

U.S. Department of Justice

Asset Forfeiture Program

FY 2017 PERFORMANCE BUDGET

Congressional Justification

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*N/A = Not Applicable

I. Overview

A. Introduction

The Asset Forfeiture Program (AFP or the Program) is a nationwide law enforcement initiative that removes the tools of crime from criminal organizations, deprives wrongdoers of the proceeds of their crimes, recovers property that may be used to compensate victims, and deters crime.

For FY 2017, the Department of Justice estimates expenses totaling \$1,481,641,000 for the Program, which includes \$2,820,000 for 28 direct FTEs assigned to the Justice Management Division's Asset Forfeiture Management Staff.

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.justice.gov/02organizations/bpp.htm>.

B. Explanation of the Assets Forfeiture Fund

The Comprehensive Crime Control Act of 1984 (P.L. 98-473), codified in 28 U.S.C. 524(c), established the Assets Forfeiture Fund (AFF or the Fund) as a special fund within the Department of the Treasury to receive the proceeds of forfeitures pursuant to any law enforced or administered by the Department. The law authorized the Attorney General to use the AFF to finance expenses associated with the execution of asset forfeiture functions and, with specific limitations, certain general investigative costs.

The AFF has a unique role and statutory authority in supporting and expanding the use of the forfeiture sanction throughout the federal law enforcement community. Prior to the Fund, forfeiture was widely recognized as a powerful law enforcement tool for disrupting and dismantling well-funded criminal enterprises, but many agencies were reluctant to commit scarce appropriated monies to an expensive and often uncertain forfeiture process, where achieving success in seizing assets also meant increased costs for storing, maintaining, and perfecting the Government's interest in the seized property. As a self-funded resource that could mitigate the risk of incurring significant unfunded liabilities, the AFF ensured that law enforcement effectiveness remained the paramount consideration of agents and prosecutors in choosing to pursue forfeiture under a well-regulated national program framework.

Annual forfeiture revenue to the AFF never exceeded \$500 million during the first twenty years of the Program's existence. But over the last ten years, the AFF has evolved into a multi-billion dollar national program. Much of this growth can be attributed to a number of large fraud and economic crime forfeiture cases, especially cases where sizable assets have been seized and forfeited in order to compensate innocent victims of crime. Asset forfeiture is frequently the most effective tool in recovering the proceeds and property of crime for victims. In order to maximize the amount that can be recovered for these innocent parties, the program expenses incurred by the forfeiture remission and restoration processes are not deducted from final payment amounts for victims. From FY 2010 to FY 2015, the Program returned \$2.8 billion to victims.

Predicting the future value of the AFF remains a challenge due to the unpredictable timing and outcome of the judicial and related forfeiture processes that drive revenues and expenses. The seizure and forfeiture of non-cash assets (e.g., vehicles, real property, jewelry, etc.) appears to be in decline and large forfeiture cases (assets valued at \$20 million or more), which are inherently more volatile, have become an increasingly important part of the AFF's revenue. Likewise, the timing of payments to victims of crime or innocent third parties, particularly in large cases with complex disbursement schemes, often remains uncertain until a few weeks before the money is to be distributed. Finally, even when the outcome of the forfeiture is known, the property disposal process may be subject to delays that cannot be easily anticipated.

C. Mission, Vision, and Strategic Objectives

Mission: The mission of the Program is to support the use of asset forfeiture consistently and strategically to disrupt and dismantle criminal enterprises, deprive wrongdoers of the profits and instrumentalities of criminal activity, deter crime, and restore property to victims of crime while protecting individual rights.

Vision: To ensure that crime does not pay, the Department of Justice Asset Forfeiture Program will lead law enforcement to make the tracing and recovery of assets an integral part of every Federal prosecution, as appropriate, for the benefit of the American people.

The following strategic objectives provide focus for achieving the Program's mission and vision:

- **Program Resources** – Obtain the funding and tools required to sustain and enhance asset forfeiture investigations, prosecutions, and program operations.
- **Case Development and Execution** – Integrate asset forfeiture in all appropriate investigations and cases.
- **Program Growth** – Expand partnerships with foreign, state, and local governments; regulatory agencies; and the private sector to increase the effectiveness of asset forfeiture as a law enforcement tool.
- **Communication** – Communicate the benefits and accomplishments of the Program to law enforcement leadership, government leaders, and the American public.

D. AFP Participants

The Asset Forfeiture and Money Laundering Section (AFMLS) is responsible for the coordination, direction, and general oversight of the Program, while the Asset Forfeiture Management Staff (AFMS) is responsible for the financial management of the Fund, the implementation and maintenance of forfeiture information systems, the management of program-wide contracts, and internal and audit controls. Program participants represent agencies within and outside the Department of Justice. Other DOJ participants include the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF), the Drug Enforcement Administration (DEA), the Executive Office for United States Attorneys (EOUSA), the Federal Bureau of Investigation (FBI), INTERPOL Washington (USNCB), the Organized Crime Drug Enforcement Task Forces (OCDETF), and the U.S. Marshals Service (USMS).

Non-DOJ participants include the U.S. Department of Agriculture, Office of Inspector General (USDA); the U.S. Department of Defense, Criminal Investigative Service (DCIS); the U.S. Department of State, Bureau of Diplomatic Security (BDS); the U.S. Food and Drug Administration, Office of Criminal Investigations (FDA); and the U.S. Postal Inspection Service (USPIS).

Table 1 displays the functional activities of the participating agencies.

Table 1: Asset Forfeiture Program Participants by Function														
Function	AFMLS	AFMS	ATF	DCIS	DEA	BDS	EOUSA	FBI	FDA	USNCB	OCDETF	USDA	USMS	USPIS
Investigation	X		X	X	X	X		X	X	X	X	X		X
Litigation	X						X							
Custody of Assets			X		X			X					X	
Mgmt of Assets	X	X												

E. Strategic Goals

The Asset Forfeiture Program supports DOJ Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law. The Program does so through its efforts in executing the following objectives:

- Combat the threat, incidence, and prevalence of violent crime by leveraging strategic partnerships to investigate, arrest, and prosecute violent offenders and illegal firearms traffickers (2.1) – State and local officers, often deputized as federal agents, act as a critical force multiplier in helping to achieve the law enforcement mission of federal agencies. Under Joint Law Enforcement Operations (JLEO), the Program pays for officer overtime and a variety of critical equipment needs, such as ballistic shields, helmets, and vehicles which are necessary to ensure officer safety. Operations supported in part by JLEO funding include FBI task forces that address violent crime, violent gangs, child exploitation, border and public corruption, organized crime, financial crimes, major theft, the protection of intellectual property rights, and civil rights violations; as well as Regional Computer Forensics Laboratories that serve more than 5,000 law enforcement agencies in 17 states. JLEO funding also helps to support the USMS's Fugitive Apprehension Task Forces and OCDETF Strike Forces.
- Disrupt and dismantle major drug trafficking organizations to combat the threat, trafficking, and use of illegal drugs and the diversion of licit drugs (2.3) – Support for DEA operations comprises one-third of the AFP's program expenses (excluding victim/third party payments and equitable sharing). This includes support for DEA's Title III wiretaps as well as innovative investigative techniques at the Special Operations Division that help case agents leverage technology and level the playing field in the fight against sophisticated and well-funded criminal enterprises. The Program also supports DEA's efforts to dismantle the financial infrastructure of major drug trafficking organizations.
- Investigate and prosecute corruption, economic crimes, and transnational organized crime (2.4) – In recent years, the Program has focused increasing attention on building technical and operational capacity to investigate complex economic crime. Economic crime covers a wide array of fraud and other conduct intended to victimize individuals and entities financially through deception, deceit, concealment, or violations of trust. The globalization

of economic and financial systems, the rapidly changing nature of technology, and the growing sophistication of criminal organizations have increased the prevalence of economic crime. When foreign governments, terrorists, or well-established international criminals are involved, the investigative techniques often require specialist teams, as well as analytical tools and methods to evaluate many variations of highly complex, technical, and data-intensive crimes. The Program has funded both traditional infrastructure and operational needs while also investing in new techniques that expand asset forfeiture's impact across virtually every law the Department enforces or administers.

The AFP remains dedicated to restoring the victims of financial crimes through the seizure and forfeiture of assets. For example, in June 2009 the Department announced a preliminary order of forfeiture against Bernard Madoff for over \$170 billion for a massive financial fraud and Ponzi scheme orchestrated over several decades. By moving quickly to seize, forfeit, and sell the assets tied to the Madoff Ponzi scheme before they dissipated, the AFP ensured the recovery of more than \$4 billion for victims. The AFF supported and continues to support 100 percent of the costs of seizure, storage, and disposition of assets in the case and is now facilitating the transfer of proceeds to victims by managing the claims administration contract with Richard C. Breeden & Co. LLC (RCB).

The AFP also addresses transnational crime, extending the reach of the forfeiture sanction to foreign-based illicit proceeds generated through violations of our domestic laws. For example, the AFP is supporting a significant Attorney General initiative to bring kleptocrats to justice through the Kleptocracy Asset Recovery Initiative (KARI). Specifically, the AFF funds attorneys, FBI agents, and specialized contract support dedicated to KARI. The U.S. has already restrained over \$800 million in these cases. Further, the U.S. is party to the U.N. Convention against Transnational Organized Crime and the U.N. Convention against Corruption. The Department continues to play a key role in each of these conventions, both of which contain forfeiture cooperation provisions and encourage jurisdictions to establish and maintain mechanisms for asset sharing and/or asset repatriation.

The Program's long-term strategy of dedicating complex financial investigative support for the Southern District of New York U.S. Attorney's Office has led to several large forfeitures in recent years. For example, in March 2015 Commerzbank AG agreed to forfeit \$563 million as part of a deferred prosecution agreement and admitted to criminal violations of the Bank Secrecy Act (BSA) and International Emergency Economic Powers Act (IEEPA). Forfeited proceeds will be used by the Department to compensate the victims of the multi-billion dollar securities fraud scheme that was permitted to operate through Commerzbank.

F. Asset Forfeiture Program Budget

Revenue

The Program's primary sources of revenue are from cash, financial instruments, and proceeds from the sale of property forfeited by criminals and criminal organizations; as well as the DOJ AFF's share of forfeitures deposited into the Treasury Forfeiture Fund.

Expenses

The Program's first priority is to fund operational expenses that are directly related to the execution of forfeiture functions. These forfeiture-related expenses constitute the substantial majority of all costs paid from the Fund and include:

- Contract services to identify and locate forfeitable property;
- Pre-seizure and post-seizure assessment of property to determine if forfeiture of the property should be pursued;
- Seizure of property subject to forfeiture;
- Investigative costs leading to seizure;
- Detention, storage, management, protection, and maintenance of Fund-related property;
- Notification, advertisement, transcripts, travel, and other case-related activities associated with accomplishing the legal forfeiture of the property;
- Compromise and satisfaction of valid liens, mortgages, third party payments, and the return of assets to the victims of crime through the remission and restoration processes, once forfeited;
- Disposition of the property; and
- Administration of a national asset forfeiture program including the costs of training, printing, information systems, accounting, audits, management, and other administrative matters.

Funds may be used for Joint Law Enforcement Operations (JLEO) and certain non-forfeiture related investigative expenses. Through the JLEO Program, the AFP primarily funds overtime, but also travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers operating as part of a joint law enforcement task force with federal agencies participating in the Fund. Additionally, the AFP funds certain non-forfeiture related investigative expenses. Funding levels for these investigative expenses are discretionary and established by annual appropriations, but are funded by program receipts. To the extent that receipts exceed the amounts necessary for the program expenses outlined above, a part of the net proceeds from forfeitures are distributed (through equitable sharing) to State and local law enforcement agencies who directly contributed to the seizure or forfeiture of the property.

Table 2 shows participating agencies and their projected spending by cost category.

Table 2: Summary of Full Year Obligations
(Dollars in Thousands)

PROGRAM OPERATIONS EXPENSES	AFMLS	OCDETF	DEA	EOUSA	FBI	USMS	USPIS	AFMS	ATF	FDA	USDA	BDS	DCIS	INTERPOL	TOTAL
Asset Management and Disposal															
FY 2015	-	-	1,891	-	456	37,278	10	-	6,037	-	1	-	5	-	45,678
FY 2016	-	-	1,969	-	455	41,194	10	-	2,046	-	1	-	5	-	45,680
FY 2017	-	-	1,650	-	60	41,908	10	-	2,046	-	1	-	5	-	45,680
Victim & Other Third Party Payments															
FY 2015	-	-	123	-	20	480,609	10	-	25	20	-	-	-	-	480,807
FY 2016	-	-	101	-	20	970,734	10	-	75	10	-	-	-	-	970,950
FY 2017	-	-	100	-	20	464,685	10	-	76	9	-	-	-	-	464,900
Equitable Sharing Payments															
FY 2015	-	-	-	-	-	361,589	-	-	-	-	-	-	-	-	361,589
FY 2016	-	-	-	-	-	75,003	-	-	-	-	-	-	-	-	75,003
FY 2017	-	-	-	-	-	275,347	-	-	-	-	-	-	-	-	275,347
Case Related Expenses															
FY 2015	29,041	2,029	17,355	12,082	1,323	-	500	-	192	895	126	-	250	-	63,793
FY 2016	26,906	2,054	1,422	18,927	1,050	-	500	-	186	900	155	-	250	-	52,350
FY 2017	20,406	2,116	1,465	18,872	1,050	-	500	-	186	900	155	-	250	-	45,900
Joint Law Enforcement Task Operations															
FY 2015	-	29,000	41,744	-	38,000	32,120	-	-	12,515	671	270	-	-	-	154,320
FY 2016	-	29,000	38,144	-	41,500	32,500	-	-	12,515	671	270	-	-	100	154,700
FY 2017	-	29,000	38,144	-	41,500	32,500	-	-	12,515	671	270	-	-	100	154,700
Special Contract Services															
FY 2015	10,779	-	42,354	29,289	35,512	16,827	1,335	-	14,511	-	799	-	-	234	151,640
FY 2016	10,879	-	37,945	29,981	8,419	14,326	1,185	-	13,367	-	521	-	-	277	116,900
FY 2017	10,379	-	36,795	28,556	7,957	13,556	1,108	-	12,751	-	521	-	-	277	111,900
Storage, Protection, and Destruction of Controlled Substances															
FY 2015	-	-	11,676	-	-	-	-	-	67	-	-	-	-	-	11,743
FY 2016	-	-	7,475	-	-	-	-	-	25	-	-	-	-	-	7,500
FY 2017	-	-	8,775	-	-	-	-	-	25	-	-	-	-	-	8,800
Information Systems															
FY 2015	255	-	13,917	-	180	4,932	-	27,768	768	550	-	-	30	-	48,400
FY 2016	226	-	12,706	-	146	5,168	-	34,448	476	650	-	-	30	-	53,850
FY 2017	233	-	5,156	-	150	5,323	-	35,448	490	670	-	-	30	-	47,500
Training and Printing															
FY 2015	320	59	1,446	1,017	657	448	6	16	1,141	75	87	-	111	5	5,388
FY 2016	406	50	1,843	1,618	800	1,356	20	73	462	109	20	-	93	-	6,850
FY 2017	406	50	1,835	1,610	800	1,340	20	69	460	100	20	-	90	-	6,800
Other Program Management															
FY 2015	26,029	1,453	312	9,432	1,494	40,761	-	13,524	1,414	-	94	-	-	-	94,513
FY 2016	25,650	1,221	261	13,565	3,123	39,476	-	14,212	1,922	-	20	-	-	-	99,450
FY 2017	26,420	1,258	551	13,972	3,616	38,289	-	14,947	2,526	-	21	-	-	-	101,600
Contracts to Identify Assets															
FY 2015	125	13,165	1,748	-	2,088	-	600	-	17,058	9,877	118	1,876	7,235	-	53,890
FY 2016	125	12,592	19,576	-	25,767	-	577	-	15,784	10,042	365	1,867	6,655	-	93,350
FY 2017	125	11,824	18,032	-	23,388	-	526	-	14,324	9,112	331	1,698	6,040	-	85,400
Awards Based on Forfeiture															
FY 2015	-	-	18,512	-	4,000	-	-	-	121	15	-	-	50	-	22,698
FY 2016	-	-	18,000	-	4,020	-	-	-	75	5	-	-	50	-	22,150
FY 2017	-	-	15,850	-	4,070	-	-	-	25	5	-	-	50	-	20,000

Table 2 Continued

PROGRAM OPERATIONS EXPENSES	AFMLS	OCDETF	DEA	EOUSA	FBI	USMS	USPIS	AFMS	ATF	FDA	USDA	BDS	DCIS	INTERPOL	TOTAL
Investigative Costs Leading to Seizures															
FY 2015	-	-	118,232	-	2,000	-	-	-	-	-	106	-	-	-	120,338
FY 2016	-	-	79,977	-	2,257	-	-	-	360	-	106	-	-	-	82,700
FY 2017	-	-	89,877	-	2,257	-	-	-	360	-	106	-	-	-	92,600
Obligations Adjustment															
FY 2015	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(125)
FY 2016	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
FY 2017	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal, Program Operations Expenses															
FY 2015	66,549	45,706	269,310	51,820	85,730	974,564	2,461	41,308	53,849	12,103	1,601	1,876	7,681	239	1,614,672
FY 2016	64,192	44,917	219,419	64,091	87,557	1,179,757	2,302	48,733	47,293	12,387	1,458	1,867	7,083	377	1,781,433
FY 2017	57,969	44,248	218,230	63,010	84,868	872,948	2,174	50,464	45,784	11,467	1,425	1,698	6,465	377	1,461,127
INVESTIGATIVE EXPENSES															
Purchase of Evidence															
FY 2015	-	-	4,015	-	2,893	-	40	-	1,083	222	-	-	-	-	8,253
FY 2016	-	-	4,015	-	2,742	-	40	-	1,083	220	-	-	-	-	8,100
FY 2017	-	-	4,015	-	2,742	-	40	-	1,083	220	-	-	-	-	8,100
Equipping of Conveyances															
FY 2015	-	-	-	-	-	175	-	-	-	17	-	-	10	-	202
FY 2016	-	-	-	-	-	182	-	-	-	8	-	-	10	-	200
FY 2017	-	-	-	-	-	182	-	-	-	8	-	-	10	-	200
Awards for Information															
FY 2015	-	-	6,866	-	4,504	451	20	-	118	8	-	-	20	-	11,987
FY 2016	-	-	6,866	-	4,707	515	-	-	118	8	-	-	-	-	12,214
FY 2017	-	-	6,866	-	4,707	515	-	-	118	8	-	-	-	-	12,214
Subtotal, Investigative Expenses															
FY 2015	-	-	10,881	-	7,397	626	60	-	1,201	247	-	-	30	-	20,442
FY 2016	-	-	10,881	-	7,449	697	40	-	1,201	236	-	-	10	-	20,514
FY 2017	-	-	10,881	-	7,449	697	40	-	1,201	236	-	-	10	-	20,514
TOTAL Regular Obligations															
FY 2015	66,549	45,706	280,191	51,820	93,127	975,190	2,521	41,308	55,050	12,350	1,601	1,876	7,711	239	1,635,114
FY 2016	64,192	44,917	230,300	64,091	95,006	1,180,454	2,342	48,733	48,494	12,623	1,458	1,867	7,093	377	1,801,947
FY 2017	57,969	44,248	229,111	63,010	92,317	873,645	2,214	50,464	46,985	11,703	1,425	1,698	6,475	377	1,481,641
SURPLUS															
Surplus Obligations															
FY 2015	-	-	-	7	-	1,100,000	-	-	-	-	-	-	-	-	1,100,007
FY 2016	-	-	-	-	-	61,200	-	-	-	-	-	-	-	-	61,200
FY 2017	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
GRAND TOTAL															
FY 2015	66,549	45,706	280,191	51,827	93,127	2,075,190	2,521	41,308	55,050	12,350	1,601	1,876	7,711	239	2,735,121
FY 2016	64,192	44,917	230,300	64,091	95,006	1,241,654	2,342	48,733	48,494	12,623	1,458	1,867	7,093	377	1,863,147
FY 2017	57,969	44,248	229,111	63,010	92,317	873,645	2,214	50,464	46,985	11,703	1,425	1,698	6,475	377	1,481,641

Unobligated Balances

Due to the unpredictable timing of AFF revenue and expenses, unobligated balances are carried over from one fiscal year to the next to maintain the solvency of the AFF and to cover a variety of pending liabilities.¹ The amount of unobligated monies carried forward to maintain a successful transition into each new fiscal year for specific continuity requirements are estimated as follows:

- one quarter of the previous fiscal year's funding for program-wide administrative and investigative support contracts;
- full costs of the previous fiscal year's funding to cover pending expenses with State and local law enforcement agencies that participated in Joint Law Enforcement Operations;
- half of the previous year's funding for the Consolidated Asset Tracking System (CATS), the Program's primary information system;
- full costs of the previous year's expenses for government salaries that have been approved by the Attorney General; and
- amounts for reasonably possible contingencies for Equitable Sharing and Victim & Other Third Party Payments to ensure that sufficient funds will be available for liabilities that do not yet meet the criteria for an obligation, but are anticipated to do so in the future based on an analysis of prior year case data.

Due to the rescissions described below, the Department reduced the estimated amount of FY 2016 funds to be carried forward for AFF Solvency by \$147 million. The AFP will use a portion of the \$458 million FY 2016 rescission, which will be restored in FY 2017, as a one-time measure to fully fund the \$303 million in solvency requirements for FY 2017.

Trends

FY 2015: Revenues (including recoveries) exceeded \$1.6 billion in FY 2015, a decrease of \$2.9 billion from the previous fiscal year. This drop can be attributed to the two major cases listed below, which accounted for \$2.9 billion in gross revenues in FY 2014:

- \$1.7 billion in deposits related to the JP Morgan Chase/Bernard Madoff case, and
- \$1.2 billion in deposits from the Toyota Motor Corporation case

FY 2015 revenue exceeded the estimates provided in the FY 2016 President's Budget by \$198 million, due to the earlier than anticipated receipt of funds from the Commerzbank AG case.

Expenses in FY 2015 totaled \$2.7 billion, a decrease of \$397 million from FY 2014. FY 2015 expenses included a transfer of \$1.1 billion of excess unobligated balances to the Federal Prisoner Detention Program as enacted in the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235). Payments to victims and other third parties declined by nearly \$1.5 billion in FY 2015 as compared to FY 2014, primarily due to the obligation of \$1.5 billion of AFF monies in

¹ See 28 U.S.C. 524(c)(8)(D)

FY 2014 for victims payments in the Bernard Madoff case. Additionally, this decrease over FY 2014 levels was a result of a drop in equitable sharing payments to State and local law enforcement partners due to a reduction in requests submitted and approved in FY 2015.

FY 2016: The Bipartisan Budget Act of 2015 (P.L. 114-74) enacted in November 2015 included a \$746 million permanent rescission of Asset Forfeiture Program funds. Additionally, the Consolidated Appropriations Act of 2016, signed into law on December 18, 2015, included an additional \$458 million rescission to the FY 2016 budget, for a total FY 2016 rescission of \$1.204 billion. In order to maintain the solvency of the Program, the Department took several measures, including reductions to forfeiture program expenses and a temporary deferral of equitable sharing payments to State and local law enforcement agencies. The Department will continually monitor forfeiture receipts and reinstate sharing distributions as soon as practicable and financially feasible.

In FY 2016, the Department is estimating \$1.863 billion for mandatory and discretionary expenses, an increase of \$225 million above the projection included in the FY 2016 President's Budget of \$1.638 billion. The revised total includes estimated payments of \$971 million to victims and other third parties, an increase from the projection included in the FY 2016 President's Budget of \$574 million due to the recent General Motors settlement. FY 2016 expenses also include an estimated \$75 million in equitable sharing payments, a decrease from the projection included in the FY 2016 President's Budget of \$400 million that reflects the deferral of payments noted above.

FY 2017: Given the focus on forfeitures in corporate fraud and other financial crime cases, the Program expects deposits due to these crimes to continue into FY 2017. However, it is anticipated that a significant amount of these deposits will be returned to the victims of the underlying offenses and will not result in additional unencumbered resources in the fund. At this time, the Department estimates \$1.436 billion in revenue from forfeiture deposits, reimbursable earnings, and recoveries.

For FY 2017, the Department is estimating \$1.482 billion for mandatory and discretionary expenses, including \$464.9 million for victim and other third party payments and \$275.3 million for equitable sharing payments. Also included, provided that net receipts support this expense level, is \$154.7 million to pay overtime expenses and other costs of State and local law enforcement officers engaged in joint operations with federal law enforcement agencies participating in the Program.

The FY 2017 Financial Plan reflects a permanent rescission of \$304 million. Additionally, the Fund is subject to a sequestration reduction currently estimated at \$121.5 million.

G. Issues and Challenges

The challenges that impact achievement of Program goals are complex and dynamic. New legislation and case law, technological developments, changing demographics, political decisions, and the internationalization of criminal organizations are only a few factors that impact the AFP and pose challenges that demand attention.

External

The Consolidated Appropriations Act of 2016 established the United States Victims of State Sponsored Terrorism Fund to receive the proceeds of forfeitures resulting from violations of the International Emergency Economic Powers Act (50 U.S.C. 23 1701 et seq) and the Trading with the Enemy Act (50 U.S.C. App. 1 et seq). It is possible, however, that forfeiture revenue to the AFF will decline substantially as a result.²

Internal

The Program faces several internal challenges in FY 2017. The most prominent of these challenges lies in determining how to make strategic reductions without damaging the core mission of the program that preserves the program-sustaining forfeiture revenue into the AFF despite significant rescissions.

Based on a comprehensive gap analysis of agency capacity, the Attorney General approved a policy waiver that enabled the AFF to fund the salaries and benefits of government employees performing administrative functions within the asset forfeiture programs of the ATF, DEA, FBI, and EOUSA. These positions were designed to correct the imbalance that developed in the program due to the decreasing number of government employees – funded by flat or declining agency appropriations – and increasing number of contractor personnel, which have managed to keep pace with the growth of the forfeiture program through the support of the AFF. Allowing administrative government positions to be funded by the AFF will ease this disparity, enhance the effectiveness of administrative oversight, and supplement the budgetary, financial, internal controls, and oversight capacity of the Department’s multi-billion dollar asset forfeiture program. Full implementation of this plan has been delayed due to the AFF’s fiscal condition.

In January 2015, the Attorney General formally changed the Department’s policy to prohibit the Federal adoption of assets seized by State and local law enforcement. Exceptions to the policy were made for asset seizures made by State and local agencies operating as part of a Federal task force and seizures that directly enhanced public safety, including firearms, explosives, and certain assets related to child pornography. In December 2015, the Department also temporarily suspended all equitable sharing payments to State and local law enforcement agencies in order to address an unanticipated budgetary shortfall. The program continues to assess the impact these changes may have on field level operations and forfeiture revenue to the AFF.

In April 2015, the Department resolved an outstanding GAO recommendation from 2012 to study the feasibility of consolidating certain aspects of the Justice and Treasury asset forfeiture programs. The Department’s Asset Forfeiture Management Staff (AFMS) led the joint effort together with the Treasury Executive Office for Asset Forfeiture (TEOAF). The interdepartmental study concluded that consolidation was not an effective means of increasing program performance or creating efficiency savings across the program.

² The FY 2017 estimate for Extraordinary Receipts does not account for the possible loss of any forfeiture revenue to the newly established Victims of State Sponsored Terrorism Fund.

II. Summary of Program Changes

No program changes.

III. Appropriations Language and Analysis of Appropriations Language

Appropriations Language

(Including Cancellation)

For expenses authorized by subparagraphs (B), (F), and (G) of section 524(c)(1) of title 28, United States Code, \$20,514,000, to be derived from the Department of Justice Assets Forfeiture Fund.

Of the unobligated balances available under this heading, \$304,000,000 are hereby permanently cancelled.

Analysis of Appropriations Language

No substantive changes are proposed.

IV. Program Activity Justification

Asset Forfeiture Program TOTAL	Direct Pos.	Estimate FTE	Amount
2015 Enacted with Sequester	28	23	2,720,419
2016 Enacted with Sequester	28	28	1,847,380
Adjustments to Base and Technical	0	0	119,741
2017 Current Services	28	28	1,995,789
2017 Program Increases	0	0	0
2017 Program Decreases	0	0	(529,915)
2017 Request	28	28	1,465,874
Total Change 2016-2017	0	0	(381,506)

Mandatory, Indefinite Authority Total	Direct Pos.	Estimate FTE	Amount
2015 Enacted with Sequester	28	23	2,699,905
2016 Enacted with Sequester	28	28	1,826,866
Adjustments to Base and Technical	0	0	119,741
2017 Current Services	28	28	1,975,275
2017 Program Increases	0	0	0
2017 Program Decreases	0	0	(529,915)
2017 Request	28	28	1,445,360
Total Change 2016-2017	0	0	(381,506)

Appropriated, Definite Authority Total	Direct Pos.	Estimate FTE	Amount
2015 Enacted with Sequester	0	0	20,514
2016 Enacted with Sequester	0	0	20,514
Adjustments to Base and Technical	0	0	0
2017 Current Services	0	0	20,514
2017 Program Increases	0	0	0
2017 Program Decreases	0	0	0
2017 Request	0	0	20,514
Total Change 2016-2017	0	0	0

V. FY 2017 Asset Forfeiture Program Estimates

Asset Forfeiture Program

1. Summary of Requirements by Financing (Dollars in Thousands)

Financing	FY 2015 Actuals	FY 2016 Estimate	FY 2017 Estimate	2016 - 2017 Total Change
Unobligated balance of receipts, start-of-year				
Retention of Unobligated Balances to maintain AFF Solvency	306,528	315,979	156,789	(159,190)
Set aside for Rescission Impact	122,496	493,270	0	(493,270)
RP Contingencies for Victims & Other Third Parties ¹	205,406	82,760	49,352	(33,408)
RP Contingencies for Equitable Sharing ¹	205,596	59,980	0	(59,980)
Set aside for FPD	0	61,200	0	(61,200)
Prior Surplus Balances Carried Forward	1,100,000	0	0	0
Unappropriated balance of receipts, start-of-year	1,940,026	1,013,189	206,141	(807,048)
Collections/deposits/receipts/recoveries:				
Regular receipts	965,095	880,000	850,000	(30,000)
Extraordinary Receipts	612,112	1,130,000	500,000	(630,000)
<i>Total Receipts</i>	<i>1,577,207</i>	<i>2,010,000</i>	<i>1,350,000</i>	<i>(660,000)</i>
Reimbursable Earnings/Receipts	14,702	15,767	15,767	0
Prior year rescissions restored	83,600	193,000	458,000	265,000
Prior year sequestration restored	372,662	119,741	148,409	28,668
Recovery/Refunds of prior year obligations	72,868	70,000	70,000	0
Temporary Rescission	(193,000)	(458,000)	0	458,000
Proposed Rescission - Permanent	0	0	(304,000)	(304,000)
Permanent Rescission	0	(746,000)	0	746,000
Transfer Out	(14)	0	0	0
Sequestration	(119,741)	(148,409)	(121,549)	26,860
Collections/deposits/receipts/recoveries:	1,808,284	1,056,099	1,616,627	560,528
Total Direct resources available	3,733,608	2,053,521	1,807,001	(246,520)
Total resources available	3,748,310	2,069,288	1,822,768	(246,520)
Less: Unappropriated balance of receipts, end-of-year				
Retention of Unobligated Balances to maintain AFF Solvency ²	(315,979)	(156,789)	(303,471)	(146,682)
Set aside for Rescission Impact	(493,270)	0	0	0
RP Contingencies for Victim & Other Third Parties	(82,760)	(49,352)	(37,656)	11,696
RP Contingencies for Equitable Sharing	(59,980)	0	0	0
Set aside for FPD	(61,200)	0	0	0
Unappropriated balance of receipts, end-of-year	(1,013,189)	(206,141)	(341,127)	(134,986)
Total Direct Obligations	2,720,419	1,847,380	1,465,874	(381,506)
Total Obligations	2,735,121	1,863,147	1,481,641	(381,506)

¹ See Federal Accounting Standards Advisory Board Handbook, *SFFAS No. 12: Recognition of Contingent Liabilities Arising from Litigation: An Amendment of SFFAS No. 5, Accounting for Liabilities of the Federal Government*, June 2013, p. 7 for Reasonably Possible (RP) Contingencies.

² Due to FY 2016 rescissions, FY 2016 carryover is \$146 million less than the solvency requirement of \$303 million. AFP will use a portion of the restoration of the \$458 million FY 2016 rescission in FY 2017 as a one-time measure to fund \$303 million in solvency requirements at the start of FY 2017.

Asset Forfeiture Program
2. Obligations by Type of Expense
(Dollars in Thousands)

	FY 2015 Actuals	FY 2016 Estimate	FY 2017 Estimate	2016-2017 Total Change
Mandatory expenses: (indefinite authority)				
Case support expenses:				
Asset Management and Disposal	45,678	45,680	45,680	0
Victim & Other Third Party Payments	480,807	970,950	453,204	(517,746)
Victim & Other Third Party Payments - (Backlog)	0	0	11,696	11,696
<i>Victim & Other Third Party Payments</i>	<i>480,807</i>	<i>970,950</i>	<i>464,900</i>	<i>(506,050)</i>
Case Related Expenses	63,793	52,350	45,900	(6,450)
Special Contract Services	151,640	116,900	111,900	(5,000)
Investigative Costs Leading to Seizures	120,338	82,700	92,600	9,900
Contracts to Identify Assets	53,890	93,350	85,400	(7,950)
Awards Based on Forfeiture	22,698	22,150	20,000	(2,150)
Program support expenses:				
Information Systems	48,400	53,850	47,500	(6,350)
Training and Printing	5,388	6,850	6,800	(50)
Other Program Management	94,513	99,450	101,600	2,150
Other authorized expenses:				
Storage, Protection & Destruction of Controlled Substances	11,743	7,500	8,800	1,300
Equitable Sharing Payments*	315,288	75,003	243,868	168,865
Equitable Sharing Payments - (Backlog)	46,301	0	31,479	31,479
<i>Equitable Sharing Payments</i>	<i>361,589</i>	<i>75,003</i>	<i>275,347</i>	<i>200,344</i>
Joint Law Enforcement Operations	154,320	154,700	154,700	0
Obligations Adjustment	(125)	0	0	0
Subtotal: Mandatory Expenses	1,614,672	1,781,433	1,461,127	(320,306)
Investigative expenses				
Awards for Information	11,987	12,214	12,214	0
Purchase of Evidence	8,253	8,100	8,100	0
Equipping of Conveyances	202	200	200	0
Subtotal: Investigative Expenses	20,442	20,514	20,514	0
Total, Mandatory and Investigative Expenses	1,635,114	1,801,947	1,481,641	(320,306)
Surplus amounts obligated	1,100,007	61,200	0	(61,200)
Total Direct Obligations	2,720,419	1,847,380	1,465,874	(381,506)
Total Obligations	2,735,121	1,863,147	1,481,641	(381,506)

*Based on \$1.2 billion in total FY 2016 rescissions, the Department temporarily suspended equitable sharing payments on December 21, 2015. DOJ will resume payments if sufficient forfeiture revenue become available later in the fiscal year.

3. Program Expense Descriptions

A. MANDATORY EXPENSES, INDEFINITE AUTHORITY

1. Asset Management and Disposal

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$45,678,000	\$45,680,000	\$45,680,000	+\$0

Asset management expenses include those incurred in connection with the seizure, inventory, appraisal, packing, movement, storage, maintenance, security, and disposition of seized and forfeited assets located domestically and abroad. In addition, funding is provided for the assessment, containment, removal, and destruction of hazardous materials seized for forfeiture and hazardous waste contaminated property seized for forfeiture.

2. Victim & Other Third Party Payments (VTPP)

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$480,807,000	\$970,950,000	\$464,900,000	-\$506,050,000

These are expenses incurred in payment of valid liens, secured mortgages, return of property interest to qualifying victims, and debts owed to qualified general creditors pursuant to court orders or favorable rulings on petitions for forfeiture remission or mitigation. This includes the restoration of proceeds of sales pursuant to court orders or administrative determinations.

The substantial one-time increase in FY 2016 reflects potential victims payments associated with a General Motors settlement in which the company admitted to misleading consumers about a deadly vehicle safety defect. The FY 2017 estimate is based on current projections of future cases with associated victims expenses. Depending on the outcome of specific cases and other factors, these levels may be adjusted during the year.

3. Equitable Sharing Payments

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$361,589,000	\$75,003,000	\$275,347,000	+\$200,344,000

Equitable sharing payments represent the transfer of portions of federally forfeited cash and proceeds from the sale of forfeited property to State and local law enforcement agencies and foreign governments that directly assisted in targeting or seizing the property. Most task force cases result in cash or property forfeitures whose proceeds are shared among the participating agencies. These funds are reserved until they are distributed to the participants.

The sharing of asset forfeiture proceeds with local law enforcement partners based on their relative degree of participation in the underlying federal investigations has long been recognized as an important factor in facilitating local relationships and investigative cooperation across the federal and state/local divide. There are over 7,200 State and local law enforcement agencies that participate in the Equitable Sharing Program, which allows those agencies to reinvest in law enforcement training and equipment, including body armor and rescue equipment.

The combined \$1.2 billion rescission enacted in the Bipartisan Budget Act of 2015 (P.L. 114-74) and the Consolidated Appropriations Act of 2016 (P.L. 114-113), coupled with expected receipts and expenditures for the year, necessitated the temporary deferral of equitable sharing payments after December 21, 2015. By deferring equitable sharing payments, the Department preserves the ability to resume payments once sufficient resources become available. The Department continues to review all potential avenues for restoring equitable sharing payments and will do so once it is fiscally feasible.

4. Case Related Expenses

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$63,793,000	\$52,350,000	\$45,900,000	-\$6,450,000

These are expenses incurred in connection with normal forfeiture proceedings. They include fees, advertising costs, court reporting and deposition fees, expert witness fees, courtroom exhibit costs, travel, and subsistence costs related to a specific proceeding. If the case involves real property, the costs to retain attorneys or other specialists under state real property law are also covered. In addition, the Deputy Attorney General may approve expenses for the retention of foreign counsel.

In FY 2016, funding for DEA's forfeiture-related investigative expenses was realigned from this cost category to Contracts to Identify Assets to provide an accurate and consistent alignment of AFF resources to cost category across the Program. The FY 2016 estimate also reflects one-time increases for case-specific asset forfeiture litigation expenses incurred in connection with anticipated and pending judicial forfeiture proceedings in the Southern District of New York.

5. Joint Law Enforcement Operations (JLEO)

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$154,320,000	\$154,700,000	\$154,700,000	+\$0

As authorized by 28 U.S.C. 524(c)(1)(I), this funding pays for the overtime, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers operating as part of a joint law enforcement task force with federal agencies participating in the Fund.

6. Special Contract Services

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$151,640,000	\$116,900,000	\$111,900,000	-\$5,000,000

This expense category finances contract personnel to manage the administrative aspects of the Program, including data entry and analysis, word processing, file control and review, quality control, case file preparation, and other process support functions. In addition to administrative functions, Special Contract Services also supports the technical aspects of the asset forfeiture process, including the seizure, management, disposition, and post-disposition of assets; and case closure.

In FY 2016, the expenses associated with the FBI and USDA's financial investigative contract support and related travel, and DEA's foreign-based Special Operations Division contractor analysts, were realigned from this cost category to Contracts to Identify Assets to match AFF resources consistently to the appropriate cost categories across the Program. The modest decrease in FY 2017 reflects anticipated efficiencies from an analysis of agency workload trends.

7. Storage, Protection, and Destruction of Controlled Substances

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$11,743,000	\$7,500,000	\$8,800,000	+\$1,300,000

These resources fund DEA in the storage, protection, and destruction of controlled substances. These activities include the incineration of bulk quantities of marijuana, the security and transportation of evidence from DEA storage sites to approved incineration facilities, the storage of seized drug evidence in secured leased warehouses until the evidence can be destroyed, support of the Domestic Cannabis Eradication/Suppression Program, and a contract to assist in the transportation and destruction of abandoned and other drug seizures made by the U.S. Border Patrol and turned over to DEA along the Texas, Arizona, and New Mexico borders. The fund also supports the phased repair and replacement of aging narcotics safes in ATF field offices.

The decreases in FY 2016 and FY 2017 reflect reductions necessitated by the rescissions discussed above.

8. Information Systems

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$48,400,000	\$53,850,000	\$47,500,000	-\$6,350,000

These resources primarily support a suite of operational and analytical applications used by the DOJ Asset Forfeiture community. The core business application is the Consolidated Asset Tracking System (CATS), along with approximately 20 separate applications that integrate with CATS, use CATS data, or function as an external application supporting CATS.

The growth in FY 2016 expenses reflects one-time increases to upgrade DEA's Transcription Translation Support System in support of field division operations.

9. Training and Printing

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$5,388,000	\$6,850,000	\$6,800,000	-\$50,000

This category funds expenses for training personnel on any aspect of the federal forfeiture program as well as other training necessary to maintain the competency of federal and contractor personnel dedicated to performing federal forfeiture functions. It also funds printing expenses associated with forfeiture training and the performance of forfeiture functions.

10. Other Program Management

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$94,513,000	\$99,450,000	\$101,600,000	+\$2,150,000

This category includes several types of expenses that are important to the overall management of the Program: management analysis, performance assessment, problem analysis, requirements analysis, policy development, and other special projects designed to improve program performance. Other activities funded under this heading include the annual audit of financial statements of the AFF and the SADF by an independent accounting firm, and special assessments and reviews. This cost category also finances the salaries of the Justice Management Division's Asset Forfeiture Management Staff, units of the Criminal Division's Asset Forfeiture and Money Laundering Section, and other government personnel in member agencies for activities directly related to the asset forfeiture mission.

Funded exclusively by the AFF under this cost category, the Asset Forfeiture Financial Investigator (AFFI) program empowers Deputy U.S. Marshals to investigate and satisfy

outstanding court-ordered forfeiture money judgments, which in the past often went uncollected. By enforcing these judicial forfeiture orders, the AFFI program recovers millions of dollars of ill-gotten gains each year and ensures that crime does not pay.

Based on a comprehensive gap analysis of agency capacity, the Attorney General approved a policy waiver that enabled the AFF to fund the salaries and benefits of government employees performing administrative functions within the asset forfeiture programs of the ATF, DEA, FBI, and EOUSA. Program growth in FY 2016 and FY 2017 reflects the phased addition of these government employee positions as fiscal conditions allow in order to strengthen the oversight and internal controls capacity of the Program.

11. Contracts to Identify Assets

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$53,890,000	\$93,350,000	\$85,400,000	-\$7,950,000

Investigative agencies use these funds for subscription services to nationwide public record data systems, the acquisition of specialized assistance such as the reconstruction of seized financial records, and contract investigative support.

The large increase in FY 2016 reflects the realignment of expenses associated with the FBI and USDA's financial investigative contract support and related travel, and DEA's foreign-based Special Operations Division contractor analysts, from the Special Contract Services cost category. The decrease in FY 2017 expenses reflects anticipated cost savings from the transition of program-wide contracted financial investigative support from the Professional Assistance Contract Services (PACS) to the Asset Forfeiture Investigative Support Services (AFISS) contract.

12. Awards Based on Forfeiture

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$22,698,000	\$22,150,000	\$20,000,000	-\$2,150,000

These expenses are for the payment of awards for information or assistance leading to a civil or criminal forfeiture. Award payments to Confidential Sources (CS) are critical to fulfillment of the primary DEA mission – to disrupt and dismantle drug trafficking organizations. CS award payments provide a tremendous incentive to individuals to assist in drug trafficking investigations that result in the seizure and forfeiture of drug-related assets. Over the past several years, the FBI has pursued more substantial forfeitures due to the increased size and scope of criminal schemes in white collar crime, organized crime, and narcotics trafficking. The realization of these forfeitures was greatly assisted by informants.

The decrease in FY 2017 reflects reductions necessitated by the rescissions discussed above.

13. Investigative Costs Leading to Seizures

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$120,338,000	\$82,700,000	\$92,600,000	+\$9,900,000

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

The decrease in FY 2016 reflects an adjustment for a one-time expense in FY 2015 to upgrade and retrofit four DEA regional wire rooms and reductions necessitated by the rescissions discussed above.

B. INVESTIGATIVE EXPENSES

Definite, Appropriated (discretionary) Authority

1. Purchase of Evidence

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$8,253,000	\$8,100,000	\$8,100,000	+\$0

Funding in this category is limited to the purchase of evidence directly related to violations of the Controlled Substances Act, the Controlled Substances Import and Export Act, the Racketeer Influenced and Corrupt Organizations Act, and criminal money laundering laws.

2. Equipping of Conveyances

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$202,000	\$200,000	\$200,000	+\$0

This category provides funding to equip government-owned or leased vehicles, vessels or aircraft for law enforcement purposes.

3. Awards for Information

FY 2015 <u>Actual</u>	FY 2016 <u>Estimate</u>	FY 2017 <u>Estimate</u>	Increase/Decrease <u>FY 2016 to FY 2017</u>
\$11,987,000	\$12,214,000	\$12,214,000	+\$0

These expenses are for awards for information or assistance directly relating to violations of the criminal drug laws of the United States or of chapter 77 of title 18, sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of the Internal Revenue Code of 1986. The Justice for Victims of Trafficking Act of 2015 (P.L 114–22) also authorized the use of this funding for human trafficking investigations as defined by chapter 77 of title 18.

There is no requirement that the information provided has any relationship to a civil or criminal forfeiture under federal law. Awards payable from the Fund directly support law enforcement efforts by furthering the cooperation and assistance of informants.

VI. Performance, Resources, and Strategies

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

A. Performance Plan and Report for Outcomes

The performance indicators outlined in the following tables are internal to the performance of the AFMS in its support of DOJ's Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law. The FY 2017 Performance Plan reflects performance measures that have been identified through stakeholder meetings and internal reviews as being critical to the Program's continued success in helping the Nation's law enforcement community to disrupt and dismantle criminal organizations.

B. Strategies to Accomplish Outcomes

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

C. Data Definitions

FTE - The AFP reimburses the USMS for the salaries of administrative personnel responsible for the AFP's property custodial functions, but its associated FTEs reside in the USMS accounts. Similarly, the AFP reimburses the Criminal Division for AFMLS FTEs. AFMS has 28 FTEs, which are paid directly from the AFP's mandatory account.

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

Performance - One of the tasks of the Program's managers is to provide administrative and management support of Program activities. As a result of a reevaluation of the Program's performance measures, the indicators were changed in 2001 to reflect more accurately the activities of the Program administrators rather than the Program participants.

Performance Measures 1, 2 and 3 - CATS, Business Objects, and SharePoint services are available to participating AFP customers from 8:00 a.m. to 8:00 p.m., Eastern Standard Time, Monday through Friday, excluding all federal holidays and/or local government closures. Normally scheduled maintenance outages are conducted during non-operational hours (weekends,

holidays, and off-hours). Emergency outages and system failures occurring during the core operational hours will impact availability to its customer base, affecting all three performance measures. For fiscal years 2016 and 2017, the estimated total number of core supported hours is approximately 3,000. The goal is to provide 99.8 percent availability to customers.

			FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
									[]			
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE ^B	FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
Program Activity	2.1, 2.3, 2.4	Management of the AFF	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		Provide financial support, control, and guidance to Fund participants in accordance with the Attorney General's Guidelines on Seized and Forfeited Property, July 1990.	28	\$2,742,943	22	\$2,720,419	28	\$1,847,380	0	0	28	\$1,465,874
Performance Measure: Output	2.1, 2.3, 2.4	Percent of time CATS is accessible in support of forfeiture agency operations.	99.8%				99.8%				99.8%	
Performance Measure: Efficiency	2.1, 2.3, 2.4	Percent of time Business Objects is accessible in support of forfeiture agency operations.	99.8%				99.8%				99.8%	
Performance Measure: Efficiency	2.1, 2.3, 2.4	Percent of time Sharepoint Services are accessible in support of forfeiture agency operations.	99.8%				99.8%				99.8%	
Performance Measure: Outcome	2.1, 2.3, 2.4	Achieve effective funds control as corroborated by an unmodified opinion on the AFF financial statements.	100%				100%				100%	

^A The performance by and resources allocated to the AFP participants are indicated in their respective budgets.

^B Only the performance by the AFMS in the financial management of the AFF is indicated.

Strategic Objective	PERFORMANCE MEASURE TABLE									
	Decision Unit: Asset Forfeiture Program									
	Performance Report and Performance Plan Targets		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015		FY 2016	FY 2017
			Actual	Actual	Actual	Actual	Target	Actual	Target	Target
2.1, 2.3, 2.4	PERFORMANCE MEASURE	Percent of time CATS is accessible in support of forfeiture agency operations.	99.9%	99.8%	99.8%	99.9%	99.8%	99.6%	99.8%	99.8%
2.1, 2.3, 2.4	PERFORMANCE MEASURE	Percent of time Business Objects is accessible in support of forfeiture agency operations.	100%	99.8%	99.8%	99.9%	99.8%	99.5%	99.8%	99.8%
2.1, 2.3, 2.4	PERFORMANCE MEASURE	Percent of time Sharepoint Services are accessible in support of forfeiture agency operations.	99.9%	99.8%	99.9%	99.9%	99.8%	99.6%	99.8%	99.8%
2.1, 2.3, 2.4	PERFORMANCE MEASURE	Achieve effective funds control as corroborated by an unmodified opinion on the AFF financial statements.	100%	100%	100%	100%	100%	100%	100%	100%

VII. Glossary of Terms

Administrative Forfeiture - Process by which property may be forfeited to the United States by the seizing investigative agency or bureau without judicial involvement. Seizures must be based on probable cause. The authority for a seizing agency to start an administrative forfeiture action is found in 19 U.S.C. 1607.

Adoption - Federal forfeiture of property originally seized by a State or local law enforcement agency.

Civil Forfeiture - In rem proceeding brought against the property itself, rather than against the wrongdoer personally. The property is forfeitable because of its connection to the offense, and any person with a legal interest in the property may contest the forfeiture.

Criminal Forfeiture - In personam proceeding seeking forfeiture of property instituted in conjunction with a criminal charge against a particular defendant. Criminal forfeiture must be alleged in the indictment or other charging document.

Controlled Substance - Drug, other substance, or immediate precursor, included in Schedule I, II, III, IV, or V of the federal Controlled Substances Act or corresponding scheduling scheme of a state. Does not include alcoholic beverages or tobacco.

Conveyance - An aircraft, a vehicle, or a vessel.

Disposition of Property - Sale, transfer, retention, or destruction of property.

Equitable Sharing - Transfer of a share of federally forfeited property to a requesting State or local law enforcement agency or foreign government that has participated directly in any of the acts that led to the seizure or forfeiture of the property.

Equitable Sharing Program - Asset forfeiture has become one of the most powerful tools to combat and dismantle criminal enterprises by removing the proceeds and instrumentalities of the crime. The Equitable Sharing Program enhances cooperation among federal, State, and local law enforcement agencies by sharing a portion of these proceeds with State and local partners in direct relation with their participation to the total law enforcement effort resulting in forfeiture. The Equitable Sharing Program was created in 1984, and continues to grow with more than 7,200 participating State and local law enforcement agencies nationwide.

Forfeiture - Involuntary relinquishment of property without compensation as a consequence for such property's use in a manner contrary to the law. A forfeiture may be either administrative or judicial.

Informant - An undisclosed person who confidentially discloses material information of a law violation, thereby supplying a lead to officers for their investigation of a crime. This does not include individuals who supply information only after being interviewed by police officers, or who give information as witnesses during the course of an investigation. Also known as "confidential informant" or "CI," or "confidential source" or "CS."

Judicial Forfeiture - Forfeiture action adjudicated in the courts (civil or criminal), not processed administratively.

Kleptocracy - High-level, large-scale corruption, extortion, and theft of public money by or for public officials.

Kleptocracy Asset Recovery Initiative - The goal of KARI is to use the tools of the U.S. Government to identify and forfeit property derived from or involved in kleptocracy, and, when appropriate, return those assets to benefit the people of the countries harmed by the underlying corruption.

Lien - Claim upon the property of another as security for a debt.

Money Laundering - Term used to describe the conversion of illegally earned or otherwise tainted cash to one or more alternative forms that conceal its origin or ownership, often accomplished through steps taken to hide direct links to illegal activity and to allow the use of proceeds of illegal activity.

Net Proceeds - In the context of forfeiture, forfeited cash or gross receipts from the sale of forfeited property, less allowable asset management and case related expenses, third party interests, and any award based on the value of the forfeiture.

Proceeds - The Fraud Enforcement and Recovery Act (FERA), effective May 20, 2009, amended 18 U.S.C. 1956(c) by defining “proceeds” as “any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.”

Property - Assets of any kind capable of being owned or possessed. May include a controlled substance, raw material, product, container, equipment, money, real property, vessel, vehicle, or aircraft. In the context of equitable sharing, tangible personal and real property, other than cash.

Racketeer Influenced and Corrupt Organizations (RICO) Act - Law codified at 18 U.S.C. 1961 et seq. that provides for criminal and civil penalties for those who engage in a “pattern of racketeering activity” or “collection of an unlawful debt” that has a special relationship to an “enterprise” affecting interstate commerce.

Real Property - Land, and generally whatever is erected, growing upon, or affixed to land. Also, rights issuing out of, annexed to, and exercisable within or about land. Real or immovable property consists of: land, that which is affixed to land, that which is incidental or appurtenant to land, and that which is immovable by law; except that for the purposes of sale, emblements, industrial growing crops, and things attached to or forming part of the land, which are agreed to be severed before sale or under the contract of sale, shall be treated as goods and be governed by regulating the sales of goods.

Seized Asset Deposit Fund (SADF) - Holding account administered by the U.S. Marshals Service for seized cash pending the resolution of forfeiture cases.

Seizure - Taking possession of property by legal process. A Fourth Amendment “seizure” occurs when there is some meaningful law enforcement interference with an individual’s possessory interest in his property.

Third Party Interest - Interest belonging to an individual or entity that is not a direct party to a matter between two other parties (primary parties). For example, in a forfeiture action, a lienholder has a third party interest.

Victim - Person who is the object of a crime or tort; for example, the victim of a robbery is the person robbed. The victim may be an individual, public or private corporation, government, partnership, or unincorporated association. For purposes of remission, any person who has suffered a pecuniary loss as a result of the defendant’s criminal activities.

VIII. EXHIBITS