

**Congressional Submission**

**U.S. Department of Justice**

**Assets Forfeiture Fund**

**FY 2008 PERFORMANCE BUDGET**

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## **I. Overview for Assets Forfeiture Fund**

### **A. Introduction**





The Assets Forfeiture Fund (AFF or Fund) was created by the Comprehensive Crime Control Act of 1984 (P.L. 98-473, dated October 12, 1984) to be a repository of the proceeds of forfeitures under any law enforced and administered by the Department of Justice (see 28 U.S.C. 524(c)).

The primary purpose of the Fund is to provide a stable source of resources to cover the costs of an effective asset forfeiture program, including the costs of seizing, evaluating, inventorying, maintaining, protecting, advertising, forfeiting, and disposing of property seized for forfeiture. Prior to creation of the Fund in 1985, costs of these activities had to be diverted from agency operational funds. The more effective an agency was in seizing property, the greater the drain on its appropriated funds. Creation of the Fund is responsible, in large measure, for the growth in the Department's forfeiture program over the past decade. A secondary benefit of an aggressive and well-managed forfeiture program is the production of surplus revenues to assist in financing important law enforcement programs. If the forfeiture program ceases to function effectively in its primary role, these surplus revenues will not be generated.

The AFF's mission has as its primary strategic goal to enforce Federal laws and prevent and reduce crime by disrupting, damaging and dismantling criminal organizations through the use of civil and criminal forfeiture. The program attempts to remove those assets that are essential to the operation of those criminal organizations and punish the criminals involved by denying them the use of the proceeds of their crimes.

Table 1 below displays the functional activities of the participating agencies. These agencies investigate or prosecute criminal activity under statutes, such as the Comprehensive Drug Abuse Prevention and Control Act of 1970, the Racketeer Influenced and Corrupt Organizations statute, the Controlled Substances Act, and the Money Laundering Control Act, or provide administrative support services to the program.

**Table 1. Asset Forfeiture Program Participants by Function <sup>1</sup>**

Function	AFMLS	AFMS	ATF	DEA	DS	EOUSA	FBI	FDA	USDA	USMS	USPS
 Investigation			X	X	X		X	X	X		X
 Litigation	X					X					
 Custody of Assets			X	X			X			X	
 Management	X	X									

The Department of Justice is requesting \$676,787,000 for expenses of the Assets Forfeiture Fund for 2008 to support the Department’s Strategic Goal 2, to enforce Federal laws and represent the rights and interests of the American People, and Strategic Goal 3, to assist state, local, and tribal efforts to prevent or reduce crime and violence. AFF spending also supports the President’s Management Agenda to improve financial performance and expand electronic government (e-gov) (e.g., in security and cost savings), and the Attorney General’s Management Agenda to streamline, eliminate or consolidate duplicative functions and utilize technology to improve government.

As an outcome of the Homeland Security Act of 2002, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) joined the Fund on January 25, 2003. In addition, the Act transferred the forfeiture functions of the Immigration and Naturalization Service to the Department of Homeland Security (DHS) on March 31, 2003. On October 1, 2004, the Bureau of Diplomatic Security, Department of State (DS), joined the AFF. The Fund subsequently includes seizures and forfeitures resulting from investigations of passport and visa fraud.

<sup>1</sup> The participants include the Asset Forfeiture and Money Laundering Section, Criminal Division (AFMLS); Asset Forfeiture Management Staff, Justice Management Division (AFMS); Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); Drug Enforcement Administration (DEA); Bureau of Diplomatic Security, Department of State; Executive Office for United States Attorneys (EOUSA); Federal Bureau of Investigation (FBI); Food and Drug Administration (FDA); United States Department of Agriculture (USDA); United States Marshals Service (USMS); and United States Postal Service (USPS).

It is increasingly important to recognize that the benefits to be achieved through inter-departmental cooperation and standardization of policies and procedures are enormous, not only from a program management perspective, but also from the perspective of preserving the due process rights of citizens. The significant effect of a less than aggressive forfeiture program is that criminal organizations have hundreds of millions of dollars more in their coffers to support their illicit operations each year.

In summary, the asset forfeiture program not only represents an effective law enforcement tool against criminal organizations but also provides financial support to other federal law enforcement efforts. Without this resource, agency funds would be seriously taxed to maintain and preserve seized assets and liquidate forfeited assets, and law enforcement projects supported by the Fund could not be undertaken or would have to await the possibility of funding through other avenues. Continuing to support aggressive training, case evaluations, funds management, and contract support are keys to extracting the greatest benefit to our society from application of the asset forfeiture sanction.

No program within the AFF has been selected for review under the Program Assessment Rating Tool (PART) process.

Beginning in FY 2007, electronic copies of the Department of Justice's congressional budget justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.usdoj.gov/jmd/2008justification/>.

## **B. Trends, Issues, and Outcomes**

Although the Fund's mission and objectives will not change in FY 2008, the challenges it faces will. The Fund's budget is integrated with the Department's Strategic Goals and Objective, and it is aligned with the President's Management Agenda.

Following is a brief summary of the Department's Strategic Goals and Objectives, in which the Fund plays a role.

DOJ Strategic Goal 2: Enforce Federal Criminal Laws and Represent the Rights and Interests of the American People (\$348,983)

- Reduce the threat, trafficking, use, and related violence of illegal drugs by identifying, disrupting, and dismantling drug trafficking organizations (2.2)

DOJ Strategic Goal 3: Assist State, Local and Tribal Efforts to Prevent or Reduce Crime and Violence (\$327,804)

- Improve the crime fighting and criminal justice system capabilities of state, tribal, and local governments (3.1)

## C. Full Program Costs

The Fund is a fee-based program. Receipts are available to pay program operations expenses, i.e., mandatory expenses of the forfeiture program, such as recognizing the equity of innocent third parties and lien holders; program investigative expenses, such as recognizing the efforts of state and local law enforcement agencies that helped produce the forfeitures; and other authorized expenses of the Fund.

For 2008, the Department is estimating \$676,787,000 for mandatory and investigative expenses. Included in this amount, providing net receipts support this expense level, is \$47.0 million to pay overtime expenses and other costs of state and local law enforcement officers engaged in joint operations with federal law enforcement agencies participating in the Fund. The Department's authority to incur program operations expenses, including recognition of the equity interests of others and the efforts of law enforcement agencies, is limited only by the level of receipts deposited into the Fund. To the extent that receipts exceed the amounts necessary for mandatory program expenses, the Fund may be used for discretionary investigative expenses.

Full program costs are identified in Section II by decision unit. Mandatory expenses increase or decrease relative to seizure and forfeiture activity, and the program is executed by its member agencies.

### 1. Performance Challenges

The challenges that impact achievement of Fund goals are complex and dynamic. New legislation and case law, technological developments, changing demographics, political decisions, and international criminal organizations are only a few factors that impact the assets forfeiture program and pose challenges that demand attention. The following situations are challenges that the Fund is facing.

#### External Challenges

- International money laundering and forfeiture investigations continue to target millions of dollars in illegal proceeds that have been secreted overseas. The repatriation of foreign assets is potentially a significant source of the Fund receipts as demonstrated by the \$89 million in Nasser-David funds deposited in 1999. As more and more countries enact legislation providing authority to assist in and undertake forfeiture and money laundering investigations, more of these funds will be subject to repatriation and forfeiture. The United States currently has a Mutual Legal Assistance Treaty (MLAT), which facilitates forfeiture cooperation, with 51 countries. In addition, more than 172 countries are parties to the Vienna Convention which provides, *inter alia*, for forfeiture assistance in drug and drug-related (i.e., money laundering) cases. The Department has made significant progress in recent years convincing foreign governments that such cooperation is in their best interest. The Department shares a significant part of any repatriated funds with its international partners. For example, since 1989, the United States has shared more than \$226 million with 33 jurisdictions and countries. These cases are very difficult to negotiate and often take years to come to fruition. However, the forfeiture parts of several major cases are ongoing and should be concluded in the next few years.
- With the reorganizations of major component agencies, the financial mid- and long-term effects are difficult to quantify; however, revenues in 2007 and 2008 are expected to increase from prior year levels. The fiscal resources of the AFF must first cover the business or operational expenses of the asset forfeiture program. The Fund is not allowed to operate at a deficit.

## Internal Challenges

The Fund faces many internal challenges in FY 2008, primarily in enhancing its financial and property management capabilities.

- **Data Quality:** The 2006 AFF/Seized Asset Deposit Fund (SADF) financial statements received an unqualified opinion; however, the independent auditors noted, as in 2005, a reportable condition in information system controls. The auditors identified weaknesses that exist in the information system controls environment. The AFF/SADF uses the Financial Management Information System (FMIS2) accounting system maintained by the Finance Staff (FS), Justice Management Division (JMD). As a result, the control improvements needed in the FMIS2 accounting system, also impact the AFF/SADF. This reportable condition and related recommendations were addressed to JMD, which has primary responsibility over FMIS2. Accordingly, no recommendations for this reportable condition were addressed to the AFF/SADF management. Additionally, management is implementing appropriate security measures in CATS.

A new reportable condition, internal controls over status of valuation of seized and forfeited property need reinforcement, was noted by the auditors. AFMS is working with participants to establish and enforce corrective actions in a timely manner.

- **Technological Developments:** The Consolidated Asset Tracking System (CATS) concluded a technology refresh of the legacy architecture, infrastructure, and user interface in 2005. The refresh project was initiated to enhance the system's ability to accommodate the requirements of the AFP participants, exploit emerging technologies by implementing a modern and efficient operating environment, and reduce overall operation and maintenance costs. While this enhancement will increase efficiency and reduce overall costs in the next few years, the need for enhancements, based on technological changes, remains a constant challenge.

## **II. Appropriations Language and Analysis of Appropriations Language**

### **Appropriations Language**

For expenses authorized by 28 U.S.C. 524(c) (1) (B), (F), and (G), \$20,990,000 to be derived from the Department of Justice Assets Forfeiture Fund.

(cancellation)

Of the unobligated balances available under this heading, \$240,000,000 is permanently cancelled.

### **Analysis of Appropriations Language**

Language has been included that proposes the permanent cancellation of \$240,000,000 of unobligated balances available in the Assets Forfeiture Fund.



### III. Decision Unit Justification

#### A. Assets Forfeiture Fund

<b>Assets Forfeiture Fund TOTAL</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2006 Enacted w/ Rescissions and Supplementals			1,143,153
2007 Estimate			552,274
2007 Changes in the Estimate			159,213
2007, Estimate, Revised			711,487
Adjustments to Base and Technical Adjustments			0
2008 Current Services			676,787
2008 Program Increases			0
2008 Offsets			0
2008 Request			676,787
<b>Total Change 2007-2008</b>			<b>-34,700</b>

<b>Mandatory Expenses, Indefinite Authority TOTAL</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2006 Enacted w/ Rescissions and Supplementals			1,121,959
2007 Estimate			531,063
2007 Changes in the Estimate			159,434
2007, Estimate, Revised			690,497
Adjustments to Base and Technical Adjustments			0
2008 Current Services			655,797
2008 Program Increases			0
2008 Offsets			0
2008 Request			655,797
<b>Total Change 2007-2008</b>			<b>-34,700</b>

<b>Appropriated Expenses, Definite Authority, TOTAL</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2006 Enacted w/ Rescissions and Supplementals			21,194
2007 Estimate			21,211
2007 Estimate Changes			-221
2007, Estimate, Revised			20,990
Adjustments to Base and Technical Adjustments			0
2008 Current Services			20,990
2008 Program Increases			0
2008 Offsets			0
2008 Request			20,990
<b>Total Change 2007-2008</b>			<b>0</b>

**Assets Forfeiture Fund**  
**Summary of Requirements by Financing**  
(Dollars in Thousands)

<b><u>Financing</u></b>	2006 Actual <u>Amount</u>	2007 Appropriation Enacted with Rescissions and <u>Supplemental</u>	2008 Current Services and Request	2007-2008 Total <u>Change</u>
<b>Unobligated balance of receipts, start-of-year</b>				
Available for start-up expenses	187,782	214,135	192,000	-22,135
Committed to other purposes:				
Super surplus balances unobligated	1,263	50,436	0	-50,436
Major Sharing Reserves	72,600	133,872	130,453	-3,419
Total: committed to other purposes	<u>73,863</u>	<u>184,308</u>	<u>130,453</u>	<u>-53,855</u>
Unappropriated balance of receipts, start-of-year	261,645	398,443	322,453	-75,990
<b>Collections/deposits/receipts/recoveries:</b>				
Regular receipts	1,143,336	762,000	764,000	2,000
Prior year rescissions restored	102,091	102,274	152,787	50,513
Recoveries/Refunds of prior year obligations	26,897	0	0	0
Current year rescissions	-102,274	0	0	0
Proposed rescission	<u>0</u>	<u>-152,787</u>	<u>-240,000</u>	<u>-87,213</u>
Collections/deposits/receipts/recoveries:	1,170,050	711,487	676,787	-34,700
Total resources available	1,431,695	1,109,930	999,240	-110,690
<b>Less: Unappropriated balance of receipts, end-of-year</b>				
Start-up expenses for following year	-214,135	-192,000	-192,000	0
Prior surplus balances carried forward	-50,436	0	0	0
Major Sharing Reserves	<u>-133,872</u>	<u>-130,453</u>	<u>-186,542</u>	<u>-56,089</u>
Unappropriated balance of receipts, end-of-year	-398,443	-322,453	-378,542	-56,089
				0
Total obligations	1,033,252	787,477	620,698	-166,779

**Assets Forfeiture Fund**  
**Obligations by Type of Expense**  
(Dollars in Thousands)

	2006 Actual <u>Amount</u>	2007 Appropriation Enacted with Rescissions and <u>Supplemental</u>	2008 Current Services and Request	2007 - 2008 <u>Total Change</u>
<i><b>Mandatory expenses: (indefinite authority)</b></i>				
<b>Case support expenses:</b>				
Asset management and disposal	43,891	44,000	44,000	0
Third Party Payments	403,705	163,787	52,000	-111,787
Case Related Expenses	28,649	36,000	36,000	0
Special contract services	56,714	62,000	62,000	0
Investigative Expenses Leading to Seizure	15,000	15,000	15,000	0
Contracts to identify assets	6,895	8,000	8,000	0
Awards for information leading to a forfeiture	7,200	8,000	8,000	0
<b>Program support expenses:</b>				
Automated data processing	15,008	15,500	15,500	0
Training and printing	9,005	15,500	15,500	0
Other program management	13,604	23,000	23,000	0
<b>Other authorized expenses:</b>				
Storage, protection & destruction of controlled substances	6,048	3,600	3,600	0
Equitable sharing payments	324,694	308,345	270,108	-38,237
Joint Federal/state and local law enforcement operations	<u>73,718</u>	<u>47,000</u>	<u>47,000</u>	0
Subtotal: Mandatory expenses	1,004,131	749,732	599,708	-150,024
<i><b>Investigative expenses: (definite authority)</b></i>				
Awards for information	12,136	12,485	12,485	0
Purchase of evidence	7,315	7,500	7,500	0
Equipping of conveyances	<u>1,707</u>	<u>1,005</u>	<u>1,005</u>	0
Subtotal: Investigative expenses	21,158	20,990	20,990	0
Total, mandatory and investigative expenses	1,025,289	770,722	620,698	-150,024
Super surplus amounts obligated	<u>7,963</u>	<u>16,755</u>	<u>0</u>	-16,755
Total gross obligations	1,033,252	787,477	620,698	-166,779

## 1. Program Description

### Current Services Program Description

#### A. Mandatory Expenses, Indefinite Authority

1.	Management and Disposal of Seized Assets			
	<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>	
	\$44,000,000	\$44,000,000	\$0	

While seizures are increasing and there may be some accompanying increases in the costs of asset management and disposal, efficiencies will be sought to contain costs. The primary purpose of the Fund is to ensure an adequate and appropriate source of funding for the management and disposal of property seized for forfeiture, as well as forfeited assets, which would otherwise be paid by seizing agencies out of operating budgets funded by taxpayer dollars. The Fund puts criminals' money to work for the taxpayer. Other costs may also increase because of higher rates for services and the movement to more comprehensive management and maintenance services. Also, funding is required for the assessment, containment, removal and destruction of hazardous materials seized for forfeiture, and hazardous waste contaminated property seized for forfeiture. The USMS and DEA will continue to utilize the Fund for disposal of toxic and hazardous substances when necessary for forfeiture or the disposition of forfeited property. Under this category and Other Program Management, approximately \$9.0 million are provided to the USMS for the cost of administrative personnel associated with the forfeiture program and \$6.0 million for non-personnel administrative costs.

2.	Other Asset Specific Expenses			
	<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>	
	\$199,787,000	\$88,000,000	-\$111,787,000	

This category includes payments to satisfy third-party interests, including lien holders and other innocent parties, pursuant to 28 U.S.C. § 524(c)(1)(D); payments in connection with the remission and mitigation of forfeitures, pursuant to 28 U.S.C. § 524(c)(1)(E); and direct expenses incurred in perfecting the forfeiture. Also included in this expense category are expenses associated with the prosecution of a forfeiture case or execution of a forfeiture judgment, such as advertising, travel and subsistence, court and deposition reporting, courtroom exhibit services, and expert witness costs. In appropriate cases, the services of foreign counsel may be necessary. In this area, the costs of advertising are a major expense. Under current law, the Department must advertise each seizure three consecutive weeks in a newspaper of general circulation in the area of the seizure. In addition, the Department must also incur the cost of providing personal notice, by certified mail or other means, to all individuals or entities identified as having a potential legal interest in the property. If a claim is filed and the forfeiture process is converted from an administrative process to a judicial process, the entire notice and advertising process is repeated--doubling the cost. This expense is directly related to the volume of seizures and claims. It is essential that these expenses be met in order that the asset title conveys properly, while ensuring due process rights of citizens. The 2007 estimate includes over \$100,000,000 in accrued liabilities for payments to victims of a major fraud case. Forfeited assets from this case were deposited in the AFF during 2006. For FY 2008, a more normal rate of activity is anticipated.

3. Special Contract Services			
	<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
	\$62,000,000	\$62,000,000	\$0

The Department of Justice asset forfeiture program is extensively using contract personnel to manage the massive paper flow associated with forfeiture, including data entry, data analysis, word processing, file control, file review, quality control, case file preparation and other process support functions. These workers have become an integral part of the asset forfeiture program. Without this contract support, it would be impossible to maintain the automated databases, process the tens of thousands of equitable sharing requests, and maintain the tens of thousands of forfeiture case files.

4. Investigative Expenses Leading to Seizure			
	<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
	\$15,000,000	\$15,000,000	\$0

Investigative expenses are those normally incurred in the identification, location, and seizure of property subject to forfeiture. These include payments to reimburse any Federal agency participating in the Fund for investigative costs leading to seizures.

5. Contracts to Identify Assets			
	<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
	\$8,000,000	\$8,000,000	\$0

Investigative agencies use these funds for subscription services to nationwide public record data systems, and for acquisition of specialized assistance, such as reconstruction of seized financial records. Demand for these services will increase as more agents graduate from the training programs and use the asset forfeiture sanction in their cases; however, it is anticipated that costs will be controlled through volume economies. Resources requested will be used to identify assets during the investigative stage of the case, where such research will enhance effective use of the asset forfeiture sanction. If the government can improve upon the identification of ill-gotten assets, the insidious nature of the criminal wrongdoing can be better demonstrated and reinforced before the jury. Such evidence results in stiffer penalties for hard-core criminals who may have dodged such penalties in the past by successfully concealing such assets, only to be released to finance further criminal activities with such assets. It is this kind of "criminal financing" that the forfeiture laws are intended to derail.

5. Awards for Information Leading to Forfeiture			
	<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
	\$8,000,000	\$8,000,000	\$0

Section 114 of Public Law 104-208, dated September 30, 1996, amended the Justice Fund statute to treat payments of awards based on the amount of the forfeiture the same as other costs of a forfeiture. Historically, this authority represented less than 10 percent of award payments.

6. Automated Data Processing (ADP)			
	<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
	\$15,500,000	\$15,500,000	\$0

CATS (Consolidated Asset Tracking System) was initiated in 1990 and fully implemented in 1997. The year 1997 was a major milestone for the asset forfeiture program. CATS began providing nationwide processing capabilities that tied together all agencies involved in the Department of Justice asset forfeiture program. Agency legacy data bases were converted to CATS, operating procedures updated, and system users retrained. For the first time, on a full-year basis in 1997, the Department of Justice prepared complete reports on all asset forfeiture activity on a real time basis; investigative and judicial agencies had available the actual results of their efforts; and office, agency and Department managers were able to assess the efficiency of the forfeiture program and estimate future program results in a more informed manner.

CATS enables more than a thousand locations access to a central database to perform full asset forfeiture lifecycle tasks more efficiently; eliminates redundant data capture, and provides consistency and standardization for agencies performing similar functions. The system provides current information to field personnel on the status and results of cases; integrates limited financial analysis capabilities into the inventory management process; provides a rational process for the estimation of program income and expenses; provides a formal basis for the assessment of staffing requirements; and provides the capability for agency and Department managers to review and assess program activity dynamically.

Resources will provide for recurring costs for telecommunications support; recurring costs for system and equipment maintenance; costs for user support and help desk; data center charges in support of CATS; software maintenance; user training; and equipment.

7. Training and Printing			
	<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
	\$15,500,000	\$15,500,000	\$0

This category funds expenses for training personnel on aspects of the federal forfeiture program as well as other training necessary to maintain the competency of federal and contractor personnel dedicated to performing federal forfeiture functions. Printing costs reflect the continuing need to provide current legal advice and support. Expenses include updating and distributing manuals and pamphlets directly related to forfeiture issues, policies, and procedures.

8. Other Program Management Expenses			
	<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
	\$23,000,000	\$23,000,000	\$0

This category includes several types of expenses that are important to the overall management of the asset forfeiture program: management analysis, performance assessment, problem analysis, requirements analyses, policy development, and other special projects designed to improve program performance. This funding will provide travel and per diem funds for temporary duty assignments needed to correct program deficiencies. Other activities funded under this heading include the annual audit of financial statements of the Assets Forfeiture Fund and the Seized Asset Deposit Fund by

an independent accounting firm, and special assessments and reviews. This category also finances the AFMS, JMD and, since 2001, USMS headquarters administrative personnel and non-personnel costs associated with the forfeiture program.

9. Storage, Protection, and Destruction of Controlled Substances		
<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
\$3,600,000	\$3,600,000	\$0

These expenses are incurred to store, protect and/or destroy controlled substances. In 2006 and 2007, provided sufficient receipts are available, \$4 million per year are proposed for this expense category.

10. Equitable Sharing Payments		
<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
\$308,345,000	\$270,108,000	-\$38,237,000

The equitable sharing activity in 2008 is expected to be less compared to 2007. These funds are reserved until the receipt of the final forfeiture orders that result in distributions to the participants. Equitable sharing payments represent the transfer of portions of federally forfeited cash and proceeds from the sale of forfeited property to state and local law enforcement agencies and foreign governments that directly assisted in targeting or seizing the property. Most task force cases, for example, result in property forfeitures whose proceeds are shared among the participating agencies.

11. Joint Federal/State and Local Law Enforcement Operations		
<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
\$47,000,000	\$47,000,000	\$0

Public Law 102-393, referred to as the 1993 Treasury Appropriations Act, amended Title 28 U.S.C. 524(c), enacted new authority for the Fund to pay for "overtime, travel, fuel, training, equipment, and other similar costs of state or local law enforcement officers that are incurred in a joint law enforcement operation with a federal law enforcement agency participating in the Fund." Such cooperative efforts have significant potential to benefit federal, state, and local law enforcement efforts.

## B. INVESTIGATIVE EXPENSES

### Definite, Appropriated (discretionary) Authority

1. Awards for Information and Purchase of Evidence		
<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
\$19,985,000	\$19,985,000	\$0

Awards payable from the Fund directly support law enforcement efforts by encouraging the cooperation and assistance of informants. The Fund may also be used to purchase evidence of violations of drug laws, Racketeering Influenced and Corrupt Organizations (RICO), and criminal money laundering laws. Payment of awards to sources of information creates tremendous motivation for individuals to assist the government in the investigation of criminal activity and the seizure of assets. Many cases would be impossible to bring to trial

without the information from cooperating individuals. Even when the government has reason to believe criminal activity is occurring, an inside informant can facilitate the cost-effective deployment of investigative resources to obtain the greatest results. These expense categories are used in support of the Attorney General's highest priority programs, and represent resources that become increasingly precious as law enforcement budgets are curtailed to meet deficit reduction goals.

2. Equipping of Conveyances

<u>FY 2007 Estimate</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
\$1,005,000	\$1,005,000	\$0

This category provides funding to equip vehicles, vessels or aircraft for law enforcement functions, but not to acquire them. Purchased equipment must be affixed to the conveyance and used integrally with the conveyance. This funding is used for emergency and communications equipment, voice privacy and surveillance equipment, armoring, and engine upgrades and avionic equipment for aircraft. It is only through Fund resources that many of these surveillance vehicles are available to the field districts that need them. DEA uses surveillance vans as stationary and mobile platforms to conduct surveillance and gather intelligence, the cornerstone of cases against most major drug violators. In addition, evidence obtained through the use of such surveillance often provides the audio and video documentation necessary for conviction.

C. RESCISSION/CANCELLATION

<u>FY 2007</u>	<u>FY 2008 Estimate</u>	<u>Increase/Decrease</u>
-\$153,787,000	-\$240,000,000	-\$86,213,000

For 2007, a rescission of \$120,000,000 in unobligated balances available (Super Surplus) in the Assets Forfeiture Fund was proposed in the President's budget; however, operating under 2007 continuing resolutions, at the lower of 2006 or House mark, \$153,787,000 in unobligated balances is unavailable. For 2008, a permanent cancellation of \$240,000,000 in unobligated balances is proposed.



**PERFORMANCE AND RESOURCES TABLE**

**Decision Unit: Assets Forfeiture Fund**

**DOJ Strategic Goal/Objective: Goal 2: Enforce Federal Laws and Represent the Rights and Interests of the American People and**

**Goal 3: Assist State and Tribal Efforts to Prevent or Redfuce Crime and Violence <sup>A</sup>**

<b>WORKLOAD/ RESOURCES</b>		<b>Final Target</b>		<b>Actual</b>		<b>Estimate</b>		<b>Changes</b>		<b>Requested (Total)</b>	
		<b>FY 2006</b>		<b>FY 2006</b>		<b>FY 2007</b>		<b>Current Services Adjustments and FY 2008 Program Changes</b>		<b>FY 2008 Request</b>	
<b>Workload <sup>B</sup></b>											
<b>Total Costs and FTE <sup>C</sup></b> (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>
		[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
<b>TYPE/ STRATEGIC OBJECTIVE</b>	<b>PERFORMANCE</b>	<b>FY 2006</b>		<b>FY 2006</b>		<b>FY 2007</b>		<b>Current Services Adjustments and FY 2008 Program Changes</b>		<b>FY 2008 Request</b>	
<b>Program Activity</b>	Management of the AFF	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>
	Provide financial support, control, and guidance to Fund participants in accordance with the Attorney General's Guidelines on Seized and Forfeited Property, July 1990.	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
<b>Performance Measure</b>	Percent of time CATS is accessible.										
<b>Efficiency Measure</b>											
<b>OUTCOME</b>	Achieve effective funds control as corroborated by an unqualified opinion on the AFF financial statements.										

<sup>A</sup> The performance by and resources allocated to the AFF participants are indicated in their respective budgets.

<sup>B</sup> Only the performance by the AFMS in the financial management of the AFF is indicated.

<sup>C</sup> No FTE's are directly associated with the AFF. The FTE's (18 authorized) are established in the WCF and are funded by the AFF.

**PERFORMANCE MEASURE TABLE**

**Decision Unit: Assets Forfeiture Fund**

Performance Report and Performance Plan Targets		FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006		FY 2007	FY 2008
		Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
<b>Performance Measure <sup>D</sup></b>	Provide support, control and guidance to Fund participants in accordance with the Attorney General's Guidelines on Seized and Forfeited Property, July 1990.	100%	100%	100%	100%	100%	100%	N/A	N/A	N/A	N/A
<b>Performance Measure <sup>E</sup></b>	Provide initial allocation of funds to participants by RA or SA not later than October 1.	100%	100%	100%	100%	100%	100%	11	N/A	11	N/A
<b>Performance Measure <sup>E</sup></b>	Provide response to reallocation request of funds within 30 days from receipt.	N/A	N/A	N/A	N/A	N/A	N/A	30	N/A	30	N/A
<b>Performance Measure <sup>F</sup></b>	Percent of time CATS is accessible.	N/A	N/A	N/A	N/A	99.10%	99.61%	99.40%	99.60%	99.60%	99.80%
<b>OUTCOME Measure</b>	Achieve effective funds control as corroborated by an unqualified opinion on the AFF financial statements.	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

N/A = Data unavailable

<sup>D</sup> This measure was discontinued in FY 2005.

<sup>E</sup> These measures were discontinued in FY 2006.

<sup>F</sup> This measure was revised in FY 2004.

## Data Definitions

FTE. See Note C for AFMS FTE information. The AFF also reimburses the USMS for the salaries of administrative personnel responsible for the AFF's property custodial functions, but their associated FTE's reside in the USMS accounts.

Funding. The source of AFF funds is from the receipts realized by the AFF in the respective years. Because the AFF is a permanent indefinite fund, however, it may fund its activities from the unobligated balances carried forward from prior years.

Workload. One of the tasks of the Fund managers is to project Fund activities. As a result of a reevaluation of the Fund's performance measures, in 2001 the indicators were changed to more accurately reflect the activities of the Fund administrators rather than the Fund participants.

Performance Measure 1. CATS is available to participating AFF customers from 8:00 a.m. to 8:00 p.m., Eastern Standard Time, Monday through Friday, excluding all Federal holidays and/or local government closures. Normally scheduled maintenance outages are conducted during non-operational hours (weekends, holidays, and off-hours). Emergency outages and system failures occurring during the core operational hours will impact CATS availability to its customer base. For calendar year 2008, the total number of core supported hours is approximately 3,000. The goal is to provide 99.8 percent availability to customers.

**2008 Performance Plan.** The 2008 plan entails supporting law enforcement authorities in the application of specific forfeiture statutes to prevent and reduce crime by the efficient and timely allocation of resources to cover the costs of an effective asset forfeiture program.

## **2. Performance, Resources, and Strategies**

**The Fund contributes to the Department's Strategic Goal 2: Enforce federal laws and Represent the Rights and Interests of the American People and Goal 3: Assist state, local, and tribal efforts to prevent and reduce crime and violence.**

To better manage resources, the asset forfeiture program's strategic approach will continue to (1) require a strong intelligence function that provides all-source information on target organizations to permit the assessment of vulnerabilities and the identification of key structural assets; (2) transcend specific cases to coordinate and target enforcement actions against the vulnerabilities of the underlying criminal organization; and (3) focus on removal of the assets that are key to the functionality and viability of the criminal organization. Special emphasis is placed on creative ways to use the proceeds of asset forfeiture, in conjunction with other funds available to our investigative and prosecutive offices, to support operations that focus on the disruption and destruction of criminal organizations and not merely on the conviction of individuals and forfeiture of their personal property.

### **a. Performance Plan and Report for Outcomes**

As illustrated in the preceding Performance and Resources Table, the performance measures only address performance by the AFMS. While the performance measures are internal to the AFMS, Strategic Goals 2 and 3 are the Fund's supra-objectives. Through stakeholder meetings, employee meetings and internal reviews, the Fund has identified many of the issues that must be addressed to enable it and the nation's law enforcement community to meet the challenges of the war on drugs.

Continued progress towards implementation will enable the Fund to improve the nation's war on drugs efforts.

The challenge of using the asset forfeiture sanction more fully requires the dedication of greater human resources to the development of the financial aspects of criminal operations. Continuing education in conducting financial investigations, tracing assets, presenting financial evidence in court, and managing and disposing of sophisticated properties is needed to develop and support experienced law enforcement professionals capable of dismantling criminal enterprises. The increasing use of sophisticated technology by criminals and the relative ease of operating across international boundaries also present special challenges for law enforcement that must be met if the power of the asset forfeiture sanction is to be realized. The Department will continue to seek opportunities to use asset forfeiture funds to advance the ability of our investigators, prosecutors, and other professionals to meet these challenges successfully.

**b. Strategies to Accomplish Outcomes**

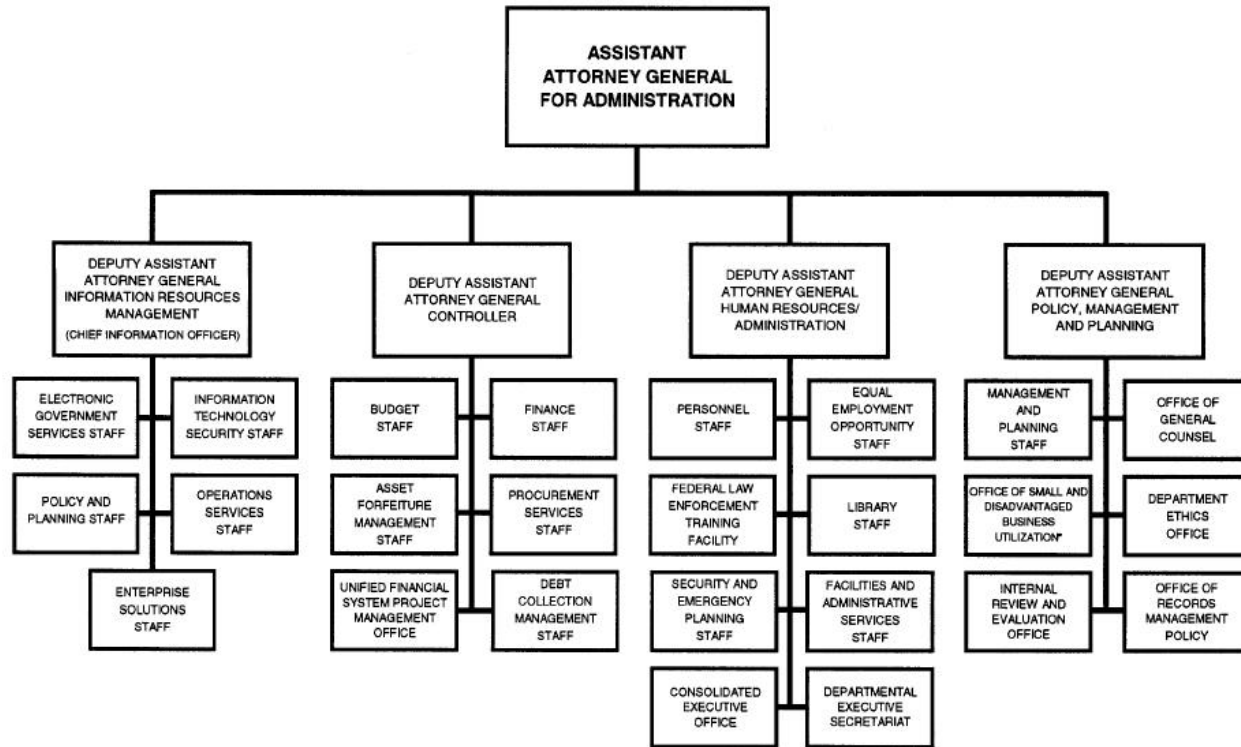
The performance indicators are for the AFMS, the participant with management control of the Fund. In its role, AFMS supports law enforcement authorities in their seizure and forfeiture activities by providing funding for their accessibility to CATS. The asset forfeiture program is executed by its member agencies and its performance is reported under their leadership's guidance.

**c. Results of Program Assessment Rating Tool (PART) Reviews**

Programs within the Fund have not been selected for review under the PART process.

# EXHIBITS

# JUSTICE MANAGEMENT DIVISION



\*LOCATED IN JMD FOR ADMINISTRATIVE PURPOSES.

Approved by: *Alberto R. Gonzales* Date: 5-23-05  
 ALBERTO R. GONZALES  
 Attorney General

e

2008			
Increases		Offsets	
Number	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s
	-	-	-
	-	-	-
	\$ -	-	\$ -

ting expenses under Goal 2.

**F: Crosswalk of 2006 Availability**

**Crosswalk of 2006 Availability**

Assets Forfeiture Fund

Salaries and Expenses

(Dollars in Thousands)

Decision Unit	FY 2006 Enacted Without Rescissions		Rescissions		Supplementals		Reprogrammings / Transfers		Carryover/ Recoveries		2006 Availability			
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount		
Mandatory Expenses, Indef Auth			1,223,959			....					290,369	....	....	1,514,328
Investigative Expenses, Def Auth			21,468			(274)						....	....	21,194
Unobligated Balance Rescission						(102,000)						....	....	(102,000)
<b>TOTAL</b>	....	....	<b>1,245,427</b>	....	....	<b>(\$102,274)</b>	....	....	<b>\$0</b>	....	....	<b>\$290,369</b>	....	<b>\$1,433,522</b>
Reimbursable FTE														....
Total FTE			....			....					....			....
Other FTE														
LEAP														....
Overtime														....
Total Compensable FTE			....			....					....			....

Enacted Rescissions. Funds rescinded as required by the Department of Justice Appropriations Act, 2006 (P.L. 109-108) (\$60) and (\$102,000) and the Department of Defense Appropriations Act, 2006 (P.L. 109-148) (\$214).

Unobligated Balances. Funds in the amount of \$261,645 were carried over from FY 2006 from the 15X5042 account. In addition, \$24,808 in recoveries and refunds and \$3,916 in spending authority from offsetting collections were realized.

**G: Crosswalk of 2007 Availability**

**Crosswalk of 2007 Availability**

Assets Forfeiture Fund

Salaries and Expenses

(Dollars in Thousands)

Decision Unit	2007 Estimate			Rescissions			Reprogrammings / Transfers			Unobligated Balances Carried Forward /Recoveries			2007 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Mandatory Expenses, Indef Auth			843,283									398,443	....	....	1,241,726
Investigative Expenses, Def Auth			20,990										....	....	20,990
Unobligated Balance Rescission						(152,787)							....	....	(152,787)
<b>TOTAL</b>	....	....	<b>864,273</b>	....	....	<b>(\$152,787)</b>	....	....	....	....	....	<b>\$398,443</b>	....	....	<b>1,109,929</b>
Reimbursable FTE															....
Total FTE		....			....			....			....			....	
Other FTE															....
LEAP															....
Overtime															....
Total Compensable FTE		....			....			....			....			....	

Enacted Rescissions. Funds rescinded, per CR, at lower of House mark or FY 2006.

Unobligated Balances. The AFF brought forward \$398,443 in unobligated balances from the 15X5042 account from FY 2006. They consist primarily of restricted funds and balances for specific ongoing expenses.



## H: Summary of Reimbursable Resources

### Summary of Reimbursable Resources

Assets Forfeiture Fund

Salaries and Expenses

(Dollars in Thousands)

Collections by Source	2006 Enacted			2007 Planned			2008 Request			Increase/Decrease		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Executive Office for U.S. Attorneys	....	....	3,059	....	....	4,443	....	....	4,550	....	....	107
Treasury Executive Office for Asset Forfeiture	....	....	....	....	....	1,500	....	....	1,500	....	....	....
<b>Budgetary Resources:</b>	....	....	<b>\$3,059</b>	....	....	<b>\$5,943</b>	....	....	<b>\$6,050</b>	....	....	<b>\$107</b>

## L: Summary of Requirements by Object Class

### Summary of Requirements by Object Class

Assets Forfeiture Fund

Salaries and Expenses

(Dollars in Thousands)

Object Classes	2006 Actual Obligations		2007 Estimate		2008 Request		Increase/Decrease	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
11.8 Special personal services payments	....	249	....	250	....	251	....	1
Total	....	249	....	250	....	251	....	1
Reimbursable FTE:								
Full-time permanent								
Other Object Classes:								
21.0 Travel and transportation of persons		4,825		5,500		6,000		500
22.0 Transportation of things		1,235		1,500		1,500		....
23.1 GSA Rent		3,717		5,500		6,000		500
23.2 Rental Payments to Others		603		1,000		1,000		....
23.3 Comm., util., & other misc. charges		820		1,000		1,000		....
24.0 Printing and reproduction		3,875		4,500		4,500		....
25.1 Advisory and assistance services		19,811		20,500		20,500		....
25.2 Other services		950,436		693,226		523,947		(169,279)
25.3 Purchases of goods & services from Government accounts		34,550		38,500		40,000		1,500
25.4 Operation and maintenance of facilities		6,199		7,000		7,000		....
25.7 Operation and maintenance of equipment		5,268		6,000		6,000		....
26.0 Supplies and materials		655		1,000		1,000		....
31.0 Equipment		815		2,000		2,000		....
43.0 Interest and Dividends		195		....		....		....
<b>Total obligations</b>		<b>1,033,253</b>		<b>\$787,476</b>		<b>\$620,698</b>		<b>(\$166,778)</b>
Unobligated balance, start of year [-]		261,645		398,443		322,453		
Unobligated balance, end of year [+]		(398,443)		(322,453)		(378,542)		
Recoveries of prior year obligations [-]		(26,898)		....		....		
Total requirements		869,557		863,466		564,609		
Relation of Obligation to Outlays:								
Total obligations		1,033,253		787,476		620,698		
Obligated balance, start of year [+]		170,484		586,639		356,936		
Obligated balance, end of year [-]		(586,639)		(356,936)		(232,248)		
Recoveries of prior year obligations [-]		(26,898)		....		....		
Outlays		590,200		1,017,179		745,386		