documentary evidence, including invoices and receipts.
- D. Seizing Agency Investigation. The U.S. Attorney’s Office may direct the investigative agency for the criminal case to investigate the merits of victims’ claims, including, specifically, the claimed losses and the eligibility of the victims in accordance with section III. A. above. When requested, the investigative agency shall submit to the U.S. Attorney’s Office a report of its investigation and its recommendation on whether the victims’ claims should be recognized or opposed. The U.S. Attorney’s Office shall forward a copy of the investigative agency’s report and recommendation, if any, to the Chief of AFMLS along with the written request for restoration approval.

- E. Decision by AFMLS. Using the Guidelines for Restoration Decisions set forth above in section III, the Chief of AFMLS will determine, on a case-by-case basis, whether the restoration request will be granted. In cases involving assets forfeited administratively by a seizing agency other than a Department of Justice seizing agency, the Chief of AFMLS will need the concurrence of that agency in order to grant the restoration request as to those assets.

If the Chief of AFMLS denies the restoration request, AFMLS will advise the U.S. Attorney's Office of the denial, and disposition of forfeited property to victims will be decided through the Petition for Remission process pursuant to 28 C.F.R. Part 9. If the Chief of AFMLS grants the restoration request, AFMLS will forward a copy of the restoration decision to the U.S. Attorney's Office, and to the U.S. Marshals Service headquarters (and/or to the appropriate property custodian for any forfeited property being restored that is not held by the U.S. Marshals Service), which will coordinate disbursement of the net proceeds of the subject forfeiture(s) (administrative, civil, and/or criminal), after satisfaction of allowed costs and any rulings on Petitions for Remission or Mitigation of Forfeiture filed by owners, lienholders and/or federal financial institution regulatory agencies under the FIRREA MOU, to the court for satisfaction of the restitution order. Restoration decisions shall apply to the net proceeds of any and all property forfeited in related administrative, civil, and/or criminal forfeiture proceedings not yet distributed to compensate victims of the offenses underlying the forfeiture, or related offenses.

**V. Guidelines for Imposing 12-Month Hold Pending Entry of a Restitution Order**

In appropriate cases (usually fraud cases with forfeited proceeds), the U.S. Attorney, or his or her delegee, may place a 12-month "hold" on the final distribution of net proceeds of property subject to civil forfeiture or to administrative forfeiture by a Department of Justice seizing agency pending entry of a restitution order.<sup>1</sup> The U.S. Attorney's Office will enter the "hold" in CATS as to each asset (including frozen, indicted, restrained, or encumbered assets) and the effective date of the "hold" will be the date of its entry in CATS by the U.S. Attorney's Office. The "hold" will remain in place for up to 12 months unless it is continued by the seizing agency or AFMLS at the end of the 12-month period

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<sup>1</sup> The U.S. Attorney's Office's decision to forfeit property judicially rather than administratively should not be confused with the "hold," which refers only to the proceeds of a completed forfeiture.

pursuant to section V. B. below or released by the U.S. Attorney's Office at any time pursuant to section V.C. below. Once entered into CATS, the "hold" will prevent the seizing agency (in administrative forfeitures by Department of Justice seizing agencies) or the Chief of AFMLS (in judicial cases) from granting Petitions for Remission or Mitigation from non-owner victims. It will also prevent entry or execution of decisions on any official use or equitable sharing requests. The hold will have no effect on the forfeiture proceedings governing such property or the ability to liquidate the property once forfeited or to dispose of the property as otherwise ordered by the court. Holds will effectively override all requests for retention or transfer for official use. Further, the hold shall not prevent processing and, where appropriate, payment of Petitions for Remission or Mitigation filed by owners and lienholders (pursuant to 28 C.F.R. Part 9), and federal financial institution regulatory agencies (pursuant to the FIRREA MOU), or the payment of awards and property management expenses, and the hold will not prevent decisions to deny, withdraw, or extinguish Petitions for Remission or Mitigation, or requests for equitable sharing or official use.

In deciding whether to place a "12-month hold" on proceeds of related administrative or civil forfeitures, the U.S. Attorney, or his or her delegee, should consider whether it is more efficient to compensate all victims through the restoration process or to allow the seizing agency (in administrative cases) or the Chief of AFMLS (in judicial cases) to proceed with the remission process. In some cases, it might be better to use the remission process to provide the victims with at least partial compensation immediately, rather than to make them wait until completion of a criminal prosecution and entry of a restitution order to obtain any compensation. On the other hand, if a victim could use the remission process to obtain a greater percentage of compensation than similarly situated victims who chose to pursue only the restitution route, then it might be better to require all victims to be compensated through the restoration process.

- A. Notification. The U.S. Attorney's Office will notify, in writing, the U.S. Marshals Service and the Department of Justice seizing agency (in administrative cases) or the Chief of AFMLS (in judicial cases) of the imposition of a 12-month hold. If the U.S. Attorney's Office wishes to place a hold on the proceeds of any non-Department of Justice agency's administrative forfeiture, it must notify the local SAC or other appropriate agency official in writing and obtain written concurrence. Upon entry of a hold decision, CATS will not allow decisions on non-owner victim petitions, equitable sharing, or official use requests to be entered for 12 months from the date of

the hold decision, but will continue to allow entry of decisions on and payments of owner, lienholder, and federal financial institution regulatory agency petitions, property management expenses, and awards. The U.S. Attorney's Office will be responsible for monitoring the status of the hold. If the forfeited property has already been transferred to an owner, lienholder, or federal financial institution regulatory agency, placed into official use, or equitably shared, CATS will not accept entry of the hold decision and will notify the U.S. Attorney's Office.

- B. Release or Extension of Hold Period. If a restitution order is not issued within 12 months, the seizing agency headquarters (for administratively forfeited property) or the Chief of AFMLS (for judicially forfeited property), after consulting with the U.S. Attorney's Office, may decide either to continue holding the property pending entry of a restitution order or to proceed with the petition for remission process for non-owner victims. Entry of a restitution order in CATS will automatically extend a hold for 60 days.
1. CATS will automatically release the hold if a restitution order is not issued (and entered into CATS by the U.S. Attorney's Office) or if the hold period is not extended by the seizing agency or AFMLS within 12 months from the date of the hold decision.
- C. At any time during the hold period (e.g., when restitution is denied, or the criminal case is dismissed), after consulting with the seizing agency or AFMLS, as the case may be, the U.S. Attorney's Office may release the hold on property to allow the seizing agency or AFMLS to proceed with the petition for remission process for non-owner victims (as well as equitable sharing and official use decisions).
- D. Official Use and Equitable Sharing Requests. Owners, lienholders, and federal financial institution regulatory agencies (pursuant to the FIRREA MOU) (in that order) shall have priority over non-owner victims, who in turn shall have priority over official use requests and equitable sharing requests. In appropriate cases, the U.S. Attorney, or his or her delegatee, may exempt specific forfeited assets from a 12-month hold to allow for official use or equitable



sharing requests to be granted. Such an exemption should be granted only where there will be sufficient proceeds from other forfeited assets to fully compensate any owners, lienholders, federal financial institution regulatory agencies (pursuant to the FIRREA MOU), and non-owner victims.





