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U.S. Immigration
and Customs
Enforcement

Homeland Security Investigations

Asset Forfeiture Handbook

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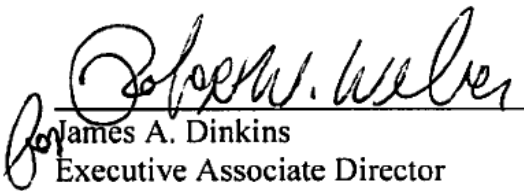
Foreword

The Asset Forfeiture Handbook provides a uniform source of national policies, procedures, responsibilities, guidelines, and controls to be followed by U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) Special Agents assigned to Asset Identification and Removal Groups (AIRGs) when conducting asset seizure and forfeiture investigations as part of this specialized investigative program. This Handbook contains instructions and guidance to help ensure uniformity and operational consistency among all HSI field offices. Oversight for the national asset forfeiture program within HSI resides with the Unit Chief, Asset Forfeiture Unit, Investigative Services Division, Investigative Programs. (Note: On June 9, 2010, the ICE Offices of Investigations (OI), International Affairs, and Intelligence were realigned under HSI. Throughout this Handbook, documents issued prior to the June 9, 2010 realignment are referred to by their original titles, e.g., the OI (instead of “HSI”) Case Management Handbook.)

The Asset Forfeiture Handbook supersedes U.S. Customs Service (USCS) OI Special Agent Handbook Chapter 25, entitled, “Asset Removal Process,” dated May 20, 1992; Operations Instruction 274 entitled, “Seizure and forfeiture of conveyances” (undated); and all directives, memoranda, bulletins, manuals, handbooks, and other guidelines and procedures relating to AIRG case coordination and management issued by the former USCS or INS. (See Appendix A for a detailed list of the documents superseded by this Handbook.)

The Asset Forfeiture Handbook is an internal policy of HSI and is not intended to confer any right or benefit on any private person or party. If disclosure of this Handbook or any portion of it is demanded in any judicial or administrative proceeding, the HSI Information Disclosure Unit, Mission Support, as well as the appropriate ICE Counsel and/or U.S. Attorney, should be consulted so that appropriate measures can be taken to invoke privileges against disclosure. This Handbook contains information which may be exempt from disclosure to the public under the Freedom of Information Act, Title 5, United States Code, Section 552(b), and protected from disclosure in civil discovery pursuant to the law enforcement privilege. Any further request for disclosure of this Handbook or information contained herein should be referred to the HSI Information Disclosure Unit.

The HSI Policy Unit is responsible for coordinating the development and issuance of HSI policy. All suggested changes or updates to this Handbook should be submitted to the HSI Policy Unit which will coordinate all needed revisions with the Asset Forfeiture Unit.


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Date

ASSET FORFEITURE HANDBOOK

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ASSET FORFEITURE HANDBOOK

Chapter 1. PURPOSE AND SCOPE

The Asset Forfeiture Handbook establishes policies and procedures to be used by U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) Special Agents (SAs) when conducting asset forfeiture investigations within the scope of the HSI Asset Identification and Removal Group (AIRG) program.

Any HSI-initiated seizure and/or forfeiture of evidence and/or assets must also conform to the policies and procedures set forth in the legacy U.S. Customs Service, “Seized Asset Management and Enforcement Procedures Handbook” (SAMEPH) (Customs Issuance System Handbook (HB) 4400-01A), dated January 2002, or as updated. The SAMEPH contains specific policies, procedures, and guidelines to be followed during the pre-seizure, seizure, storage, and forfeiture stages of asset removal, including rules concerning proper documentation of seizures and forfeitures, interaction with the U.S. Customs and Border Protection (CBP) Office of Fines, Penalties and Forfeitures (FP&F), and compliance with the Civil Asset Forfeiture Reform Act (CAFRA) of 2000. SAs contemplating seizures of vehicles, monetary instruments, financial accounts, real property, or other assets should use this Handbook only in conjunction with the SAMEPH.

Chapter 2. AUTHORITIES/REFERENCES

2.1 Federal Forfeiture Statutes

- A. Title 18, United States Code (U.S.C.), Chapter 46, “Forfeiture,” contains general forfeiture provisions under federal law:
 - 1) 18 U.S.C. § 981, “Civil Forfeiture,” and 18 U.S.C. § 982, “Criminal Forfeiture.” These statutes give a general legal basis for the civil and criminal forfeiture of some proceeds (see Section 3.13) and for facilitating (see Section 3.3) assets, and provide forfeiture provisions for numerous federal statutes by reference. Chief among these are provisions for the forfeiture of property “involved in a transaction” in violation of money laundering statutes under 18 U.S.C. §§ 1956, 1957, and 1960.
 - 2) 18 U.S.C. § 983, “General Rules for Civil Forfeiture Proceedings.” This statute outlines procedures applicable to civil forfeitures and includes provisions of CAFRA.

- 3) 18 U.S.C. § 984, “Civil Forfeiture of Fungible Property.” This statute provides for the civil forfeiture of fungible property (i.e., cash, monetary instruments in bearer form, funds on deposit with a financial institution, or precious metals) without the necessity of tracing the specific funds involved in the offense as long as the forfeiture action begins within 1 year of the offense.
 - 4) 18 U.S.C. § 985, “Civil Forfeiture of Real Property.” This statute establishes the requirement that forfeitures of real property must be judicial (as opposed to administrative), and outlines the procedures for filing and carrying out a civil forfeiture action against a real property.
 - 5) 18 U.S.C. § 986, “Subpoenas for Bank Records.” This statute provides a means to subpoena bank records pursuant to civil forfeiture actions.
 - 6) 18 U.S.C. § 1963, “Criminal Penalties.” This statute provides for the forfeiture of any proceeds of, or property giving a defendant a source of influence over, a racketeering enterprise, as defined by the “Racketeer Influenced and Corrupt Organizations (RICO)” statutes (18 U.S.C. §§ 1961 – 1968).
- B. In addition to the general forfeiture provisions found in Title 18, SAs should examine the statutes underlying the criminal investigation when planning their forfeiture strategy. Many titles of the United States Code contain forfeiture provisions allowing SAs to seize and forfeit assets as proceeds, for facilitation, or both. Some of the forfeiture provisions most commonly used by SAs include, but are not limited to, the following:
- 1) 8 U.S.C. § 1324(b), “Seizure and Forfeiture.” This statute provides a legal basis and procedures for the forfeiture of proceeds of alien smuggling or conveyances used to smuggle aliens.
 - 2) 18 U.S.C. § 545, “Smuggling goods into the United States.” This statute contains a forfeiture provision for merchandise introduced into the United States contrary to law.
 - 3) 19 U.S.C. 1595a, “Forfeitures and Other Penalties.” This statute provides for the seizure and forfeiture of merchandise imported contrary to law, as well as for the forfeiture of any conveyance used to import the merchandise contrary to law. It also provides for the seizure and forfeiture of merchandise exported or sent from the United States contrary to law.
 - 4) 21 U.S.C. § 853, “Criminal Forfeiture,” and 21 U.S.C. § 881, “Forfeitures.” These statutes provide for criminal and civil forfeiture, respectively, of assets obtained as proceeds and used in the facilitation of controlled substance violations.

- 5) 31 U.S.C. § 5317, “Search and forfeiture of monetary instruments.” This statute provides for the criminal and civil forfeiture of property involved in a violation of the reporting requirements of the transportation of monetary instruments into or out of the United States.
- 6) 31 U.S.C. § 5332(b)(2), “Forfeiture.” This statute provides for the forfeiture of any property involved in or traceable to a bulk cash smuggling violation.

2.2 Treasury Executive Office of Asset Forfeiture Guides and Guidelines

Since HSI is a participant in the Treasury Forfeiture Fund (TFF), SAs must adhere to certain policies and guidelines issued by the Treasury Executive Office of Asset Forfeiture (TEOAF). The following documents, among others, are available on the Department of the Treasury Website (<http://www.ustreas.gov/offices/enforcement/teofaf/>):

- A. “Guidelines for Treasury Forfeiture Fund Agencies on Refunds Pursuant to Court Orders, Petitions for Remission, or Restoration Requests,” Department of the Treasury, Office of the Under Secretary for Terrorism and Financial Intelligence, July 2008 (also known as the TEOAF “Blue Book”).
- B. “Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies,” Department of the Treasury, Executive Office of Asset Forfeiture, April 2004 (also known as the TEOAF “Green Book”).
- C. “Guidelines for Seized and Forfeited Property,” Department of the Treasury, Office of the Under Secretary for Enforcement, July 2001 (also known as the TEOAF “Red Book”).

2.3 Department of Justice, Asset Forfeiture and Money Laundering Section Manuals

Since any judicial forfeiture must be pursued via the U.S. Attorney’s Office (USAO), SAs should be aware of policies and procedures for asset forfeiture established by the Department of Justice (DOJ), Asset Forfeiture and Money Laundering Section (AFMLS). In addition to providing DOJ policies and procedures, the following resources, found at <http://www.usdoj.gov>, are also useful legal references:

- A. “Selected Federal Asset Forfeiture Statutes,” DOJ, AFMLS, May 2009.
- B. “Asset Forfeiture Policy Manual,” DOJ, 2008.

In addition to the preceding resources, AFMLS maintains a useful library of asset forfeiture and money laundering legal and practical reference materials on DOJ’s Law Enforcement Online website. HSI SAs may obtain access to these materials by following the online registration instructions located at <http://www.leo.gov>.

Chapter 3. DEFINITIONS

The following definitions are provided for the purposes of this Handbook:

3.1 Equitable Sharing

Division and transfer of forfeited property, or proceeds from forfeited property, between government agencies, based on each agency's contributions to and participation in an investigation.

3.2 Encumbrance

Anything that affects or limits the title of a property, e.g., liens, mortgages, easements, leases, or restrictions.

3.3 Facilitation

Use of an asset in the commission of a crime or in furtherance of criminal or otherwise proscribed activity.

3.4 Final Order of Forfeiture

An order entered by the court in a criminal forfeiture proceeding, following the preliminary order of forfeiture and any ancillary proceedings, authorizing the Government to take ownership and dispose of a property. The final order takes into account any third-party rights, as well as the defendant's interest in the property – known in some judicial districts as an “amended order of forfeiture.”

3.5 Interlocutory Sale

The court-ordered sale of an asset prior to a final order or judgment of forfeiture. A court may authorize such an action in cases where loss of market value or physical deterioration of an asset has occurred or is imminent.

3.6 Lien

A legal claim against an asset which is used to secure a loan and must be repaid if the asset is sold.

3.7 *Lis Pendens*

Latin for “suit pending.” A written notification, filed with a county recorder's office, indicating that a forfeiture action against the property is pending on behalf of the Government. The notice minimizes the potential for the transfer of ownership by alerting potential buyers or lenders that

the title of the property is in question and any purchase of the property may result in the new owner being bound by the court decision.

3.8 Net Equity

The market value of an owner's unencumbered interest in an asset, i.e., the difference between the fair market value of an asset and the outstanding balance of liens against that asset.

3.9 Payment in Lieu of Forfeiture

A defendant's voluntary substitution of a monetary payment in place of the forfeiture of a particular asset.

3.10 Post-and-Walk

Process of delivering a warrant of arrest *in rem* to the owner of a real property and affixing a copy of the warrant to the property itself. Undertaken as part of a civil forfeiture action following the filing of a civil complaint for forfeiture.

3.11 Preliminary Order of Forfeiture

In criminal forfeiture proceedings, an order of the court, issued after the defendant is found guilty by a jury or enters a plea of guilty, which sets forth a money judgment or directs the defendant to surrender his or her interest in the property to the Government.

3.12 Pre-Seizure Analysis

A title search, appraisal, net equity analysis, cost/benefit analysis, and/or other services performed by the real property contractor at the request of an AIRG following the identification of a real property that may be subject to forfeiture.

3.13 Proceeds

Any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.

3.14 Seizure Threshold

The amount of net equity that a criminal must hold in an asset before an AIRG SA may contemplate the seizure and subsequent forfeiture of that asset.

3.15 Specified Unlawful Activity

Criminal acts that constitute predicate offenses for certain money laundering violations contained in 18 U.S.C. §§ 1956 and 1957. Specified Unlawful Activities (SUAs) are listed in 18 U.S.C. § 1956(c)(7).

3.16 Torrens System

In real estate, the Torrens System is a title registration system used in some states. Under the Torrens System, a register of land holdings maintained by the state guarantees title to those included in the register. The system is an alternative to the traditional deeds system, under which proof of ownership relies on demonstrating an unbroken chain of title back to an original land grant or purchase.

3.17 Turnover Order

A turnover order is an authorization, obtained from the state court with jurisdiction over the seizure, which authorizes the state or local agency to turn the seizure over to HSI for adoption.

Chapter 4. RESPONSIBILITIES

4.1 Executive Associate Director, Homeland Security Investigations

The Executive Associate Director of HSI has overall responsibility for the oversight of the policies and procedures set forth in this Handbook.

4.2 Unit Chief, Asset Forfeiture Unit

The Unit Chief, Asset Forfeiture Unit (AFU), is responsible for the overall implementation of the provisions of this Handbook for HSI and for the national administration of the AIRG program.

4.3 Program Manager, Asset Forfeiture Unit

The primary responsibilities of the Program Manager include administering the budget for the national AIRG program and performing the duties of the Assistant Contracting Officer's Technical Representative (ACOTR). The Program Manager is also responsible for the general oversight and direction of the AIRG program on a national level. Although not involved in the AIRGs' day-to-day tactical decisions, the Program Manager provides operational guidance to them, particularly in the area of formal case management.

The Program Manager also contracts for commercial databases, facilitates the purchase and distribution of supplies and equipment, coordinates training for AIRG personnel, briefs HSI

senior management on program-related issues, and is the program's representative at conferences and other similar forums.

The Program Manager is the ACOTR for all contracts that are utilized to provide a variety of support personnel for the AIRG program. The contracts are formally administered by DOJ; as a result, the AIRG Program Manager has established Interagency Agreements with DOJ to link the AIRG program's needs to existing contracts in order to obtain services from the private sector. The ACOTR is the HSI point of contact with the contract service providers.

In relation to the AIRG program, ACOTR duties include preparing the Interagency Agreements with DOJ, interpreting certain aspects of the existing contracts, obtaining additional contractor positions, filling vacancies, reviewing and authorizing invoices for payment, authorizing expenditures including overtime, and acting as a liaison for any other issues between HSI and the contract service providers.

4.4 Special Agents in Charge

Special Agents in Charge (SACs) are responsible for implementing the provisions of this Handbook within their respective area of responsibility (AOR). SACs are also responsible for staffing the AIRGs in their AOR with SAs who have at least 36 months of investigative experience. They should ensure that SAs will remain assigned to the AIRG for a minimum of 24 months. SACs should also allow the AIRGs to preserve their function as separate, specialized groups, dedicated solely to asset forfeiture responsibilities, and not commingled with other groups or burdened with excessive collateral duties.

4.5 AIRG Group Supervisors

AIRG Group Supervisors (GSs) will ensure that SAs assigned to their AIRGs comply with the provisions of this Handbook and remain trained and knowledgeable with respect to the most up-to-date asset forfeiture laws and procedures. They must monitor the investigative activity within their AIRGs to make certain that HSI forfeiture actions are legally and economically feasible and meet required seizure thresholds.

The AIRG GSs should establish and maintain relationships with the other investigative groups throughout the SAC's AOR, promoting the expertise and benefits of the AIRG and encouraging investigative groups of every specialization to enlist the aid of the AIRG in their casework.

AIRG GSs will be designated to act as Contracting Officer's Technical Representatives (COTRs) for real property contracting activities within their AOR. As COTRs, they will furnish technical clarification, monitor contract performance, and maintain a professional relationship with the representatives of the real property contractor. On a quarterly basis, the AIRG GSs, in conjunction with AIRG SAs, shall perform a physical drive-by inspection of each real property that is the subject of an HSI forfeiture action within their AOR. The inspection should verify the condition of the property. If the condition of the property has changed, the real property

contractor, as well as the Assistant United States Attorney (AUSA), should be immediately notified of the changed condition.

The AIRG GS shall review the status of all AIRG seizures in the Seized Assets and Case Tracking System (SEACATS), as well as the status of all AIRG investigations, during supervisory case reviews. The GS should ensure that all seizures and forfeiture actions are progressing in the most efficient and timely manner possible.

4.6 Special Agents

SAs are responsible for complying with the provisions of this Handbook.

Chapter 5. NATIONAL AIRG CONCEPT

5.1 Purpose and Benefits of AIRGs

The seizure and ultimate forfeiture of criminally derived assets has been identified as a valuable law enforcement tool that can be utilized to permanently disable criminal enterprises that operate in the United States and abroad. Federal forfeiture combats crime not only by depriving criminals of their ill-gotten gains, but also by putting forfeited assets back into the fight against crime. The assets to be targeted are accumulated through successful criminal activities, including, but not limited to: international money laundering; bulk cash smuggling; contraband smuggling; human smuggling; human trafficking; sexual exploitation of children; commercial, identity, benefit, and document fraud; and the illegal export of arms and strategic technologies. These violations are among the SUAs (see Section 3.15) for which ICE has been designated as the primary investigative agency.

In concert with the criminal prosecution of the defendants, the primary responsibility of an AIRG is to target the assets of violators within all HSI core areas of investigation for seizure and forfeiture. Traditionally, this action was initiated after the arrest of the subjects of the investigation. Ideally, assets should be seized as soon as practical to prevent their liquidation. With the creation of specialized asset removal teams, the seizure and forfeiture of criminally derived assets has become part of the ongoing investigative strategy.

There are two primary benefits to be gained through the utilization of the AIRG concept. First, AIRGs develop a higher level of expertise in this complex field of investigation, thus providing a more thorough and efficient impact in the area of asset removal. Second, this allows the case agents to concentrate their efforts on the primary unlawful activity under investigation, without the added responsibilities of asset identification and removal.

5.2 AIRG Mission Statements

- A. Develop expertise in identifying and tracking assets in all HSI disciplines.

- B. Identify all assets and investments that have been illegally acquired by individuals and criminal organizations.
- C. Establish probable cause to seize and forfeit all property, real and personal, used and/or acquired as a result of criminal activity.
- D. Identify, analyze, trace, seize, and forfeit all criminal proceeds deposited into traditional and non-traditional financial institutions; trace and forfeit all stocks, bank accounts, bonds, and other investments related to criminal activity.
- E. Dismantle known criminal organizations by targeting their financial infrastructure and seeking criminal, civil, or administrative actions to accomplish that mission.
- F. Develop sources of information that can provide leads and intelligence on criminal groups and how they attempt to legitimize their wealth.
- G. Collect and assess intelligence on investment trends, modus operandi, and financial structures favored by criminal organizations.

5.3 National Code of Professional Conduct for Asset Forfeiture

SAs and supervisors must follow the ten points of DOJ's National Code of Professional Conduct for Asset Forfeiture:

- A. Law enforcement is the principal objective of forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens.
- B. The Constitution and federal statutes prohibit the improper use of personal characteristics such as race, color, national origin, gender, or religion to target individuals for law enforcement action.
- C. No prosecutor's or sworn law enforcement officer's employment or salary shall be made to depend upon the level of seizures or forfeitures he or she achieves.
- D. Whenever practicable, and in all cases involving real property, a judicial finding or probable cause shall be secured when property is seized for forfeiture. Seizing agencies shall strictly comply with all applicable legal requirements governing seizure practice and procedures.
- E. If no judicial finding of probable cause is secured, the seizure shall be approved in writing by a prosecuting or agency attorney or by a supervisory-level official.

- F. Seizing entities shall have a manual detailing the statutory grounds for forfeiture. This manual will include procedures for prompt notice to interest holders, the expeditious release of seized property where appropriate, and the prompt resolution of claims of innocent ownership.
- G. Seizing entities retaining forfeited property for official law enforcement use shall ensure that the property is subject to internal controls consistent with those applicable to property acquired through the normal appropriations processes of that entity.
- H. Unless otherwise provided by law, forfeiture proceeds shall be maintained in a separate fund or account subject to appropriate accounting controls and annual financial audits of all deposits and expenditures.
- I. Seizing agencies shall strive to ensure that seized property is protected and its value preserved.
- J. Seizing entities shall avoid any appearance of impropriety in the sale or acquisition of forfeited property.

5.4 Office and Project Codes

The AIRG program is operational in all SAC offices throughout the United States. Just as the SAC and Resident Agent in Charge offices have their own office codes, each AIRG has its own unique office code (for example, the SAC New York AIRG's code is "UN"). This office code allows the AIRG to open its own cases and track its statistics within Case Management in TECS.

In addition to the office codes, each AIRG has its own project code (for example, the project code for the SAC San Diego AIRG is "959"). The AIRG program also has its own unique national project code (340). Both are used for statistical reporting purposes in TECS and SEACATS. Both the national project code and the individual AIRG's project code must be on all case records, Reports of Investigation (ROIs), and SEACATS Incident Reports.

Individual AIRGs are evaluated by the quantity and the quality of their cases. TECS quantifies the number of investigations opened by each individual AIRG via the unique project codes. This includes special project codes for the various HSI disciplines. This is important because it allows all case participants to retrieve statistical credit for the overall results of their cases. SEACATS quantifies the number of seizures made by the AIRGs, as well as their values.

5.5 Headquarters Oversight

The AIRG program receives operational and administrative support by AFU staff at HSI Headquarters (HQ) consisting of a Unit Chief, Section Chiefs, full-time national Program Managers (General Schedule (GS) 1811 series), and contract employees.

5.6 Relationship with TEOAF

TEOAF administers the TFF. The TFF was established in 1992 as the successor to what was then the U.S. Customs Service Forfeiture Fund. The TFF is the receipt account for the deposit of non-tax forfeitures made by the following member agencies:

- A. Criminal Investigation Division, Internal Revenue Service, Department of the Treasury;
- B. ICE, Department of Homeland Security (DHS);
- C. CBP, DHS;
- D. U.S. Secret Service, DHS; and
- E. U.S. Coast Guard, DHS.

When HSI SAs seize assets for forfeiture, not only are they assisting in the dismantling of the organization, they are also helping to fund future law enforcement actions. Forfeited funds and proceeds from the sale of forfeited assets may be deposited in the TFF and are available for official use through TEOAF, which, as stated above, administers the TFF. HSI is reimbursed tens of millions of dollars each year from the TFF for asset sharing, training, state and local police overtime, awards to confidential informants (CIs), major case initiatives, equipment upgrades, and other case-specific costs that HSI would otherwise be unable to fund.

In addition to administering the TFF, TEOAF is responsible for the development of seizure and forfeiture policy. TEOAF also coordinates with the DOJ Forfeiture Fund on legislative, policy, and procedural matters impacting forfeiture and equitable sharing. (See Chapter 16 for guidance on equitable sharing.)

Chapter 6. AIRG GROUP STRUCTURE

6.1 Structure

An AIRG should consist of one GS, SAs at the GS-12 and GS-13 grade levels, one or more Criminal Research Specialists, an Investigative Assistant, and contract personnel.

6.2 Background and Training

The GS should be highly motivated to support the program through liaison efforts both within and outside the SAC office. The GS should have at least a familiarity with financial investigations, the Money Laundering Control Act, and various forfeiture provisions.

Experienced SAs should be selected by their respective SAC to be assigned to the AIRG. As stated in Section 4.4, SACs should select only SAs with at least 3 years of experience for the AIRGs in their respective AOR. The SAs should have a familiarity with all core investigative areas under the jurisdiction of HSI. Preferably, they should possess a strong background in financial investigations and computer skills. SAs should be capable of writing complex affidavits, have excellent interviewing skills, be both motivated and tenacious, and have the desire to conduct complex investigations.

After their selection for the AIRG, these SAs will receive formal training in asset identification and forfeiture provided by the Federal Law Enforcement Training Center. This training, the Asset Forfeiture and Financial Investigations Training Course, is conducted by ICE Academy Staff and by experienced SAs from field locations.

Periodically, the AIRG SAs will also receive updated asset forfeiture training through attendance at various topic-related courses offered by both the private sector and government entities (e.g., the Department of the Treasury, DOJ, and ICE).

6.3 Tenure of AIRG Personnel

Frequent rotation of personnel into and out of the AIRG is undesirable; it prevents the development of the necessary skills and expertise and squanders scarce funding for training and other costs associated with this work. These appointments are to be considered long-term, and care should be taken in the selection of incumbents to minimize disruption and maintain efficient operations.

Personnel assigned to the position of AIRG GS must remain in place for 36 months, the duration of the COTR certification. This certification is mandatory for AIRG GSs who act as COTRs under the national real property contract. SAs assigned to AIRGs should remain in place for a minimum of 24 months. These minimum tenures will provide a sufficient length of service to ensure continuity in these important investigations.

6.4 Management Support

The Asset Forfeiture Program is a unique function unlike the normal duties in an enforcement office. Asset forfeiture and its related laws and procedures are highly specialized and in a constant state of change. The ability to investigate an asset case requires core knowledge of all ICE investigative areas, as well as specialized knowledge of asset forfeiture laws. An AIRG should be separate, dedicated solely to AIRG functions, and not commingled with other groups.

Field managers should fully understand and support the idea that the primary responsibility of the AIRG is the identification and seizure of assets. This is not to suggest that members of the group may not be utilized to cover some of the collateral duties required in the day-to-day operation of a SAC office; these collateral duties, however, should not be long-term, but rather should require no more than a day away from asset forfeiture responsibilities.

Chapter 7. GENERAL DUTIES OF AN AIRG

7.1 Overall Critical Points to Remember

- A. Law enforcement is the principal objective of asset forfeiture.
- B. Assets should be a primary investigative consideration.
- C. AIRG SAs should not waste investigative time and resources on liabilities, i.e., investigations lacking forfeiture potential or assets which do not meet legal or financial requirements for forfeiture.
- D. Communication and coordination are critical throughout the entire asset identification and removal process; AIRG SAs, however, should be aware that **all** electronic correspondence is discoverable.

7.2 Mandates

One of the most important functions of both the GS and the group members of an AIRG is to ensure that seizures are both fiscally responsible and legally sound, i.e., able to withstand both public and legal scrutiny.

AIRG SAs must gather evidence and plan for the legal and logistical aspects of seizures and forfeitures. They must also give consideration to the economic impact of each seizure, including the cost of management, storage, possible depreciation, and disposal of the seized property. **An AIRG should not proceed with a forfeiture action if it will cost the Government more than the expected return, except in instances where there is an overriding law enforcement purpose.**

Once property has been seized, it is in the interest of the seizing AIRG to shepherd the seizure through the forfeiture process as expeditiously as possible. AIRG SAs should ensure that ROIs thoroughly document the bases for seizure and forfeiture. They should coordinate with FP&F early in the asset forfeiture investigation and provide copies of ROIs to the appropriate FP&F paralegal specialist as soon as possible following a seizure.

The deteriorating value of any item seized, commensurate with its associated storage and disposal fees, should be a primary concern of all parties involved. The quicker and more efficient the forfeiture process, the less money the seizure will cost the Government. It is incumbent upon AIRG SAs, therefore, to remain up-to-date on the status of their seizures. SAs should check the status of their seizures in SEACATS on a quarterly basis to ensure that seized property is forfeited in a timely manner and does not create a potentially embarrassing situation.

7.3 Liaison

In regard to the real property seizures, all AIRG personnel should be familiar with the real property contract Statement of Work (SOW) as it applies to the services provided by the real property contractor. It should be noted, however, that **only** the designated field COTR assigned to each SAC Office is authorized to task the real property contractor and incur costs on behalf of ICE. This COTR is usually the AIRG GS.

It is extremely important that both the GS and members of the AIRG establish and maintain a close working relationship with all entities involved in a specific investigation. It is similarly important that proactive liaison be established and maintained with the USAO, Seized Property Custodian, FP&F, the real property contract manager, and the U.S. Marshals Service asset forfeiture unit supervisor, as appropriate, within the AIRG's AOR.

7.4 Knowledge of Forfeiture Law and Procedures

All AIRG members should become familiar with the statutes, policies, and procedures relating to forfeiture and the operation of the forfeiture funds. Each AIRG, therefore, must maintain copies of the TEOAF Guides and Guidelines and a set of the asset forfeiture manuals issued by DOJ's AFMLS (see Sections 2.2 and 2.3). These policy directives have an impact on a variety of subjects relating to asset forfeiture and the day-to-day operation of an AIRG. Many of these subjects are also covered in this Handbook and by other policies and procedures issued by ICE and/or HSI.

Chapter 8. CASE MANAGEMENT GUIDELINES

Not all cases referred to the AIRG will result in seizures, but it is important to document the work performed, showing that the AIRG is supporting the various criminal investigative groups within the SAC office. HQ funding is determined by the overall resource efforts of the AIRG. The tracking of statistics in TECS, which reflects both quantity and scope of cases, and in SEACATS, which allows seizure and forfeiture analysis, supports the manpower needs, the contract personnel, and the equipment expenditures of the AIRGs. Documenting all activities in an ROI is important, not only to document the progress of an investigation, but to justify additional equipment, contract assistance, and additional personnel.

Generally, AIRG investigations will be generated in one of two ways: through proactive development or from referrals.

8.1 Proactive Case Development

AIRG SAs should periodically review open cases in their SAC's AOR for the possibility of proactively identifying cases with seizure and forfeiture potential. By querying the local port code and specifying a date limit, the "GQIQ" function in TECS can be used to identify any

recent seizures that may merit a collateral AIRG case. The case number in these instances will be a collateral number developed from the original criminal case number.

While AIRG cases should always be collateral cases, in some instances an AIRG SA may independently develop information to generate an asset forfeiture case. In these instances, the AIRG SA should provide the information to the appropriate investigative group for potential criminal case initiation.

8.2 Case Referrals

Case referrals can be handled in different manners:

- A. According to the Case Management Handbook (Office of Investigations (OI) Handbook (HB) 08-02, dated February 1, 2008, or as updated), a collateral investigation is initiated by an ROI. This also applies to requests for AIRG assistance. Any time a referral is from another SAC office, the collateral request should be made with an ROI. It can also be used within the SAC area when there are definite assets that are to be seized.
- B. Within the SAC office, SAs may prefer to use a more informal referral. The referral is a request that the AIRG perform an initial evaluation of the criminal investigation for asset forfeiture potential. It should be initiated by the criminal case agent and forwarded by the criminal case agent's GS to the AIRG GS, who will assign it to one of the AIRG SAs. After the referral has been assigned to an AIRG SA, the AIRG SA and the criminal case agent should meet, discuss the investigation, and evaluate the case's potential for successful seizures.
- C. Although the proper way to request assistance is through a collateral request or use of a referral, there may be times when SAs from various groups have an excellent working rapport with an AIRG SA. In these instances, the criminal case and AIRG GSs should allow the criminal case agent and the AIRG SA to initiate a parallel AIRG investigation on a one-on-one basis. The initial ROI by the AIRG SA should specify that the request for assistance was made by the criminal case agent.

A case referral, whether requested by a collateral ROI or a referral request, should include: (1) a brief case summary, (2) the case number, (3) any unique facts relating to the case, (4) whether there are any known assets, and (5) known actual or potential witnesses in support of seizure.

Prior to opening a formal asset investigation, the prospective AIRG case agent may wish to conduct a brief evaluation of the criminal investigation to determine, if possible: (1) whether or not a law with a forfeiture provision has been violated and (2) the likelihood that probable cause can be developed through investigation to support the seizure/forfeiture. The prospective AIRG case agent should also evaluate the assets involved in the case in light of national and local forfeiture threshold amounts.

8.3 AIRG Case Determination and Coordination

Asset identification should occur at the onset and continue for the duration of the investigation. This should also include the decision of which seizure method will be best suited to the case, i.e., administrative, civil, or criminal. In cases involving several investigative groups or multiple agencies, case responsibilities should be delineated at the beginning of the investigation and documented in an ROI.

In forfeiture, much of the complex work begins after the seizure. In many cases, the seizure itself may be a simple process, but bringing the seizure to culmination with a successful forfeiture may be more involved. Additionally, focusing on a criminal's assets often broadens the scope of an investigation, revealing financial and ownership links to other possible targets.

It is imperative that the criminal case SA and the AIRG SA coordinate all activities. This should include working jointly in early CI debriefings, search warrants, and case interviews to identify:

- A. Any legitimate sources of income/employment targets may have;
- B. Knowledge/involvement of the spouse in illegal activities (AIRG SAs should be aware of their state's community property laws);
- C. Targets' admissions (bragging) about assets and expenditures;
- D. Targets' spending habits, i.e., cash or credit, and, if credit, which credit cards;
- E. Bank statements, deposit slips, tax returns, investment literature, sales/service receipts;
- F. Illegal acts occurring on or in any real property;
- G. Properties, conveyances, or luxury items used in facilitation of the act and/or purchased with proceeds;
- H. Associates of the main targets of the investigation; and
- I. Targets' and associates' travel, both for business and pleasure.

Due to time and resource constraints, some of these items might not be a priority for the criminal case agent. Therefore, there may be a need for the AIRG case agent to seek assistance from other personnel. In any event, the criminal case agent must be notified of all investigative findings.

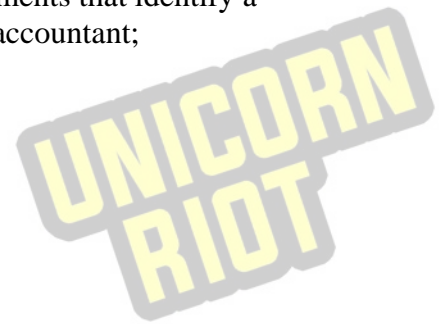
8.4 Collaboration on Search Warrants

During the drafting of any search warrant affidavits, the AIRG SA and criminal case SA should coordinate their efforts and be certain to include the authority to search for and seize financial documents. Furthermore, AIRG SAs should assist in the execution of all search warrants so that the AIRG can search for and obtain specific information pertaining to the location of assets and the monies/proceeds generated by the particular SUA being investigated.

Since financial records are frequently stored as electronic media, AIRG SAs, in cooperation with the criminal case SA, should request the assistance of a Computer Forensics Agent (CFA) during the planning and execution of any search warrant. The CFA can ensure that the search warrant includes the authority to search for evidence stored in any computers or other electronic media and assist in the recovery of digital evidence.

During the execution of any search warrant that provides authority to search for and seize financial documents, SAs should attempt to locate and obtain:

- A. Bank and financial statements, envelopes, or any other documents that identify a financial institution, financial account, financial advisor, or accountant;
- B. Tax returns;
- C. Credit card statements;
- D. Safe deposit box keys;
- E. Titles and registrations to conveyances; and
- F. Property records, mortgage information, or any other loan information.



It is extremely important that constant coordination and communication between the criminal case SA, the AIRG SA, the criminal AUSA, and the asset forfeiture AUSA occur on a regular basis. No decisions should be made arbitrarily by a single SA or other entity; AIRG SAs should inform and seek the advice of all parties.

8.5 Opening an AIRG Case

According to Section 4.1.2(2) of the Case Management Handbook (OI HB 08-02), dated February 1, 2008, case records must be opened in TECS no later than the end of the fifth business day after an investigation has been initiated.

A TECS case opening need not be created if a cursory review of the criminal investigation is enough to determine that there is no asset forfeiture potential. If the investigation requires a

more in-depth analysis, however, the AIRG SA should open a case to ensure that the AIRG documents and receives credit for its efforts.

When opening the AIRG case record, the AIRG case agent should use the defendant's/subject's name and the type of investigation as the case title (e.g., "John Doe/Asset Forfeiture Investigation"). If a case is the result of a referral, credit and recognition should always be given to the referring group in the narrative of the case opening and in subsequent ROI investigative synopses.

If, once an AIRG case has been opened, it is subsequently determined that the case has no asset forfeiture potential, the investigation should be closed with a closing ROI. The closing ROI should delineate the reason(s) there is no forfeiture potential. The referring office should be included in the distribution code field on the closing ROI.

8.6 Inclusion of Originating Case Numbers

ROIs for both cases, the AIRG investigation and the originating criminal case, should reflect each other's case numbers in the "Related Case Numbers" field. This allows for the immediate recognition by any querying SAs that an asset forfeiture investigation is being worked in conjunction with the primary criminal case. SEACATS Incident Reports should reference the counterpart AIRG or criminal case number in the narrative section, as appropriate.

8.7 Initial Report of Investigation

According to Section 4.1.3(4) of the Case Management Handbook (OI HB 08-02), dated February 1, 2008, an initial ROI must be completed within 20 business days after an investigation is initiated and submitted in TECS to the supervisor for approval.

For most referrals, the initial ROI should include the same information outlined in the collateral request and any other information gathered from meetings with the criminal case agent. If there is little information to review and no evidence connecting the property to the criminal act, the AIRG SA may, with the concurrence of the GS, complete an open-and-close ROI documenting database checks and any other work that was completed. The case can be reopened later if additional information supporting forfeiture is developed.

All ROIs, whether completed by the criminal case agent or the AIRG SA, should include the TECS distribution codes for all concerned. With the inclusion of the proper distribution codes, all concerned parties will receive a copy of the report and will be apprised of the investigation's progress.

8.8 Interim Reports of Investigation

Documenting the progress of an AIRG investigation is extremely important. As additional assets are identified, the AIRG SA should document such discoveries in a detailed ROI. Every ROI

should be distributed to the criminal case agent. This keeps everyone apprised of the investigation's progress.

It is the responsibility of the AIRG SA not only to identify assets, but to determine if they meet the seizure threshold (see Section 3.14) guidelines. Even if an asset does not meet the seizure threshold and even if there is no probable cause to justify the seizure of an asset, the AIRG SA must prepare an ROI documenting the asset's identification.

When the case involves real property, the AIRG SA should prepare ROIs summarizing the information contained in the title searches and net equity analyses provided by the real property contractor. This should be done even if the net equity does not meet the seizure threshold.

AIRG SAs must complete an ROI documenting an enforcement or seizure action within 5 business days of the action. They must also prepare ROIs documenting the service of all subpoenas, as well as the subsequent return and analysis of documents relating to those subpoenas.

8.9 Case Closing and Disposition

AIRG SAs should keep cases in open or pending status until all seized property has been forfeited, either administratively or through a court order, or has reached some other final disposition. This could include return to its owner, release to a third party innocent owner, remission to the victims of a financial crime, or release to a lien holder.

If real property has been seized, the AIRG investigation should not be closed until a final order of forfeiture (see Section 3.4) is obtained from the court, the order has been filed with the county clerk, and the property has been sold. For case management purposes, if the SA anticipates a period of inactivity prior to receiving the final order of forfeiture, the case may be maintained in a "pending" status. In some rare instances, the court, USAO, or HSI may request that, after a real property has been indicted, it be sold through an interlocutory sale (see Section 3.5) to preserve its value. In these instances, the proceeds of the sale remain in an escrow account until the final order of forfeiture is issued by the court. During the forfeiture proceedings, the judge will still rule on the forfeiture of the property itself, not the funds from the sale. Once a final order of forfeiture is received and the proceeds are distributed, the case may be closed.

Prior to closing an investigation, AIRG SAs should check for the following possible loose ends:

- A. If a pre-seizure analysis request was entered as a SEACATS Incident Report and the property was never forfeited, the SEACATS Incident Report must be closed. The Incident Report must never be cancelled. To correctly close a pre-seizure Incident Report, AIRG SAs should utilize SEACATS function "PMPM" and select "Option 1." At the bottom of the screen displayed, there will be an indication to press "PF-14" (Shift + F2) to "CLOSE PA-PI-PW." This will successfully close that line item and still allow for proper accounting and expense reimbursement.

- B. If a *lis pendens* (see Section 3.7) was filed with the county clerk’s office, it must be removed. To accomplish this, AIRG SAs must obtain a removal order from the USAO and file this order with the county clerk. A copy of the removal order, with the filing receipt from the county clerk, should be placed in the case file with a copy of the original *lis pendens*.

8.10 Project Codes

The project code field in case records and SEACATS Incident Reports allows for the inclusion of numerous project codes. It is imperative that this field reflect **all** other associated project codes. In addition to the national project code, all case records and SEACATS Incident Reports should reflect the individual office project code for each AIRG that either directly or indirectly participated in the seizure. This field should also include project codes for the criminal case’s investigative area and any other relevant project codes.

8.11 National AIRG Project Code

As stated in Section 5.4, the national project code for the AIRG program is 340 (Asset Removal Team) and will be utilized on all case records and SEACATS Incident Reports. This project code should be reflected in reports pertaining to any enforcement actions that an AIRG SA either assisted in or directly caused. This is important because it allows anyone querying the case to immediately recognize that a companion/collateral AIRG investigation exists in conjunction with the criminal case.

8.12 Individual AIRG Project Codes

Individual project codes have been designated for each AIRG office. By including the individual AIRG project codes in SEACATS Incident Reports and case records, each office contributing to the investigation can receive credit for its investigative work.

The group acronyms, office codes, and project codes for the AIRG offices are as follows:

| | | |
|------------------|-------|-----|
| ATLANTA (UJ) | | 964 |
| BALTIMORE (UB) | BART | 951 |
| BOSTON (UG) | | 969 |
| BUFFALO (UK) | | 965 |
| CHICAGO (UI) | CHART | 952 |
| DALLAS (UX) | | 7D2 |
| DENVER (UC) | DDART | 953 |
| DETROIT (UD) | DART | 954 |
| EL PASO (UE) | BEAR | 955 |
| HONOLULU (IU) | | 6J1 |
| HOUSTON (UH) | HART | 956 |
| LOS ANGELES (UL) | LASAR | 231 |

| | | |
|--------------------|---------|-----|
| MIAMI (UM) | MIDAS | 341 |
| NEWARK (UW) | | 7D1 |
| NEW ORLEANS (UQ) | | 966 |
| NEW YORK (UN) | CONDOR | 957 |
| PHILADELPHIA (UR) | | 968 |
| PHOENIX (UA) | | 7D4 |
| SAN ANTONIO (UO) | STAR | 958 |
| SAN DIEGO (US) | SANDART | 959 |
| SAN FRANCISCO (UF) | OMEGA | 960 |
| SAN JUAN (UP) | PRART | 961 |
| SEATTLE (UU) | | 967 |
| ST PAUL (UY) | | 7D6 |
| TAMPA (UT) | TARG | 962 |
| WASHINGTON (UV) | | 7D0 |

Chapter 9. INVESTIGATIVE STEPS

9.1 General Guidelines for AIRG Investigations

AIRG SAs and GSs should maintain strong liaisons with their counterparts in their AOR's criminal investigative groups, continually stressing the need for criminal case SAs to enlist the aid of the AIRG early in any investigation with asset forfeiture potential. As a general rule, the earlier an AIRG becomes involved in an investigation, the more effective will be its efforts at asset identification and the formulation of a forfeiture strategy.

AIRG SAs assigned to an investigation should:

- A. Conduct a thorough investigation; tenacious, comprehensive investigations have resulted in significant seizures;
- B. Confer with the originating criminal case SA and review all criminal case ROIs to identify assets, gather evidence linking the identified assets to the criminal activity (as proceeds or facilitating properties), and establish probable cause for potential seizures;
- C. Verify that the alleged crime has a forfeiture provision;
- D. Develop an appropriate forfeiture plan as assets are identified for potential seizure; this plan should be documented in the case file;
- E. Conduct physical surveillance of property and subjects as necessary;

- F. Conduct complete database (law enforcement and commercial) research. This should include queries of all new names obtained from county records or on-line databases. Consideration should be given to assets that may be hidden in the names of family members and associates;
- G. Identify problems and anticipate potential roadblocks to seizure and forfeiture (e.g., lack of probable cause, statute of limitations, proportionality, the innocent owner defense, and/or environmental concerns/lead paint); and
- H. Document all stages of the investigation in a detailed ROI.

9.2 Real Property

There are two ways to justify the seizure of real property for forfeiture. In the first, the SAs have probable cause to believe that a criminal used the property in the commission of a crime. This is facilitation. Examples are houses used to store narcotics or harbor illegal aliens.

The second way to justify forfeiture is to demonstrate that the criminal acquired the property with proceeds derived from his or her illegal activity. An example would be a condominium purchased using money acquired from illegal arms exports. Proceeds are always proceeds; criminals may use proceeds to purchase real property or transfer proceeds into and out of various financial accounts, but they always remain proceeds.

Some property may be used to facilitate crime and represent proceeds of illegal activity. Although only one justification is necessary to proceed with the seizure and forfeiture, the AIRG SA should gather and document evidence supporting both justifications when building the case. An AUSA considering the merits of the forfeiture(s) may want to allege both justifications when prosecuting the case.

9.3 Facilitation

When a real property is to be seized for facilitation, the AIRG SA should determine the following:

- A. If there are CIs involved, whether or not they are willing to testify that the property was utilized to facilitate the criminal activity;
- B. If there are no CIs, whether or not contraband was found on the property during the execution of a warrant, a controlled delivery, a cold convoy, a surveillance, or a knock and talk; and
- C. Whether the property was used as a meeting, planning, or staging location for criminal activity. Among many other factors, SAs may wish to consider whether a

telephone located on the property was used to plan or discuss criminal activity, as evidenced by a Title III interception or telephone toll record analysis.

9.4 Proceeds

When the property is to be seized for proceeds, the AIRG SA should take the following investigative steps:

- A. Determine whether the target has any legitimate jobs/employment that may represent legitimate income. If the target has been employed in any legitimate capacity, the AIRG SA should contact the appropriate state's Department of Revenue to verify employment and salary.
- B. Ascertain whether the criminal case SA, a CI, or other individuals associated with the target know of any other sources of income that the target may have (i.e., investments, wealthy family, inheritance, etc.).
- C. Check public records to discover if there are any corporations or other businesses registered in the target's and/or family member(s)' name(s).
- D. Query criminal history databases to learn whether or not the target has a criminal history.
- E. Complete financial queries in TECS and available databases.
- F. Identify loads of contraband or illegal aliens attributable to the target, if furnished by the CI, and calculate the estimated amount of money the target would have received for smuggling the load.
- G. Determine whether there are additional properties in the target's name.
- H. Interview past employers, acquaintances, neighbors, parole officers, SAs, relatives, etc., to determine the history/background of the individual.
- I. Obtain mortgage applications, which may reveal valuable information regarding assets and liabilities as well as checking and savings accounts information.
- J. Obtain income tax returns to help determine sources of reported or legitimate income (some means for obtaining income tax returns include *ex parte* orders, subpoenas to third-party record keepers, or from files discovered during the course of a search warrant; SAs may wish to consult with the appropriate AUSA or with the local Office of the Chief Counsel (OCC) prior to obtaining income tax records).

9.5 Possible Defenses Against Forfeiture

Throughout the AIRG investigation, it is imperative that the AIRG SA be aware of possible defenses that may arise and prepare for them during the investigation. The most common defenses are: (1) the “innocent owner” defense; (2) entrapment; (3) duress; and (4) undue delay in bringing a forfeiture action. Of these defenses, the “innocent owner” defense is by far the most frequently utilized. This defense involves a property owner who claims that he or she is uninvolved in and unaware of the illegal activity that is the basis for the forfeiture, and that he or she took every reasonable precaution to prevent the misuse of the property.

9.6 Evaluation of a Property Independent of a Pre-Seizure Analysis

Determining whether or not to take a real property requires information from various sources. Factors that AIRG SAs should consider from the outset are: (1) the assessed value, (2) known liens, (3) the probable equity, (4) possible environmental problems, (5) the existence of sufficient probable cause for seizure, and (6) the ability to overcome possible defenses to the forfeiture.

When practical, the AIRG SA should drive by the property to evaluate its general condition and environs, to observe potential problems that may not be apparent from online information, and to verify the physical address. For property in areas outside of the investigating AIRG’s AOR, the AIRG SA may send a collateral ROI requesting the assistance of another AIRG for a drive-by. Sometimes properties may be located within the boundaries of the SAC’s AOR, but at a great distance from the SAC office itself. In these cases, the AIRG SA may request, via a collateral request or informally, the assistance of the criminal case agent or an SA in an office closer to the real property. When possible, this drive-by should be completed prior to the submission of a pre-seizure analysis request to the real property contractor.

9.7 Using Online Real Estate Information

Depending on the resources in the SA’s area, online real estate information systems may be available (the same services utilized by real estate sales offices). The source of the information is usually derived from the local tax rolls. **The online information should always be verified by an actual search of county records.** The types of information available from these commercial databases normally include:

- A. Basic Data Information: the assessor parcel number, property address, bedrooms, bathrooms, half bath(s), legal description, assessment, taxes, mortgage company information, sale date, and sale amount history.
- B. Deeds and Mortgages: information obtained from the documents recorded at the county recorder’s office, which usually includes the mortgage amount, lender information, and borrower information.

- C. Tax History Data: tax history breakdown of what the owner of the property pays in taxes.
- D. Full Legal Screen: the full, official, legal description of the property, which must be included in any affidavits or other legal documents pertaining to the forfeiture of the property.
- E. Property Dimensions: the gross, adjusted, and living square footage.
- F. Comparables: history of recent sales prices for properties of the same approximate size, type, and value as the subject property from the most recent sale going back in time.

9.8 Requesting Mortgage and Escrow Documents

Having identified mortgage and escrow companies from county property records and online resources, the AIRG SA may wish to request, in coordination with the appropriate AUSA, grand jury subpoenas for mortgage and escrow records pertaining to the property. Obtaining and reviewing mortgage and escrow documents has several investigative benefits, even if, in the final analysis, the property itself is not forfeitable because of seizure thresholds or other considerations. These benefits include, but are not limited to, the following:

- A. The mortgage documents often include income tax information, income verification documents, employment information, credit history reports, and the identification of other financial accounts held by the owner. These documents may aid in the identification of other assets and bolster evidence concerning the individual's amount of legitimate income or lack thereof.
- B. Mortgage and escrow documents often contain copies of cashier's checks or other methods of payment used to purchase the property. Establishing the source of funds for the property purchase is a key element of any forfeiture investigation involving proceeds of illegal activity.
- C. The documents may contain statements by the property owner that the AIRG SA, through other investigative avenues, knows to be dishonest. In some cases, these dishonest statements may constitute fraud and may open the door to additional criminal charges or bases for forfeiture.
- D. Evaluation of the most recent mortgage statements will aid the AIRG SA in performing a more precise calculation of net equity than that contained in public records. This is particularly important in cases where the real property was purchased several years prior to the investigation and the net equity (as determined by public records) is close to the seizure threshold. (See Section 10.4 for more information on net equity calculations.)

9.9 Investigative Steps When the Target of the Investigation Is Not the Legal Owner

When the target of the investigation is not the same individual as the legal owner of the property, the AIRG SA should attempt to determine:

- A. The identity of the legal owner(s), possibly by arranging a meeting with the CI and/or other individual(s) who may have knowledge relating to the true ownership;
- B. Whether the criminal case SA has any information concerning the individual appearing on the deed;
- C. If and when a quit claim was filed transferring the title of the property from the target to the newly-listed owner, and whether the transfer of the title occurred before or after the initiation of the investigation;
- D. If there are any taxes and/or liens outstanding against the property;
- E. Who pays taxes on the property and where the tax assessor bills are mailed;
- F. Whether remodeling has been done to the property or if the property is new. The AIRG SA should retrieve permit records from the appropriate county permit office to acquire the names of businesses/persons who worked on the property. The AIRG SA should also obtain construction contracts and interview construction/building workers as to their recollection of how the bills were paid and by whom. Additionally, the AIRG SA should determine whether there was anything of a suspicious nature encountered during construction (e.g., an unusual method of payment or irregular modifications to the property); and
- G. Whether the target's financial account records reflect payments or other transactions involving the property.

9.10 Requesting a Pre-Seizure Analysis

Real properties are held in different types of titles, i.e., grant deeds, warranty deeds, and Torrens titles. AIRG SAs should check with the asset forfeiture specialist in their district's USAO or with the AIRG in the property's jurisdiction for any specific local terminology or procedures concerning a property with forfeiture potential.

When a real property is identified and there is evidence that ties the property to the crime, the AIRG SA will ensure that the property meets the net equity (see Section 3.8) thresholds by requesting an appraisal and cost benefit analysis from the real property contract manager. This is done by initiating a pre-seizure analysis request through SEACATS. The AIRG SA will submit the pre-seizure analysis request by completing a SEACATS Incident Report in the same manner as any normal arrest or seizure. In place of the "SZ" or "SA" codes, however, the AIRG SA will

enter “PA.” In the port code field, the AIRG SA must enter the port code of the actual location of the property. This may or may not correspond to the port code of the AIRG SA’s SAC office.

Once the AIRG SA enters the SEACATS Incident Report, the local COTR (the AIRG GS) will approve the request and submit a request for services to the real property contractor. SEACATS will automatically generate a number for the “PA” incident that will apply to the individual property throughout the entire seizure/forfeiture process. Since only one number should be assigned to each individual property, multiple real properties should not be entered as separate line items under the same SEACATS Incident Report.

If the results of the pre-seizure analysis dictate that additional investigative or judicial activity against the property should not continue, the pre-seizure SEACATS Incident Report must be closed. For accounting purposes, the AIRG SA must not simply cancel the Incident Report, because monetary charges have been incurred against that pre-seizure number.

According to the terms of the real property contract SOW, there are a number of services that the contractor will perform with respect to the pre-seizure analysis of a particular real property. These services include, but are not limited to:

- A. Property evaluation and condition;
- B. Property legal status, title review, liens, encumbrances, and mortgages;
- C. Property market analysis;
- D. Professional real estate appraisal; and
- E. Business operation analysis.



9.11 Receipt of Pre-Seizure Information from the Real Property Contractor

When the AIRG SA receives the title report, appraisal, cost/benefit analysis, and any other relevant documents from the real property contract manager, he or she is responsible for ensuring that all documents, liens, or mortgages actually pertain to the particular property under consideration. In the past, mistakes made by the property contractor relating to ownership and/or equity issues have affected the recommendations presented in the net equity and cost/benefit analyses. Unless the AIRG SA reviews the pre-seizure analysis in its entirety, possible mistakes could result in easily avoidable adverse decisions regarding the possible seizure.

Any additional pre-seizure work (e.g., an update of the title search and report) prior to the initiation of a civil action or criminal indictment **must** be charged to the original pre-seizure number, not a new one.

9.12 Descriptions of Available Pre-Seizure Analysis Services

A. Researching the Title or Legal Ownership of a Real Property

Upon request of the AIRG, the real property contractor will perform one or more of the following services to research the title or legal ownership of a real property:

- 1) Property Profile. This consists of a report provided by a title company, generally at little or no charge, that lists a property's owner(s), legal description, date of construction, square footage, and location on a plat. This report may not have all these things or may not be available, depending on the county where the property is located.
- 2) Chain of Title. This provides a history of the property's ownership/vesting over a specified period of time. This report will not include information concerning liens or encumbrances.
- 3) Title Search/Title History. This is a report which provides a legal description, chain of title, current liens, mortgages, judgments, tax information, any other matters that are pending against the property, and copies of the corresponding documents. It will provide a chain of title showing all deeds from a specified time period to the present, and will include copies of the deeds themselves.
- 4) Current Owner and Encumbrance (O&E) Search. Although similar to a title search/title history, a current owner search provides only current owner information. This report will include the legal description; tax information; and the current deed and any open mortgages, liens, and judgments. It will include copies of the relevant documents.
- 5) Preliminary Title Commitment. This report will document the results of a search for the current condition of the property's title and the steps that must be taken if a clear title is to be issued. It should include the legal description, current owner, and all matters pending against the property, including encumbrances, tax information, mortgages, liens, judgments, restrictions, and easements. Copies of the relevant documents will be included in the report.

B. Assessing the Value and Determining the Net Equity of a Property

At the request of the AIRG, the real property contractor will perform one or more of the following services to assess the value and to help determine the net equity of a property:

- 1) Online Valuation. As of March 1, 2007, the real property contractor utilizes online valuation as the default option when requested to conduct a pre-seizure

analysis for a piece of residential real property. This is a report generated by an online service which will in most cases provide sales comparables, and will usually give a low, medium, and high value for the specified property. This report may not be available on all properties, and the real property COTR may request one of the other forms of appraisal listed below if deemed necessary for the investigation.

- 2) Drive-by Appraisal. Also referred to as a “limited scope” appraisal, a drive-by appraisal is limited to a roadside inspection of the property. The inspection, therefore, will be limited to the exterior of the property only. Assumptions are made as to the interior condition of the property and the condition of any portions of the property not visible from the road. Upon request, this report can be done without taking photographs of the property.
- 3) Full Appraisal. Access to the entire property is required to complete this report, which is performed by a certified appraiser and includes a comprehensive physical inspection of the subject property without any limiting conditions.
- 4) Broker’s Price Opinion. A real estate broker issues this letter of opinion, which estimates the value of the property based on the broker’s knowledge of the local market and recent sales comparables. When requesting this type of appraisal product, the AIRG SAs should specify whether or not a drive-by inspection should be included in the opinion. This report may not be available on all properties.
- 5) Business Valuation. This is an appraisal of a business entity based on the entity’s ability to generate income. The valuation may also include an appraisal of any land and improvements owned by the business entity. Although it is possible to complete without business records, the availability and the quality and completeness of the accounting and financial records play a critical role in the difficulty in completing the valuation, as well as in the accuracy of the valuations.
- 6) Sales Comparables. Usually obtained from a local real estate agent or an online service, sales comparables are presented as a list of similar properties in the area that have been sold within the previous 6 months (or later depending on recent sales). They may not be available for all properties.
- 7) Recertification. A certified appraiser provides this letter of opinion which states the appraised value of a particular property based on a previous appraisal of the same property.
- 8) Rental Survey. A certified appraiser prepares this report which estimates the market rental rate for a particular property.

9.13 Environmental Concerns

In light of TEOAF Directive 30, “Interim Guidelines re: Lead-Based Paint in Residential Property Built Prior to 1978,” dated November 25, 1996, the initial identification of the subject property must include the construction date.

9.14 Coordination with the Assistant U.S. Attorney

Once it has been determined that a seizure may take place, the Asset Forfeiture Section of the USAO should be contacted to have an AUSA assigned to the case. This AUSA should coordinate with the criminal case AUSA. The AIRG SA should conduct an initial briefing for the asset forfeiture AUSA, explaining the basic facts of the case and the expected timeline for the case. If the AIRG SA anticipates any problems with the seizure, he or she should discuss them with the asset forfeiture AUSA as soon as possible. If the AIRG SA has prepared a draft affidavit, the asset forfeiture AUSA should receive a copy for review at the time of the briefing.

9.15 Filing of *Lis Pendens* and Service of Notice

In criminal proceedings, once indicted, a *lis pendens* is obtained from the AUSA and filed with the appropriate county clerk. In a civil proceeding, the AIRG SA will obtain a warrant *in rem*, protective order, *lis pendens*, writ of entry, and/or eviction orders, as the specific investigation dictates. The AIRG SA must identify and serve all interested parties with copies of the arrest warrant *in rem* and/or protective order, and file the *lis pendens* with the appropriate county clerk. (Note: In some judicial districts, the federal court clerk or USAO may file the *lis pendens* via registered mail.)

Once the *lis pendens* has been received and served, the SEACATS Incident Report initiating the “PA” should be updated. The SA that initiated the Incident Report should be able to update the “PA” to a “PI” for criminal forfeiture or a “PW” for a civil forfeiture. (See Section 15.3.)

The AIRG SAs should become familiar with the laws pertaining to *lis pendens* in their particular state. In some states, the *lis pendens* automatically expires, with the time frame varying from state to state. AIRG SAs should be cognizant of this expiration, since the time period from issuance of a *lis pendens* to actual forfeiture or a real property is, on average, between 21 and 36 months. AIRG SAs should request that the AUSA file the appropriate *pro forma* motion prior to the expiration date of the *lis pendens*. The AIRG SA should prepare and return a “Process Receipt and Return” (Treasury Department Form (TD F) 90-22.48).

When providing notice of the *lis pendens* to all interested parties, the AIRG SA should ensure that a copy is delivered to the defendant in the jail and/or to the defendant’s attorney if the defendant is in custody. Mailing the notice to the home or business of an incarcerated defendant does not constitute serving notice. A legitimate attempt must be made and documented to serve the necessary individuals. In many jurisdictions, the AUSA will send the notice.

9.16 Maintenance of Real Property Files

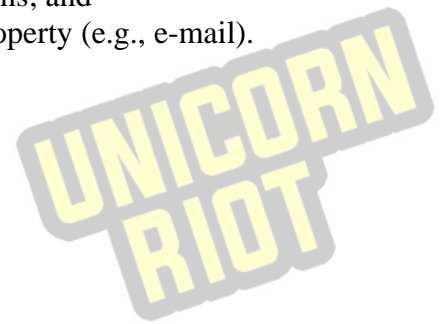
Once a pre-seizure SEACATS Incident Report has been approved, a separate file should be maintained for each real property pending possible forfeiture. A multi-sectional file will be maintained in the following order:

A. Section A

- 1) Left Side – Property Information Sheet.
- 2) Right Side – SEACATS and other HSI documents:
 - a) Copy of the initial AIRG ROI;
 - b) Pre-seizure summary (approved copy);
 - c) Copy of the SEACATS Incident Report;
 - d) Copy of the disposition orders for any and all requests sent to the real property contractor;
 - e) Any extension requests for previously sent dispositions; and
 - f) Copies of any other correspondence related to the property (e.g., e-mail).

B. Section B

- 1) Left Side – Legal Documents from the AUSA:
 - a) Preliminary order of forfeiture;
 - b) Final order of forfeiture;
 - c) Appeals;
 - d) Sentencing agreement;
 - e) Motions on real and personal property;
 - f) Substitute asset agreement;
 - g) Final sentencing documents;
 - h) Copy of the *lis pendens*;
 - i) Any legal documents provided by the AUSA for service by ICE; and
 - j) Any memos received from the AUSA that refer to the investigation.
- 2) Right Side – Documents from the Property Contractor:
 - a) Title search;
 - b) Historical report;
 - c) Equity report;
 - d) Cost/benefit analysis;
 - e) Plat map;
 - f) Appraisal;



- g) Report of environmental issues (e.g., lead-based paint, oil/gas spills, toxic waste);
- h) Photos of property (from both surveillance and pre-seizure analysis);
- i) Copy of CBP Form 6051S with the property contractor's signature and the date the chain-of-custody form was submitted to FP&F;
- j) Consignment order/inventory sheet (including a photo inventory of property that records any high value items in, or any existing damage to, the property); and
- k) Property management plan from the real property contractor, including contact information for the local manager to whom the property has been consigned.

9.17 Financial Seizures

Crimes are committed for profit and the profit usually transits through bank accounts at some point in time. These illegal proceeds should be traced and seized. Furthermore, since bank accounts are "liquid assets," they should be seized as soon as possible to prevent criminals from moving the funds to unidentified accounts or accounts that are outside the jurisdiction of the court. Both business and personal accounts can be seized. These may be regular bank accounts, including, but not limited to, checking, savings, or certificates of deposit, or they may be brokerage or other investment accounts.

Once probable cause has been established to seize one account, it requires very little effort to expand the scope of the investigation and obtain additional seizure warrants. If the money trail leads to an asset, the AIRG SA should attempt to obtain a seizure warrant for that asset. If the AIRG SA discovers evidence that the target of the investigation is engaged in money laundering, the criminal case SA should include those violations in the indictment.

When investigating financial accounts, SAs should familiarize themselves with the terms of the Right to Financial Privacy Act (12 U.S.C. § 35). To maintain the integrity and confidentiality of the investigation, SAs should use grand jury subpoenas whenever possible to obtain bank account information or any other financial information covered by the Right to Financial Privacy Act.

When using a grand jury subpoena to obtain bank account records in furtherance of the criminal case, SAs should draft subpoena requests that give them the authority to require the financial institution to produce any and all documents pertaining to the account in question. SAs should request documents relating to the time period encompassing any known criminal activity on the part of the target of the investigation. AIRG SAs should coordinate their grand jury subpoena requests with the appropriate AUSA and the criminal case agent. Depending on the preferences of the local USAO and the working relationship with the financial institution involved, SAs may wish to request that, initially, the financial institution send only copies of monthly statements, signature cards, and, if needed, loan documents. By limiting the initial request, the response time by the bank will be shorter and the initial cost of reimbursement to the USAO will be less.

After a cursory analysis, the AIRG SA can determine which, if any, additional records are required and request them from the financial institution without serving another grand jury subpoena.

In some cases, financial accounts should be seized as soon as probable cause exists to do so in order to prevent the liquidation of assets or movement of funds. If a delay in seizing the bank accounts is necessary, SAs may, in coordination with the AUSA, obtain a temporary restraining order against movement of funds from the accounts, pending the obtaining of a seizure warrant.

In other cases, however, seizure of financial accounts may alert a previously unaware suspect that he or she is the subject of an investigation. AIRG SAs, therefore, should always coordinate the asset forfeiture side of an investigation with the criminal case SA. If the confidentiality of an investigation is a concern, then bank accounts should be seized at the same time or as soon as possible after the service of the criminal search and/or arrest warrants.

To prevent criminals or their associates from draining accounts in the face of a pending forfeiture action, some state laws allow law enforcement officers to “freeze” assets for a limited time during the course of a criminal investigation. California state law, for example, permits an “adverse action claim” which can be requested by any state officer. Service of the “adverse action claim” causes a 72-hour freeze of bank accounts, certificates of deposit, money market accounts, and access to safe deposit boxes. AIRG SAs should check with their AUSA, task force officers, or state prosecutor’s office to learn if this investigative tool is available in their AOR.

9.18 Seizures of Businesses

The seizure of a business is not prohibited; however, undertaking such a seizure should be given serious thought prior to initiating any action. The seizure of a business often entails continuing the business’ legitimate operations in order to preserve the value of the enterprise. (Note: When possible, SAs should explore the possibility of seizing the assets underlying a business, e.g., the business’ operating accounts, premises, etc., rather than attempting to take over the commercial enterprise itself.)

Chapter 10. PRE-SEIZURE PLANNING

Pre-seizure planning consists of anticipating and making decisions concerning what is to be seized, why it is being seized, and how it is going to be seized. The following sections contain some of the many factors that AIRG SAs should consider when planning an anticipated seizure. In considering these and other pre-seizure planning issues, AIRG SAs should be familiar with the TEOAF Guides and Guidelines (see Section 2.2). When planning for seizure, especially when seizing and processing real property, AIRG SAs should coordinate with and seek the advice of the local Seized Property Specialist (SPS), because SPSs have experience and expertise in this area. AIRG SAs and the SPS should also enlist the aid of an FP&F paralegal specialist early in any investigation in which multiple seizures are anticipated. The paralegal specialist

will then have an opportunity to become familiar with the investigation and offer advice and expertise during the pre-seizure planning process.

10.1 What is Being Seized?

- A. If the AIRG SAs plan to seize a house, they should give consideration to the contents of the house. Will they also be seized? If so, the AIRG SAs should ensure that the contents are mentioned in any affidavits, court documents, seizure paperwork, or SEACATS Incident Reports.
- B. If the AIRG SAs plan to seize a farm, will the seizure include the livestock or only the real property?
- C. If a business is to be seized, will the AIRG also attempt to seize the building where the business is located? How will the SAs deal with the issue of accounts payable and accounts receivable following the business' seizure? Will any special licenses or permits (e.g., a liquor license) be included in the seizure? SAs should take into consideration the possibility that, if the forfeiture is not successful, the Government could be ordered to pay the defendants for the potential loss of business revenue and loss of goodwill due to the seizure.
- D. What was the property used for? Was it used to distribute or manufacture drugs? If so, were hazardous chemicals stored or disposed of on the premises? If so, these hazards may pose liabilities to HSI and additional costs to the TFF following the seizure.
- E. Do any renters have interests in the property? Will the occupants of the property be allowed to remain? If so, the AIRG SA and GS should make arrangements with the real property contractor to complete an occupancy agreement.

10.2 Why is the Asset Being Seized?

- A. Was the property used during the commission of a crime or to facilitate criminal activity?
- B. Is there enough net equity in the property to justify seizure under TEOAF guidelines?
- C. If there is not enough net equity to justify seizure and forfeiture, is there an overriding law enforcement reason to justify the seizure (e.g., a vehicle with a smuggling compartment, a firearm in the possession of a felon)? In these cases, the value of the item may be of secondary importance.
- D. Was the property purchased with illegal proceeds?

- E. Who is the legal owner of the property?
- F. Does the property have any liens or encumbrances against it?
- G. What are the estimated costs of managing and disposing of the property prior to seizure?

10.3 How is the Asset Going to Be Seized?

- A. If the asset is real property, does the court order authorizing seizure also authorize entry? If not, the AIRG SA should consider obtaining a writ of entry.
- B. How many people will be required to secure the property? Should they all be SAs or other law enforcement officers? Will HSI require assistance from outside agencies (e.g., animal control, a hazardous materials team, etc.)? (The answers to these questions should be the product of coordination between all parties, including the AIRG SA, the criminal case SA, the SPS, the COTR, and the real property contractor.)
- C. Is there a potential for harm to SAs or other personnel in the form of weapons, chemicals, explosives, or dangerous animals?
- D. What contract services, materials, or supplies will be needed to secure the property (e.g., locksmiths, boarding services, etc.)?
- E. Will the seizure attract media interest? If so, SAs should contact their local ICE public information officer prior to the seizure.
- F. The AIRG SA and COTR should ensure that, unless law enforcement reasons dictate otherwise, the real property contractor's personnel should be present at the time of seizure to assume custodial responsibilities immediately after seizure.
- G. Is there an occupied structure on the property? If so, there may be constitutional privacy interests to consider. In some jurisdictions, it may be necessary to obtain a writ of entry for inspection and inventory or to include a "right of entry" clause in the warrant against the property.
- H. The AIRG SA should make arrangements for the filing of a *lis pendens* with the local county recorder's office as soon as possible after the appropriate complaint or indictment has been obtained. If the property is forfeited, FP&F will ensure the release of the *lis pendens*. If the indictment or complaint does not result in forfeiture, the SA, in coordination with the AUSA, must make arrangements to remove the *lis pendens*.

10.4 Calculation of Net Equity/Avoiding Liability Seizures

AIRG SAs must obtain net equity information prior to seizing real property and businesses. As a general rule, if total liabilities and costs incurred in seizing a real property or business exceed the value of the property, the property should not be seized. Even if there is positive net equity in the property, that net equity amount must meet certain thresholds before the SAs may proceed with the forfeiture. (See Section 10.6.)

The AIRG SAs are responsible for providing adequate information about the liabilities and costs of a seizure to the AUSA. The AIRG SA may also wish to inform and seek the advice of FP&F and the local OCC. The final determination as to whether or not to seize a real property or business should be made by the seizing AIRG SA in consultation with the criminal case SA, the criminal AUSA, the asset forfeiture AUSA, and, when appropriate, FP&F, OCC, and the SPS.

When possible, the AIRG SA should identify one or more alternatives that would accomplish the desired effect of seizure – to deprive a person of illegally owned or acquired property – at a lesser cost to the Government. Possible alternatives may include “stipulated or interlocutory sale” or the substitution of a payment in lieu (see definition in Section 3.9 and further discussion in Section 15.4) of the forfeiture of the real property.

10.5 Special Considerations When Planning the Seizure of a Commercial Enterprise

Before planning to seize an ongoing commercial enterprise, AIRG SAs should give consideration to the feasibility of the business. They should ascertain how heavily encumbered the business is with debt, liens, or other liabilities. AIRG SAs should also consider any potential environmental hazards or other threats that the business may pose to government or contract personnel. Careful planning will help determine whether or not the seizure of the commercial enterprise is in the best interest of the Government.

When appropriate to an investigation, the real property contract includes provisions for the continued operation, on behalf of the Government, of commercial businesses or other enterprises. Unless enforcement requirements mandate otherwise, AIRG SAs should obtain, in advance, a determination from the seized property contractor as to the feasibility of continuing to operate the business. They should also request that the real property contractor identify and analyze any environmental problems or other hazards that would make the seizure inadvisable.

10.6 Seizure Thresholds

Pursuant to TEOAF Directive 20, “Net Equity Requirements for Seized Property,” dated September 23, 1994, and the DOJ Asset Forfeiture Policy Manual, dated 2008, and barring an overriding law enforcement purpose, net equity must exceed the following thresholds in order to justify a seizure:

| | |
|---------------|--|
| Cars | \$10,000 |
| Vessels | \$10,000 |
| Aircraft | \$10,000 |
| Real Property | The greater of \$20,000 or 20% of appraised value (e.g., real properties valued at less than \$100,000 must have at least \$20,000 worth of net equity; the net equity in properties valued at more than \$100,000 must be at least 20%) |
| Currency | \$ 5,000 |
| Bank Accounts | \$ 5,000 |
| Jewelry | \$ 5,000 |

The USAO in the AIRG SA's district may require net equity amounts greater than the national thresholds listed above. It is the responsibility of each AIRG to know the local prosecutorial guidelines.

10.7 Pre-Seizure Summary Report

The pre-seizure summary report is required prior to the seizure of all real property, including businesses, and any general property whose value is in excess of \$100,000. (This does not include seizures of monetary instruments.) The pre-seizure summary report must be approved by the SAC in the AIRG's AOR and forwarded to AFU at HSI HQ. The Unit Chief, AFU, must approve **all** real property seizures by means of the pre-seizure summary report. If the final decision is made to take the property and the net equity of the property is over \$1,000,000 and/or it is an unusual or high profile seizure, prior approval must be obtained from the Executive Associate Director of HSI. An approved copy of the pre-seizure summary report must be maintained in the AIRG SA's case file. If the pre-seizure summary report pertains to real property, the AIRG SA should place an approved copy in the real property file.

10.8 Seizures of Businesses

AIRG SAs considering the seizure of an operating business should be aware that such a seizure requires approval from DOJ. Obtaining this approval normally takes a minimum of 30 days.

10.9 Adopted Seizures

A federal, state, or local law enforcement agency or foreign country that has seized property may request that HSI adopt the seizure and proceed with forfeiture. HSI may adopt such seized property for forfeiture when the conduct giving rise to the seizure is in violation of a federal law enforced by HSI.

HSI policy permits the adoption of seizures; however, within **30 calendar days** from the date the property was originally seized, the seizing state or local agency must make a written request addressing the adoption of the seizure to the local SAC office. The SAC and the Unit Chief, AFU, must approve the adoption. The requesting agency must have completed 100% of the

required investigative and pre-seizure work prior to HSI's adoption of the seizure. In addition, the value of the seizure must exceed \$10,000.

Some states require turnover orders. As stated in Section 3.17, a turnover order is an authorization, obtained from the state court with jurisdiction over the seizure, which authorizes the state or local agency to turn the seizure over to HSI for adoption. The following states require "turnover" documents to be filed when a state court authorized a seizure warrant for the property: Alaska, California, Indiana, Louisiana, Massachusetts, Mississippi, New York, Texas, and Utah. The following states require a turnover order when a state or local seizure is accomplished by any means: Arkansas, Illinois, and Missouri. Obtaining a turnover order may be as simple as submitting a letter from the District Attorney's Office or may require a more formal filing with the appropriate state court. AIRG SAs should consult with the seizing agency, local prosecutors, and the OCC in their AOR prior to adopting seizures in these locales.

Chapter 11. TYPES OF FORFEITURES

There are three types of forfeiture procedures to be considered when conducting an AIRG investigation: administrative, civil, and criminal.

11.1 Administrative Forfeiture

Administrative forfeiture is initiated and carried out by an agency without judicial involvement. It is limited to certain types and values of property:

- A. Real property **may not** be seized or forfeited administratively.
- B. All contraband and conveyances used to transport controlled substances may be forfeited administratively regardless of value.
- C. Currency of any value may be administratively forfeited.
- D. All property not falling into one of the categories listed above, including financial accounts, is limited to a value of \$500,000.

Property seized administratively by ICE HSI is turned over to the CBP FP&F for processing. FP&F will provide notice to owners and lien holders, ensuring that the forfeiture conforms to requirements established by CAFRA. If the owner of the property challenges its seizure and forfeiture under administrative proceedings, then the forfeiture will become a civil forfeiture, subject to judicial proceedings.

11.2 Civil Forfeiture

Civil forfeiture occurs when SAs, with the assistance of the local USAO, file a civil complaint for forfeiture *in rem* with the federal district court. Civil forfeitures are actions against the property itself; essentially, they hold the property civilly liable for its involvement in criminal activity. They are conducted independently of any criminal proceedings and do not rely on a criminal conviction for their success or failure. The standard of proof for a civil forfeiture in those cases subject to the requirements of CAFRA is preponderance of the evidence. For forfeitures not subject to CAFRA (i.e., the Tariff Act of 1930, Title 19 of the United States Code; the Internal Revenue Code of 1986; the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 *et seq.*); the Trading with the Enemy Act (50 U.S.C. App. 1 *et seq.*); and Section 1 of Title VI of the Espionage Act of June 15, 1917 (22 U.S.C. § 401)), the burden of proof on the Government is probable cause.

Civil forfeitures are particularly advantageous in cases in which the defendant in the criminal case has become a fugitive, is deceased, or is beyond the reach of the court for some other reason. They are disadvantageous in cases in which a seized asset is transferred, damaged, or destroyed between the time of the criminal activity and the time of the forfeiture. No substitution of assets is allowed in civil forfeiture cases if the asset is lost or devalued.

11.3 Criminal Forfeiture

Criminal forfeiture occurs when SAs, through the USAO, include a forfeiture allegation in a grand jury indictment, information, or criminal complaint filed against a defendant. The fate of items seized under criminal forfeiture proceedings is tied to the fate of the criminal defendants. For the item to be forfeited, the defendant must be convicted of the underlying criminal violation, and either a trial jury or the defendant's plea agreement must concur with the grounds for the proposed forfeiture. Once the defendant has been convicted, a federal judge will issue a preliminary order of forfeiture. This preliminary order cedes the defendant's ownership interests in the property to the Government.

Following the issuance of the preliminary order of forfeiture, the USAO will publish a notice of the pending forfeiture and send the notice to lien holders or other parties with an ownership interest in the property. Within 30 days of publication and notice, all interested parties will be given an opportunity to present their claims in an ancillary hearing. Once all claims have been resolved in the ancillary hearing, the judge will issue a final order of forfeiture (see Section 3.4), called an "amended order of forfeiture" in some districts.

Criminal forfeitures are disadvantageous in cases in which the defendant is beyond the reach of the court, as in the case of a fugitive. They are also disadvantageous in criminal cases which take a great deal of time to reach a disposition, since the Government must pay storage/maintenance costs and there is a risk that the asset may depreciate in value over time. Criminal forfeitures are advantageous, however, in cases in which a forfeitable property is destroyed, damaged, or transferred to another party, because they allow for substitution of assets.

SAs, through the AUSA and court, may seek the forfeiture of another, equivalent asset owned by the defendant, even if the other asset was not involved in the criminal activity.

FP&F should be notified immediately if any item that has been seized has been included in a criminal indictment. Administrative forfeiture may occur prior to the final judicial disposition of the seized item. If the administrative forfeiture has been accomplished during the judicial action, it is incumbent upon the case agent to notify the AUSA regarding the action against the asset.

At the culmination of criminal forfeiture proceedings, even if a plea agreement has been reached whereby the defendant agrees to the forfeiture, an order of forfeiture is required to perfect the forfeiture in the criminal case. SAs, therefore, should ensure that all indicted assets have been included in an order of forfeiture or an order of sentencing issued by the presiding judge.

11.4 Parallel Proceedings

Federal law contains forfeiture provisions for both civil forfeiture and criminal forfeiture. Under CAFRA, Congress provided that criminal forfeiture may be pursued under any statute authorizing civil forfeiture. The law provides that property may be forfeited under either a criminal or civil statutory basis, or under both simultaneously. There is no restriction on filing parallel proceedings and no requirement that one precede the other. The use of parallel proceedings is a tool provided to the Government to accomplish forfeiture, and its possible benefits should be considered in every case.

11.4.1 Civil

In most cases, an asset is seized before the case is indicted. Because CAFRA deadlines apply to most property seizures, FP&F will generally begin an administrative forfeiture action against the property. If a claim is filed, the case will be referred to the USAO who must file a civil complaint, indict the property, or return the property within 90 days of the claim being filed, unless the court grants an extension of time. Frequently, when the claim is referred, the USAO is not ready to indict the criminal case and will file a civil forfeiture complaint at that time, serving notice of that complaint on interested parties.

In the case of real property or many assets valued at more than \$500,000 (see Section 11.1), there can be no administrative forfeiture proceeding; the Government may choose to begin a civil case by filing a civil judicial complaint in U.S. District Court in order to protect the property while the criminal investigation continues. Once claims and answers are filed in the civil judicial proceeding, the Government may seek to stay the civil case if the civil discovery will adversely affect the related criminal investigation or prosecution. This avenue is often pursued as a means to seize and hold the property while the criminal investigation is completed. Once the case is stayed, there are no further time lines in place, unless the court chooses to impose a deadline as a condition of the stay.

11.4.2 Criminal

When a case is criminally indicted, the property should be included in the criminal indictment as part of a forfeiture allegation, even if that property is already the subject of a parallel civil forfeiture. The criminal case may proceed through the normal course and likely will result in the ultimate forfeiture of the property as part of the criminal sentence. At that time, the third party interests may be addressed as part of the criminal ancillary proceeding. In those cases, once the final order of forfeiture is entered, the Government would move to dismiss the pending civil forfeiture proceeding.

There are several circumstances in which the Government may choose to revive the civil forfeiture case and complete the forfeiture in that proceeding rather than the criminal case. For instance, if the defendant becomes a fugitive or dies before the criminal case is completed, the civil forfeiture proceeding will allow the Government to complete the forfeiture as civil proceedings do not depend upon a criminal conviction. Also, there may be third party interest that would prevail in a criminal case, but would not survive in a civil proceeding, making the civil proceeding essential to forfeiture. Those situations generally occur when a property owner is not convicted of a crime but is also not an innocent owner. Under criminal forfeiture, that property owner would be entitled to the return of the property. Under civil forfeiture, however, the owner would lose his or her interest to the Government.

Chapter 12. SPECIAL CONSIDERATIONS IN AIRG INVESTIGATIONS

12.1 Criminal Cases

Criminal case SAs should contact the AIRG for assistance well in advance of the formulation of an indictment. If assistance is not sought from an AIRG, the criminal case SA should ensure that the indictment contains appropriate general forfeiture language.

AIRG SAs should attend and observe defendants' bond hearings to ensure that the defendant cannot use potentially forfeitable property as collateral for bail.

It is important to remember to include the members of the AIRG on the 6(e) letter if grand jury information is to be provided to assist in the asset forfeiture investigation.

Overall case coordination becomes an extremely important issue in cases that involve a criminal prosecution as well as asset forfeiture. It is critical that the criminal case SA, the AIRG SA, their GSs, and the criminal and asset forfeiture AUSAs have an open and frequently used line of communication. No entity should arbitrarily make any major decision without first consulting the other members of the investigative and prosecutorial team.

If there is to be asset forfeiture in a criminal case, an order of forfeiture must be submitted to the court before or at the time of sentencing in order for forfeiture to occur. For this reason, AIRG

SAs should attend defendants' sentencing hearings. Criminal forfeitures must also be included in the oral pronouncement by the judge of the sentence in the presence of the defendant, absent a waiver. The oral pronouncement by the judge "controls" over any written order. If forfeiture is omitted from the written judgment, the SAs must contact the AUSA immediately to have the omission corrected.

In the event that any of the criminal case court documents are sealed, AIRG SAs must arrange to have the asset forfeiture seizure affidavits and court documents sealed as well.

12.2 Plea Agreements

Assets should not be utilized as bargaining tools in plea negotiations. AIRG SAs should be wary during plea agreements. Defendants may attempt to give up property they do not own. The Government cannot take an asset simply because the defendant offers to surrender it. There must be ownership on the part of the defendant in all cases. Also, a nexus to the violation must be established unless the asset is being considered as a substitute asset. In cases where plea agreements involve known, offshore assets, the plea agreements should contain explicit admissions by the defendant(s) that the foreign-based assets and properties represent criminal proceeds or properties purchased therewith. If possible, the plea agreement should stipulate that the defendant(s) will make every possible effort to repatriate these assets back to the United States.

Ownership and legal title must be verified prior to acceptance of the plea. The defendant should be asked if any properties are in foreclosure. If the defendant states that the property payments are current or that the property is free and clear of any type of encumbrance and that is either not the case or changes at a later time, the agreement should be revoked and voided.

AIRG SAs, in cooperation with criminal case SAs, should make sure that plea agreements include the following:

- A. A brief statement of the defendant's ownership interest in the property to be forfeited;
- B. The defendant's consent to the forfeiture and to any related civil forfeitures;
- C. The defendant's agreement to cooperate in resolving third-party claims in favor of the United States, including obtaining a waiver of ownership rights from the defendant's spouse; and
- D. The defendant's agreement to endorse a preliminary order of forfeiture to be submitted to the judge at the time the guilty plea is entered.

The Government cannot readily accept the defendant's property given up through a plea agreement if the indictment did not contain forfeiture language. If "fast track" pleas are used in

their districts, AIRG SAs should request that the AUSA include forfeiture provisions in the plea agreement.

In cases where plea agreements involve known offshore assets, the plea agreements should contain explicit admissions by the defendants that the foreign-based assets represent criminal proceeds. Such admissions may be sufficient to enable the foreign authorities to forfeit the assets, even if the United States is unable to do so.

12.3 Financial Affidavits

Whenever possible, AIRG SAs and AUSAs should require defendants to complete affidavits of financial information prior to finalizing plea agreements. Cooperating defendants should complete the financial affidavit and submit to a Psychological Detection of Deception Examination (formerly known as a “polygraph examination”) to verify the information provided. A number of SAs have experienced a high rate of success in locating additional assets through this combination of investigative tools.

12.4 Out of District Actions

When a request for seizure assistance is sent from one AIRG office to another, and the assistance is minimal (e.g., service of a warrant and preparation of a SEACATS Incident Report), the AIRG office receiving the request may use the TECS case number of the originating AIRG. If the assistance results from a formal collateral request or involves additional investigative steps, then the receiving AIRG will open a collateral case, basing the case number on the number of the original criminal case. The new case record and any SEACATS Incident Reports must also include the project code of the requesting AIRG, and any ROIs should show the requesting AIRG’s case number in the related case field.

A. Out of District Forfeitures of Real Property

In all cases involving the potential seizure of real property that is located in a district outside the investigating SAC Office, the SEACATS Incident Report must reflect the port code for the area where the real property is located. It is incumbent upon the AIRG SA in the originating office to coordinate with the local FP&F office and the FP&F office where the real property is located. The AIRG whose AOR encompasses the location of the real property is required to perform periodic drive-by inspections.

B. Out of District Forfeitures of Bank Accounts

Seized funds may be turned over either to the local FP&F office or returned to the originating office. In either case, the AIRG case number of the affiant’s office is to be entered on the SEACATS Incident Report. When an out-of-district seizure warrant is executed and the check is returned to the originating office, the AIRG case number of the affiant’s office, along with the port code of the physical location of the

seizure, must be entered on the SEACATS Incident Report. The project codes of all participants, including any codes associated with the criminal investigation, must be entered on the SEACATS Incident Report. The seizure will be entered into the SEACATS Incident Report in the same manner as a controlled delivery. The seizure is transferred back to the originating office for forfeiture via the PMPM transfer module, options 6 and 7. An executed copy of CBP Form 6051S, "Custody Receipt for Seized Property and Evidence," must be sent to the FP&F office in the originating port.

12.5 Receiverships and Unique Court Orders

The SEACATS Incident Report must use a "PW" code (for a civil forfeiture) or a "PI" (for a criminal forfeiture), rather than an "SZ" code, when the court order specifies that the item is to remain under the physical control of the court.

12.6 Restraining Orders

The same port code rules that apply to bank account seizures also apply to restraining orders. AIRG SAs should use a "PI" or "PW" code when entering the SEACATS Incident Report.

12.7 International

There has been a steady increase in international cooperation between the United States and other countries in the asset forfeiture arena. In part, this is due to the fact that more and more countries continue to enact their own forfeiture and monetary laundering laws, enabling them to render assistance in seizing, freezing, and forfeiting assets on behalf of the U.S. Government.

Seeking assets and/or assistance from a foreign country is time consuming and must follow a strict protocol. Coordination and communication are critical. All AIRG SAs should beware of violating established procedures, treaties, or working agreements when seeking assistance and assets in a foreign country. The extent and type of assistance which may be obtained from a foreign country will depend on that particular country's domestic laws.

If possible, it is extremely important to start this process very early in the investigation. It is also important for AIRG SAs to contact and coordinate their efforts with the appropriate HSI International Affairs Attaché. Once a formal request for assistance has been initiated, the Attaché may be able to expedite the request if he or she has had advance notice of its arrival and nature.

A. Obtaining International Assistance

International assistance may be obtained through various means. An "unofficial" type of assistance may be more easily obtained from the Attaché responsible for the area of interest. "Official" assistance may be obtained through treaties, agreements,

and letters rogatory. All official requests for assistance are handled by the AUSA through the DOJ Office of International Affairs (OIA). If the local AUSA is unfamiliar with this area, SAs requiring information regarding international assistance may contact the DOJ AFMLS attorneys through the 24-hour command center at (202) 514-1263.

B. Plea Agreements Involving Foreign Assets

In cases involving plea agreements with known assets held in foreign countries that cannot be repatriated to the United States by the defendant(s), the plea agreement should contain an explicit admission by the defendant(s) that the foreign-based property represents criminal proceeds. Such admissions may be sufficient to enable the foreign authorities to forfeit the funds if, for some reason, the United States is unable to do so.

C. Foreign Forfeiture

When forfeiture has been achieved in a foreign country and monies are to be repatriated to the United States for deposit into the TFF, the funds are to be wire transferred to the Treasury suspense account. For more information and specific wire transfer instructions, AIRG SAs should contact AFU.

When documenting foreign seizures and forfeitures in SEACATS Incident Reports, AIRG SAs should use their local port code.

12.8 Joint Investigations

In multi-agency investigations, the decision as to who will be responsible for identifying and seizing the assets should be made at the onset of the investigation. If an Organized Crime Drug Enforcement Task Force case is originated by HSI, the AIRG is to be designated as the asset seizing agency. This should be documented and included in the case file if the AIRG is involved.

Provided that HSI participated directly or indirectly in the law enforcement effort that resulted in the seizure, AIRG SAs must ensure that a Federal Contribution Form (FCF) is filed in the event of seizures made in a joint investigation with a DOJ agency. (See DOJ publication, "Federal Contribution Form -- High Level Design: Changes to Equitable Sharing for Federal Agencies," dated December 15, 2009, for instructions on the use of the FCF.)

12.9 Retention of Seized Property

In special circumstances, seized vehicles or other property may be retained and placed in service. For more information, SAs should consult OI Directive 05-008 entitled, "Retention of Forfeited Property for Official Use," dated July 30, 2005, or as updated.

12.10 Notice to Property Owners of Illegal Activity

When real property is being used as a facilitating property, a letter may be sent to the legal owner of the property to put him or her on notice that his or her property is being used to facilitate an illegal activity. The letter informs the owner that continued illegal use of the property makes the property subject to seizure and forfeiture. The letter requests from the owner a response in writing as to the steps the owner is taking to eliminate and/or prevent the continued use of the property for illegal activity. If the illegal use of the property continues, this correspondence may be used in overcoming an “innocent owner” defense on the part of the property owner. SAs wishing to use such a letter should consult with the appropriate AUSA and OCC concerning the recommended format and language for the letter.

Chapter 13. SEIZURE PROCESSING, SEACATS ENTRY, AND ADMINISTRATIVE GUIDELINES FOR REAL PROPERTY FORFEITURES

13.1 Real Property Pre-Seizure Planning Meeting

A pre-seizure planning meeting should occur prior to taking real property into custody, or as circumstances dictate. The participants should include the AIRG SA, the real property contractor, the SPS, and the COTR. All requests for the real property contractor services, including monitoring of the property, should be determined and addressed at this meeting. These instructions should be included in the disposition order for the real property contractor.

13.2 Pre-Seizure Viewing of the Property

During the post-and-walk phase of real property seizures (see Section 3.10), AIRG SAs should arrange for a viewing of the property. This viewing is potentially one of the most important steps in the seizure/forfeiture process; it is the final time when all remaining questions about the real property must be addressed and when any potential problems are reviewed to ensure that the seizure and subsequent forfeiture of the property are in the best interest of the Government. It may also be the only time when all involved parties in the case may view the property prior to the court’s issuance of a judgment or final order of forfeiture.

The viewing of the property should be accomplished by the least intrusive means possible; however, it must allow the national property contractor personnel to view the property well enough to determine if they can accept the property in accordance with the national real property contract SOW should a judgment be issued by the court. The importance of viewing the property cannot be stressed enough; it gives all interested parties possibly the only opportunity to verify the existence and severity of any problems, such as contamination, the presence of livestock or other animals, and/or the presence of any occupants on the property. The viewing of the property should be accomplished in one of the following ways:

- A. Drive-by Viewing. This method may be used if it allows the property contractor personnel to view the property well enough to make a judgment on its acceptability for forfeiture.
- B. Permitted Viewing. If the property cannot be seen adequately during a drive-by viewing, AIRG SAs, through the USAO, can request permission from the violator or the violator's legal representative to enter the property and view any potential hazards.
- C. Writ of Entry. If a drive-by inspection is insufficient and permission cannot be obtained from the violator or the violator's legal representative, then the USAO can apply for a writ of entry from the court to allow the property to be viewed by case participants.

13.3 Post-and-Walk

Execution of a post-and-walk is a relatively simple process. After obtaining the appropriate legal documents, the AIRG SA, along with the seized property and contractor personnel, goes to the property, contacts the owner/occupants, and posts the notice/warrant for arrest *in rem* as required by law. The AIRG SA should post the documents at or near the front door/entrance of the property so that it can be seen easily. After posting the paperwork, the AIRG SA should take a photograph of the paperwork as evidence that the property was legally and adequately posted. (Owners/occupants frequently remove the paperwork and some even claim that the property was not posted.)

To the fullest extent possible, seized property and contractor personnel should view the property, noting all items that may be of concern or may deter the Government from pursuing forfeiture of the property. The national real property contractor may also perform a variety of services which are listed in the SOW. These services include, but are not limited to:

- A. Photographing and video recording* the property;
- B. Conducting an inventory of the property and its contents*;
- C. Appraising the value of the property;
- D. Monitoring and overseeing the posted property by means of periodic drive-by inspections; and
- E. Evaluating and/or monitoring operating businesses by performing such functions as stock inventories and audits of operating and financial records.

*Note: Photographs, video(s), and inventory should be duplicated by the AIRG SA performing the "post and walk."

Upon completion of the “post-and-walk,” the national real property contractor will provide a summary and initial determination as to the acceptability of the property. In some cases, such as business or industrial properties, livestock ranches or farms, or properties used to manufacture or distribute narcotics, it may be necessary to have an Environmental Protection Agency Phase One Survey accomplished, or to have personnel from a state or local agency view the property to gauge the severity of any problems and determine any liabilities for which the Government would become responsible if the property is ultimately forfeited by the court.

It may also be determined that sufficient exigent circumstances exist that make it necessary to seize the property without notice or opportunity for a pre-seizure hearing. If this is the case, the Government must first show that a less restrictive measure would not protect the Government’s interest in the property. Less restrictive measures may include obtaining a restraining order or requiring the violator to post a bond. It may be discovered that an interlocutory sale or substitute *res* should be pursued rather than forfeiture of the property.

It is important to note that the post-and-walk places the property only in the Court’s jurisdiction and not in the Government’s custody. Since the property is not under seizure, any further viewing of the property for any reason should be conducted after obtaining permission by one of the means listed in Section 13.2.

Finally, along with viewing the property, all case participants should review: (1) the post and summary from the national real property contractor; (2) the property tax identification records from the city or county tax office; and (3) the title opinion, appraisal, and survey, along with any other documents obtained. A thorough review of these documents will ensure that any and all problems have been addressed and that the continued pursuit of forfeiture of the real property is in the best interest of the Government.

13.4 Non-Custodial Property Considerations

- A. Property with a clear title. Although the property is lien free, it still accrues local property taxes. Even though a *lis pendens* has been filed with the county, the AIRG SA should monitor the status of the taxes with the tax assessor’s office to prevent the sale of the property for back taxes.
- B. Mortgaged property with payments being made. AIRG SAs should monitor the mortgage payments made by the target of the investigation to ensure the integrity of the note and to prevent foreclosure on the mortgage note.
- C. Mortgaged property with no payments being made. The AIRG SA should coordinate with the AUSA to file a restraining order preventing the financial institution from foreclosing on the property. If the forfeiture of the property has been included in an indictment and there is a risk of devaluation, the asset forfeiture AUSA may file a motion for an interlocutory sale in order to preserve the value of the property. If the

interlocutory sale is granted, all liens and encumbrances will be satisfied with the sale's proceeds, and any remaining proceeds will be placed in an escrow account pending the conclusion of the judicial proceedings.

13.5 Payment of Real Property Liens

TEOAF will not approve real property lien payments if the lien is not recognized in the final order of forfeiture. If amending the final order of forfeiture is not practical, then the TEOAF will accept a letter from the appropriate AUSA stating that the lien in question is valid and should be paid. It is important to note that it is always preferable to amend the final order of forfeiture; this option should always be pursued first. In addition, the recognition of the lien in the preliminary order of forfeiture (see Section 3.11) does not satisfy this requirement. AIRG SAs are encouraged, through coordination with their AUSA, to identify and document all liens in the final order of forfeiture prior to providing a copy to the FP&F Seized Property Division.

The process for the disbursement of lien payment checks is handled jointly by the national real property contractor and FP&F. The contractor forwards a lien payment request package to TEOAF. The request contains an approval from the FP&F officer assigned to the forfeiture and a copy of the final order of forfeiture. The package also contains an official request form listing information relevant to the lien payment, including the name of the payee and the address where the check should be sent. The check is subsequently sent to the contractor who forwards it to the payee. If an occasion arises where an AIRG SA must receive the lien payment for later disbursement, a written justification to TEOAF should accompany the lien payment request package. The disbursement of a check by an AIRG SA is considered an exceptional event, which should occur infrequently. (For a more detailed discussion of this subject, SAs should refer to TEOAF Directive 14, "Expedient Payment of Liens, Mortgages and Taxes by the Department of the Treasury," dated October 1, 1995, included as an attachment to the TEOAF "Red Book.")

Chapter 14. FINES, PENALTIES, AND FORFEITURES

14.1 Interaction Between the COTR, the Contract Property Manager, and FP&F

On January 31, 2005, the real property contract previously administered by CBP was officially moved to TEOAF; corresponding Contracting Officer and COTR responsibilities were transferred from CBP HQ to TEOAF. Since all real property forfeitures must be handled judicially with the involvement of HSI, certain field level responsibilities have been shifted from CBP to ICE.

Beginning on March 1, 2005, HSI began assuming many of the duties and responsibilities that had been performed in the past by FP&F with regard to the processing of real property forfeitures. In order to effectively administer this contract, HSI has designated a GS from each

AIRG to be trained as a COTR. As a COTR, the AIRG GSs are responsible for a number of duties, including:

- A. Tasking the real property contractor for pre-seizure analysis (see Section 3.12) documents through disposition orders;
- B. Consignment of property to the real property contractor;
- C. Engaging the real property contractor in pre-seizure meetings;
- D. Coordinating sales and/or exit strategies with the real property contractor and the FP&F officer;
- E. Working with the Contractor in meeting judicial requirements outside the scope of the contract;
- F. Working with and providing counsel to the Contracting Officer concerning contract modifications;
- G. Providing input for the Contractor's award fee assessment;
- H. Overseeing seized real property to ensure that the Contractor is meeting SOW requirements; and
- I. Assisting in verifying costs and analyses of cost proposals.

While the transition of this contract shifts most of the contract oversight responsibilities from CBP to ICE, the FP&F officer will continue to maintain signatory authority for the conveyance of real property via Government deed at the time of closing. In addition, the FP&F officer will continue to maintain a legal file on each real property seizure. HSI is responsible for providing the FP&F officer with copies of relevant documentation, including ownership and encumbrance reports, title commitments, *lis pendens*, preliminary and final orders of forfeiture, copies of chain-of-custody forms (CBP Form 6051S, "Custody Receipt for Seized Property and Evidence"), copies of disposition orders (CBP Form 7605, "Disposition Order") warrants of arrest *in rem*, appraisal documentation, and any other pertinent documents. The FP&F officer will also continue to maintain the responsibility of advertising the property during forfeiture proceedings.

14.2 Responsibilities of Seizing Special Agents

Immediately following a seizure, the AIRG SA should take photographs and a video of the seized property. If the seized property is a conveyance, the AIRG SA should also complete a "Vehicle/Vessel/Aircraft Inventory and Receipt" (DHS Form 58). Copies of the inventory, photographs, and video(s) should be retained in the AIRG case file in addition to any copies

retained with the seized property file. There have been instances in which the contracted property manager has damaged seized property, taken photographs after the damage occurred, and substituted these new photographs for the original pictures taken at the time of the seizure. Within 5 days of seizing a vehicle, the AIRG SA should complete a lien information research to determine whether there is enough equity to justify the forfeiture. If the equity is not within the acceptable range and there is no overwhelming law enforcement purpose for seizure, the conveyance should be returned to the lien holder.

AIRG SAs must submit all ROIs pertaining to the seizure to FP&F so that the FP&F paralegal specialist has enough information to prepare the seizure notice. A notice is required by law to be sent to any and all individuals who may have a financial interest in the seized item.

AIRG SAs must file the court orders (i.e., the preliminary and final orders of forfeiture) with the appropriate county recorder's office immediately after receiving them from the USAO. When these are finalized by the court, all costs concerning the forfeiture are passed to the Government and the real property contractor manager must be able to proceed to sell the property at the earliest opportunity. If these documents are not filed, the ownership of the property cannot be passed to the Government, liens may not be cleared, and the property cannot be sold. AIRG SAs must provide a copy of the final order of forfeiture to the real property contractor after it has been filed and stamped by the county recorder's office.

During the forfeiture process, it is the AIRG SA's responsibility to perform a physical inspection (drive-by) every quarter on all real property that is located within the SAC's AOR to ensure that the property has not been vandalized, burned down, or otherwise damaged.

14.3 Coordination

Correspondence and backup documents transmitted to FP&F regarding seized property should reference the FP&F seizure number, not the SEACATS Incident Report number. A copy of each message and response should be maintained as part of the AIRG case file. Written contact enables all parties to maintain a hard copy of all communication to assist in settling whatever disputes may ensue over a particular incident.

The AIRG SA should notify the FP&F officer immediately if any seized item is included in a criminal indictment. FP&F will then suspend administrative forfeiture of the item pending the final judicial disposition of the criminal case.

14.4 Using SEACATS to Consign Property to the Real Property Contractor

Following the forfeiture of a real property, the AIRG GS or SA must document the transfer of the real property to the real property contractor in SEACATS. The following instructions have been included as a reference guide:

A. Accomplishing the Held by Outside Agency (HO) Disposition

In SEACATS, the AIRG GS or SA should accomplish the disposition using the following procedures; the property may not be released to the real property contractor if there is an open/active disposition other than “Released – Acceptable (RA)”:

- 1) From any SEACATS menu screen, type “PMPM” in the “Code” field to access the “Property Management Menu” function.
- 2) Press “Enter.” The “SEACATS Customs Property Management Menu” will be displayed. The cursor will be positioned automatically in the “Option” field.
- 3) Type “7” in the “Option” field, enter the appropriate FP&F case number in the “FP&F Case Number” field, and type the desired line item number in the “Line Number” field. (Typically, real property seizures will be line item “001” and will not have any sub-line items. The “Sub-Line” field may be left blank.)
- 4) Press “Enter.” The “SEACATS Property Disposition Record List” screen will be displayed. Type “X” in the field in front of the appropriate disposition.
- 5) Press “Enter.” The “SEACATS Accomplish Disposition” screen will be displayed; complete the following required fields:
 - a) “Date Accomplished.” Type the 8-digit date on which the action was taken by HSI; the date format is MMDDYYYY.
 - b) “Witness.” Type the user identification number of the individual who is witnessing the disposition.
- 6) Press “Enter.” SEACATS will display the message, “Record Successfully Updated.”

B. Adding a Disposition to Consign Property

The COTR-certified AIRG GS or SA should use the following procedures to add a disposition to consign property to the Contractor:

- 1) From any SEACATS menu screen, type “PMPM” in the “Code” field.
- 2) Press “Enter.” The “SEACATS Property Management Menu” screen displays.
- 3) Type “6” in the “Option” field to access the “SEACATS Accomplish Disposition” function.

- 4) Type the FP&F case number in the next field and the line number of the item in the “Line Number” field.
- 5) Press “Enter.” The “Add Disposition” screen will appear.
- 6) Complete the following required data fields:
 - a) “Disposition Code.” Type the two-character code identifying the action that will be taken to dispose of or relinquish rights to a property. To consign the property to the real property contractor, type “RA.” “RA” signifies “Released -- Acceptable.”
 - b) “Date of Issuance.” Type the eight-digit date on which the disposition was made by the issuing officer. The date format is MMDDYYYY.
- 7) Press “Enter.” The message “Record Successfully Updated” will appear.

The property must now be released to the contractor.

C. Releasing the Property to the Contractor

The AIRG GS or SA should use the following procedure to release the property to the Contractor in SEACATS:

- 1) From the SEACATS main system menu, type “PMRC” in the “Code” field.
- 2) Press “Enter.” The “SEACATS Property Sub-line Hit List – Release to Contractor Hit Screen” displays. The cursor will be positioned in the “FP&F Case Number” field. Type the FP&F case number in this field.
- 3) Press “Enter.” The “Release to Contractor” screen will appear. Type the code for the location of the contractor who will be responsible for managing the property (for real property, the SA or GS has the option of entering “C00.” The real property contractor can edit this field to enter more specific information.)
- 4) At the “Custodian” field, type “CTR.”
- 5) Press “F10.” The message “Property Released to Contractor” will appear.

Chapter 15. SEACATS INCIDENT REPORTS

15.1 Preparation of a SEACATS Incident Report

The “TOPIC” field of the SEACATS Incident Report should reflect the action (e.g., “Criminal Indictment of Real Property Located at . . .” or “\$432,000 Seized from Bank of America”). By being specific, the topic line can be used to readily identify the items seized and assist in identifying and tracking seizures at a later time.

The “NARRATIVE” portion of the SEACATS Incident Report should give credit to the criminal investigative group referring the case and its assets to the AIRG for investigation and seizure. Examples of possible narrative statements are provided below:

A. For a civil forfeiture proceeding:

ON [Date], THE [SAC Office] AIRG CONDUCTED A POST-AND-WALK OF A SINGLE FAMILY RESIDENCE LOCATED AT [Address] PURSUANT TO A WARRANT OF ARREST *IN REM*, ISSUED IN THE [Judicial District] UNDER JUDICIAL CASE NUMBER [Court Number]. THE PROPERTY HAD PREVIOUSLY BEEN PURCHASED WITH DRUG PROCEEDS IN VIOLATION OF 21 U.S.C. § 881. ON [Date], A NOTICE OF *LIS PENDENS* WAS FILED WITH THE [County Recorder/Clerk/ Assessor’s Office]. THE FAIR MARKET VALUE OF THE PROPERTY IS APPROXIMATELY [Dollar Value of Property]. THERE ARE NO RECORDED LIENS AGAINST THE PROPERTY. THIS ENFORCEMENT ACTION IS A RESULT OF INFORMATION ORIGINALLY REFERRED BY [Name of Criminal Case Investigative Group]. ANY QUESTIONS REGARDING THIS MATTER SHOULD BE DIRECTED TO [AIRG Point of Contact’s Name and Phone Number].

B. For a criminal forfeiture proceeding:

ON [Date], [Defendant’s Name] WAS INDICTED FOR MULTIPLE COUNTS OF NARCOTICS TRAFFICKING AND MONEY LAUNDERING BY A GRAND JURY UNDER JUDICIAL CASE NUMBER [Criminal Case Number] ISSUED IN THE U.S. DISTRICT COURT, [Judicial District]. ALSO INDICTED WAS ONE REAL PROPERTY LOCATED AT [Address]. ON [Date], A *LIS PENDENS* WAS FILED WITH THE [County Recorder/Clerk/Assessor’s Office]. THE FAIR MARKET VALUE OF THE PROPERTY IS APPROXIMATELY [Dollar Value of Property]. THERE ARE APPROXIMATELY

[Dollar Value of Liens] IN LIENS RECORDED AGAINST THE PROPERTY. THIS ENFORCEMENT ACTION IS A RESULT OF INFORMATION ORIGINALLY REFERRED BY [Criminal Case Investigative Group]. ANY QUESTIONS REGARDING THIS MATTER SHOULD BE DIRECTED TO [AIRG Point of Contact's Name and Phone Number].

15.2 Investigations Involving Multiple Seizures

All seizures should be linked to their associated cases. In instances where there are multiple seizures within one investigation, the AIRG SA should notify FP&F and request that FP&F assign the same FP&F paralegal specialist to all the seizures. The AIRG SA should notify FP&F through a notation in the narrative section of the SEACATS Incident Reports and through separate written communication. Assignment of all of a case's seizures to a single paralegal simplifies coordination and ensures that FP&F actions on the multiple seizures occur within the same time frame.

15.3 Updating the Pre-Seizure Incident Report for Real Property

When requesting pre-seizure analyses and pre-seizure services from the real property contractor, AIRG SAs enter a pre-seizure analysis request through a SEACATS Incident Report bearing the incident code "PA." Procedures for requesting a pre-seizure analysis are discussed in Section 9.10 of this Handbook.

After AIRG SAs complete a post-and-walk on a real property in a civil forfeiture case or after the real property is indicted in a criminal forfeiture case, the AIRG SAs must update the SEACATS Incident Report to reflect the changed status of the real property. For civil forfeitures involving post-and-walks, AIRG SAs will change the "PA" incident code to "PW." For criminal forfeitures, AIRG SAs will replace the "PA" with a "PI." After changing the code to reflect the new status of the property, AIRG SAs will update the narrative section of the SEACATS Incident Report to document the details of the post-and-walk or indictment and the filing of the *lis pendens*.

When the court issues a final order of forfeiture, AIRG SAs must update the SEACATS Incident Report again to document the transfer of the property to the Government. AIRG SAs will change the "PI" or "PW" incident code to "SZ." They will also update the line item of the real property to reflect the legal status as "SZ." Once the property is turned over to the real property contractor for management, AIRG SAs must transfer the property to the real property contractor in SEACATS using procedures set forth in Section 14.4 of this Handbook.

AIRG SAs must not take premature credit for a seizure of real property in SEACATS. The "PI" or "PW" status code in the SEACATS Incident Report will be changed to "SZ" only after the final order of forfeiture is received from the court. If a premature change is made and the

property is returned to the owner, revising the SZ to show that the property was not seized takes intercession from a SEACATS National Program Manager.

Sometimes, the court will issue a preliminary order of forfeiture that specifies that the property is to be physically taken into the custody of the Government. In these cases, the AIRG SA should seize the property and change the status of the SEACATS Incident Report to “SZ.” This allows expenses to be incurred and charged to the seizure by the real property contractor and FP&F. Property cannot be turned over to the real property contractor without a seizure number. If the preliminary order does not contain language directing the Government to take the property into custody, seizure should be delayed until the court issues the final order of forfeiture.

15.4 Payments in Lieu of Forfeiture

A payment in lieu of forfeiture is an appropriate method that may be used to settle any matter in which there is property that is subject to forfeiture. A payment in lieu of forfeiture occurs when the violator retains the real property or other asset that is subject to forfeiture and makes a monetary payment in its place.

Under the Treasury Forfeiture Fund Act of 1992, 31 U.S.C. § 9703, a payment in lieu of forfeiture is considered to be a “proceed from forfeiture” and therefore may be deposited into the TFF.

A payment in lieu of forfeiture is documented in a manner similar to a seizure. The AIRG SA enters a SEACATS Incident Report and the funds are turned over to CBP and deposited into the TFF after they are administratively forfeited.

When entering a SEACATS Incident Report for money in lieu of forfeiture, the AIRG SA converts the “PI” or “PW” Incident Report to an “SZ” Incident Report. The legal status for the real property line item must be changed to “SZ” (the only code allowed by the system) and the custodian must be changed to “SPC.” The AIRG SA should turn the money received from the violator over to FP&F.

The AIRG SA should then request that FP&F modify the real property line item in SEACATS by changing the physical status to “RS” (released substitution). FP&F, at the AIRG SA’s request, should also create a sub-line item under the real property’s line item number. (Most HSI personnel do not have access to the SEACATS functions necessary to accomplish these steps.) This sub-line item is where the AIRG SA should document the monetary payment in lieu of the real property. The AIRG SA must record the substitution this way in order to establish a relationship between the money and the real property for forfeiture purposes and to allow the costs expended by the real property contractor to be applied against the sub-line item.

If the money in lieu of forfeiture consists of a single payment, the line item for the real property should be closed following the payment. The code “SPC” should be entered as the custodian for

the sub-line item (the monetary payment). This will allow FP&F to continue with the disposition of the money.

In cases involving multiple payments, the line item for the real property will not be closed out until all payments are received. “SPC” should be used as the custodian code for the sub-line item each time a payment is received. An ROI must be written explaining the details of the plea agreement and the structured payment plan as each payment is received.

If a *lis pendens* has been filed against the property, a release should be obtained from the AUSA and filed with the appropriate county recorder’s office after all payments have been received.

Chapter 16. EQUITABLE SHARING

16.1 Approval Authority

AIRG SAs have no authority to approve equitable sharing and must not promise any amount in equitable sharing to agencies participating in a joint investigation.

The Unit Chief, AFU, may approve requests for equitable sharing of amounts under \$800,000. The Executive Associate Director of HSI may approve requests for amounts of \$800,000 or more but less than \$1 million. Equitable sharing requests for amounts of \$1 million or more must be approved by the Director of TEOAF. (See ICE Delegation Order (DO) 73001.1, “Authority to Determine the Equitable Sharing of Forfeited Property and Monetary Instruments,” dated December 19, 2005, or as updated) and OI DO 06-001, “Authority to Determine the Equitable Sharing of Forfeited Property and Monetary Instruments Within the Office of Investigations,” dated January 16, 2006, or as updated.)

16.2 Filing Instructions

Agencies may request equitable sharing by filing a “Request for Transfer of Property Seized/Forfeited by a Treasury Agency” (TD F 92-22.46). Domestic agencies, whether federal, state, or local, must file this request with HSI within 60 days of the seizure.

Generally, the agency will complete TD F 92-22.46 and submit it to the asset sharing coordinator for the SAC office conducting the investigation. A separate sharing request must be completed for each seizure. It is the responsibility of the AIRG GS, however, to identify the asset sharing coordinator for his or her SAC office and to ascertain the local SAC procedures regarding preparation of equitable sharing packages. Both the AIRG GS and the AIRG SAs must ensure that all equitable sharing requests are submitted to the asset sharing coordinator for their respective SAC office.

The requested share must be delineated in percentages, not dollar amounts. Equitable sharing means just that. Requests for equitable sharing should represent the share commensurate with

the actual participation provided by the requesting agency. The percentages requested should be realistic and substantiated by the requesting agency's participation. The narrative portion of TD F 92-22.46 must be specifically detailed as to both quantity and quality of the requesting agency's participation with respect to a particular seizure. The higher the requested percentage, the higher the requirement is for providing accurate and specific information with respect to quality and quantity of participation.

16.3 Filing Instructions for International Agencies

There is no time limit for foreign law enforcement agencies or governments to make a request for asset sharing. The agency or government may make its request verbally or in writing. It can be an informal note or formal letter. This request may be made to the SAC office, the HSI International Affairs Attaché, the Department of State, the DOJ OIA, the AIRG GS, the criminal case GS, the AIRG SA, or criminal case SA. The request may be made pursuant to Letters Rogatory, a Mutual Legal Assistance Treaty, a Memorandum of Understanding, a Memorandum of Agreement, or other standing or case-specific international sharing agreement. The DOJ OIA is a "one-stop shop" for international sharing with foreign countries.

If an investigation involves sharing assets with a foreign government, the AIRG SA should inform the asset sharing coordinator in the local SAC office that an international asset sharing request may be forthcoming. The asset sharing coordinator needs to include this information in the package with the asset sharing requests received from domestic agencies. Even though an international equitable sharing request may take over a year or two to be completed, the funds need to be obligated and set aside at the time any sharing occurs with state and/or local agencies.

16.4 Sharing and Real Property

In cases where HSI requests asset sharing from federal agencies participating in the DOJ Asset Forfeiture Fund, requests should be made by submitting an FCF. When computing the hours expended by HSI during the investigation, hours spent by contractors are not to be included with the HSI hours. Instead, a notation should be made reflecting "contractor expenses incurred for specialized expertise totaling [dollar amount]."

HSI asset sharing requests to other federal agencies, as well as FCFs submitted to HSI, should be filed with the respective agency at the time that the property is posted or indicted. AIRG SAs should not wait for the final order of forfeiture to file their asset sharing requests or to request asset sharing requests from their counterparts in other federal agencies.

From the time real property is taken under the jurisdiction of the court – whether through criminal indictment, protective order, *lis pendens*, or arrest warrant *in rem* – it takes an average of 21-36 months until forfeiture is realized. If an FCF is not filed at the time of the post-and-walk or indictment, the requesting agency must then file within the 60-day window beginning on the date of actual seizure, which may be 21-36 months later. (The 60-day window begins when the forfeiture order is received and the property is taken into "true" custody.) It is best,

therefore, to complete the asset sharing request at the beginning of the process so that the request is not forgotten.

16.5 Reverse Sharing

In instances where HSI is initiating forfeiture proceedings against a property under Title 21 asset forfeiture provisions in an HSI-led investigation, an FCF will be filed at the time of the post-and-walk or indictment. The FCF will be provided to the Drug Enforcement Administration (DEA), along with the appropriate ROI completed on a DEA-6 form.

In completing the FCF, AIRG SAs must ensure that “Section II” of the form, “Participating Agency,” reflects the local SAC office; the “Contact Person” listed on the FCF should be the local Asset Sharing Coordinator, not a HQ official. The seizure number must be on the FCF in the space labeled “Participating Agency Case or Seizure Number.” The SAC Asset Sharing Coordinator will forward a copy of the completed FCF to the HSI HQ Asset Sharing Coordinator.

Checks received at field offices as the result of FCFs should be forwarded to the Reverse Asset Sharing Coordinator in AFU at HSI HQ for deposit. A copy of the completed FCF must accompany the check. This process should be handled by the Asset Sharing Coordinator in each local SAC office.

Note: A new system is being implemented by the DOJ Forfeiture Fund. Under this system, future reverse asset sharing funds will be sent to HSI via electronic funds transfer. Payments will be made in batches, and the Reverse Asset Sharing Coordinator at HSI HQ will reconcile the incoming payments with the completed FCFs.

Chapter 17. SPECIAL CONSIDERATIONS INVOLVING CONTRACTORS WORKING WITH THE AIRGs

17.1 Contract

The Department of the Treasury and DOJ have both established strict rules and guidelines for agency conduct regarding contract employees. Most importantly, the contract states that contract employees hired to assist the AIRGs shall not be used for any purpose other than for asset seizure and forfeiture work. Contract employees are permitted to perform only those duties that are specifically delineated in their description of duties.

Problems and/or questions pertaining to contract employees and related responsibilities should be directed to the ACOTR in AFU.

17.2 Contractor Access to TECS and Grand Jury Materials

AFU should establish contract employees as TECS users prior to the employees reporting to the AIRG. If this has not occurred when contractors report for duty, however, AIRG GSs can establish contractors as TECS users through the local System Control Officers. This is accomplished by completion of a memorandum with the employee's background certification attached, as provided for by ICE Directive 1-3.0, "ICE Screening Criteria for Federal, State, or Local Law Enforcement, Correctional, and Mission Support Personnel Supporting ICE Programs," dated October 18, 2007, or as updated).

Under no circumstances should a contractor act as a case SA, write an ROI, or input case management hours. If a contractor develops information relevant to an investigation, such information should be included in an ROI by the AIRG SA.

Contractors may have access to and use grand jury information while assisting AIRG SAs in the course of their investigations. Prior to utilizing that information, contract employees need to be included on the 6(e) letter completed by the USAO. AIRG SAs should be aware that, depending on the district, local USAO policies and procedures may limit contractors' access to grand jury materials. AIRG SAs should check with their local AUSAs.

17.3 Testimony

Generally, contract employees are discouraged from testifying. AIRG SAs and GSs should avoid placing contract employees in positions which would require their testimony later. For example, AIRG SAs and GSs should not place a contract employee in a position in which he or she is the primary discoverer of evidence during the execution of a search warrant.

At times, however, the contract employees' testimony may be required by the court. If testimony by the contract employees is unavoidable, such testimony should be limited to such things as their work product and/or chain of custody reference documents which may have been utilized in the preparation of said work product.

If a contract employee will be required to testify, the AIRG GS should make a courtesy notification to the contractor's employer. Under no circumstances are the specifics of any investigation or prosecution to be discussed with the contract management or attorneys. References to the nature of the testimony should be discussed in the broadest of terms, without revealing targets of the investigation or compromising ongoing strategies.

17.4 Interaction Between the AIRG Group Supervisor and Contract Employees

The AIRG GS is responsible for acting as the Quality Assurance Evaluator (QAE) for asset forfeiture contract employees. The QAE is the specific on-site government representative with the authority to manage the day-to-day managerial and technical interaction with the contractor

personnel. The AIRG GS must ensure that the contract employees perform only those duties that are specifically delineated in their description of duties.

The GS must certify all hours worked by the contractor employees prior to them submitting their hours to their employer. All miscellaneous expenses and travel costs must also be reviewed by the GS. The GS shall maintain a record of the total hours worked by the contractors.

The AIRG GS is not the contract employees' supervisor, nor do the contract employees work for HSI. References by HSI personnel to contract employees in these terms are not only inaccurate but potentially actionable.

17.5 Work Schedule

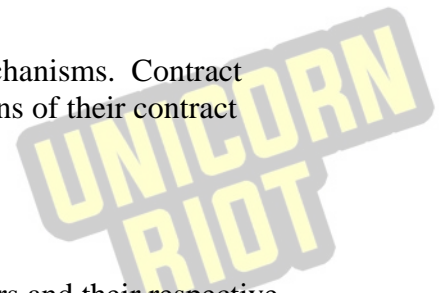
The contract employees' hours and overtime are established by their employer's contract with HSI in coordination with the local office. All overtime must be approved by the HSI HQ ACOTR.

17.6 Contractor Performance Awards

Contract employees must not be recognized through the HSI award mechanisms. Contract companies have their own incentive programs to reward the contributions of their contract employees.

17.7 Training and Travel

Before engaging in any travel or participating in any training, contractors and their respective AIRGs must obtain AFU's approval. Contractor employees' travel is invoiced and reimbursed by the employing company.



SUPERSEDED DOCUMENTS

The Asset Forfeiture Handbook supersedes the following policy documents. This list is not all-inclusive:

Legacy U.S. Customs Service (USCS) Office of Investigations (OI) document

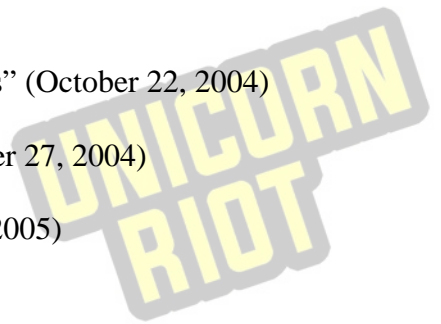
- Special Agent Handbook Chapter 25, “Asset Removal Process” (May 20, 1992)

Legacy Immigration and Naturalization Service document

- Operations Instruction 274, “Seizure and forfeiture of conveyances” (undated).

ICE OI Memoranda

- “Forfeiture Funding and the Real and General Property Contracts” (October 22, 2004)
- “Unannounced Inspections at Seized/Forfeited Property” (October 27, 2004)
- “Legacy INS Seized/Detained Property – Firearms” (January 3, 2005)
- “Annual Inventory of Seized/Forfeited Property” (May 15, 2005)
- “Asset Sharing Field Contact List” (June 17, 2005)
- “Asset Identification and Removal Groups and Tenure of AIRG Personnel” (January 30, 2007)



ACRONYMS

A

| | |
|-------|--|
| ACOTR | Assistant Contracting Officer's Technical Representative |
| AFMLS | Asset Forfeiture and Money Laundering Section |
| AFU | Asset Forfeiture Unit |
| AIRG | Asset Identification and Removal Group |
| AOR | Area of Responsibility |
| AUSA | Assistant United States Attorney |

B

C

| | |
|-------|--|
| CAFRA | Civil Asset Forfeiture Reform Act |
| CBP | U.S. Customs and Border Protection |
| CFA | Computer Forensics Agent |
| CI | Confidential Informant |
| COTR | Contracting Officer's Technical Representative |

D

| | |
|-----|---------------------------------|
| DEA | Drug Enforcement Administration |
| DHS | Department of Homeland Security |
| DO | Delegation Order |
| DOJ | Department of Justice |

E

F

| | |
|------|----------------------------------|
| FCF | Federal Contribution Form |
| FP&F | Fines, Penalties and Forfeitures |

G

| | |
|----|------------------|
| GS | General Schedule |
| GS | Group Supervisor |



H

HB Handbook
HQ Headquarters
HSI Homeland Security Investigations

I

ICE U.S. Immigration and Customs Enforcement
INS Immigration and Naturalization Service

J–N

O

OCC Office of the Chief Counsel
O&E Owner and Encumbrance
OI Office of Investigations
OIA Office of International Affairs

P

Q

QAE Quality Assurance Evaluator

R

RICO Racketeer Influenced and Corrupt Organization
ROI Report of Investigation

S

SA Special Agent
SAC Special Agent in Charge
SAMEPH Seized Asset Management and Enforcement Procedures Handbook
SEACATS Seized Assets and Case Tracking System
SOW Statement of Work
SPS Seized Property Specialist
SUA Specified Unlawful Activity



T

TD F Treasury Department Form
TEOAF Treasury Executive Office of Asset Forfeiture
TFF Treasury Forfeiture Fund

U

USAO United States Attorney's Office
USC United States Code
USCS United States Customs Service

V-Z

