

Foreword

This document contains functional requirements for seized property and forfeited assets systems. This is part of a series of functional systems requirement documents published by the Joint Financial Management Improvement Program (JFMIP) on Federal financial management systems requirements. All of the JFMIP *Federal Financial Management System Requirements* series of documents should be considered together when determining how best to use information and supporting services to meet the financial management needs of Federal agencies. The system requirement documents address the goals of the Chief Financial Officers' (CFO) Council, the JFMIP, and others to promote the efficient management of assets, and to improve financial management systems governmentwide to provide useful financial information on Federal government operations. Agencies are to use this document on *Seized Property and Forfeited Assets System Requirements* in planning improvements to these financial systems. Agencies may develop additional technical and functional requirements as necessary to support unique mission requirements. Agencies must also develop strategies for interfacing or integrating seized property and forfeited asset system with the agency's core financial system. We want to take this opportunity to thank the agency representatives who contributed to this document. We value their assistance and support. With continuing support such as theirs, we can confidently face the financial management challenges in the next century.

Karen Cleary Alderman
Executive Director
December 1999

Table of Contents

Foreword	
Acronyms	
Introduction	1
Federal Financial Management Framework	3
System Overview.....	7
Introduction to Functional Requirements	14
Seizure Activities.....	15
Custody Activities	16
Forfeiture Activities.....	17
Disposition Activities	18
Reporting and Other Requirements	19
General Systems Requirements	20
Interfacing Systems	21
System Administration	22
Records Retention.....	23
Other General System Issues	24
Appendix A: References.....	25
Appendix B: Glossary	26
Appendix C: Contributors.....	28

Illustrations

1. Financial System Improvement Projects	4
2. Framework for the Integration of Federal Agency Systems.....	6
3. Agency Systems Architecture.....	7

Acronyms

ADP	Automated Data Processing
CFO	Chief Financial Officer
CFR	Code of Federal Regulations
GMRA	Government Management Reform Act of 1994
GPRA	Government Performance and Results Act of 1993
FASAB	Federal Accounting Standards Advisory Board
FFMIA	Federal Financial Management Improvement Act of 1996
FFMSR	Federal Financial Management Systems Requirement
GAO	General Accounting Office
IRS	Internal Revenue Service
JFMIP	Joint Financial Management Improvement Program
OMB	Office of Management and Budget
SFFAS	Statement of Federal Financial Accounting Standards
U.S.C.	United States Code

Introduction

The Federal government has consistently recognized the importance of having high quality financial systems to support improvement of government operations and provide financial and related information to program and financial managers. In response, the JFMIP began the process of defining financial management system requirements by publishing a series of requirement documents, beginning with the *Core Financial System Requirements* document, issued originally in 1988.

In addition to the basic JFMIP system requirement documents, several Federal organizations and agencies recognized the need for a comprehensive document describing a variety of general system requirements, e.g., system integration, data stewardship, and internal controls. As a result, JFMIP published the *Framework for Federal Financial Management Systems* document.

The Federal Financial Management Improvement Act (FFMIA) of 1996 mandated that agencies implement and maintain systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the U.S. Government Standard General Ledger (SGL) at the transaction level. The FFMIA statute codified the JFMIP financial systems requirement documents as a key benchmark that agency systems must meet, in order to be substantially in compliance with systems requirement provisions under FFMIA. To support the requirements outlined in the FFMIA, JFMIP is updating obsolete publications and is publishing additional requirements documents. The CFO Act strengthened the government's efforts by assigning more definitive financial management responsibilities to senior officials and by requiring new financial organizations, enhanced financial systems, audited financial statements, and improved planning. The Government Performance and Results Act (GPRA) of 1993 and Government Management Reform Act (GMRA) of 1994 further enhanced these responsibilities and requirements.

The Federal Accounting Standards Advisory Board (FASAB) was established by the Secretary of the Treasury, the Comptroller General, and the Director of the Office of

Management and Budget in October 1990 to consider and recommend accounting concepts and standards for the Federal government. More information on FASAB can be found on the website: www.financenet.gov/fed/fasab.

This document supersedes the JFMIP *Seized/Forfeited Asset System Requirements* document (FFMSR-4), issued in March 1993. The document, *Seized Property and Forfeited Asset System Requirements* (JFMIP-SR-99-14), incorporate legislative changes and Federal accounting standards, including Federal Accounting Standards Advisory Board (FASAB) Standard Number 3, *Accounting for Inventory and Other Related Property* (SFFAS No. 3). This requirements document has been expanded to include new sections on property seized for purposes other than forfeiture and the corresponding system requirements. These requirements cover any property, regardless of value, seized by the Federal government as well as assets forfeited to the Federal government as a consequence of a law enforcement action or property abandonment proceedings.

Agencies that deal with seized property and forfeited assets must comply with specific accounting and reporting requirements for this activity. The disclosure requirements for seized property and forfeited assets are outlined in SFFAS No. 3 and Accounting and Auditing Policy Committee's *Reporting on Non-valued Seized and Forfeited Property*, Technical Release Number 4. Among the requirements is a financial statement footnote disclosure to contain: (1) a description of the composition of the property; (2) the methods of valuing the property; (3) restrictions on the use or disposition of forfeited assets; (4) changes from prior year accounting methods, if any; and (5) an analysis of changes in seized and forfeited property.

Foreclosed property acquired under direct loan and loan guarantee programs are excluded from the *Seized Property and Forfeited Assets System Requirements*. Please refer to the system requirements for the *Direct Loan System Requirements* and *Guaranteed Loan System Requirements*.

SFFAS No. 3 states that certain property is seized by authorized agencies as a consequence of various laws. In some instances, as many as three governmental entities may be involved

with seized property. The first, the seizing agency, may turn the property over to the second, the custodial agency or contractor. Third, the financial records may be maintained by a “central fund” created to support the seizure activities of one or more Federal agencies⁸. Under certain governmental authorities, property is seized merely to preserve it during conduct of a related action and returned once the action is complete. In other situations, property is seized until a tax liability to the government is discharged. The property may be released to the owner upon satisfaction of the tax liability or be sold to pay part or all of the tax liability. In other cases, property may be seized because it represents a hazard to public safety. If no one claims the property, it may be disposed of through abandonment proceedings.

Property may be seized as part of law enforcement proceedings with the intent to forfeit the property to the United States through administrative or judicial procedures. The forfeited property may then be sold, converted for use by the government, or transferred to other entities. Illegal weapons and drugs may be destroyed after seizure to prevent their reintroduction into the stream of commerce. Because property is seized under many different authorities, most of which are unrelated to forfeiture, these requirements address the accounting and reporting for seized property⁹ and forfeited assets separately.

For purposes of consistency, the definitions in the Accounting and Auditing Policy Committee’s (AAPC) *Reporting on Non-valued Seized and Forfeited Property*, Technical Release Number 4, are incorporated by reference and used throughout this document (see Appendix B: Glossary).

This document is intended for financial systems analysts, system accountants, and systems developers, as well as program managers and other users who design, develop, implement, operate, and maintain or audit financial management systems. This document has been prepared by an interagency team consisting of members from the Departments of Justice, and Treasury, FASAB, GAO and JFMIP.

Federal Financial Management Framework

This document provides high level functional requirements for seized property and forfeited assets systems that will provide the capability for financial managers and others to control and account for seized property and forfeited assets. This document is one component of a broad program to improve Federal financial management, which involves the establishment of uniform requirements for financial information, financial systems, reporting, and financial organizations.

As shown in Illustration 1, Financial System Improvement Projects, standards and systems requirements assist agencies in developing effective and efficient systems and provide a common framework so that outside vendors or in-house programmers can provide software more economically. Each agency should integrate its unique requirements with these governmentwide standard requirements to provide a uniform basis for the standardization of financial management systems as required by the CFO Act of 1990, FFMIA of 1996, and others.

Financial management systems in the Federal government must be designed to support the vision articulated by the government's financial management community. This vision requires financial management systems to support the partnership between program and financial managers and to assure the integrity of information for decision-making and measuring performance. This includes the ability to:

- collect accurate, timely, complete, reliable, and consistent information;
- provide for adequate agency management reporting;
- support governmentwide and agency-wide policy decision-making;

- support the preparation and execution of agency budgets;
- facilitate the preparation of financial statements and other financial reports in accordance with Federal accounting and reporting standards;
- provide information to central agencies for budgeting, analysis, and governmentwide reporting, including consolidated financial statements; and
- provide a complete audit trail to facilitate audits.

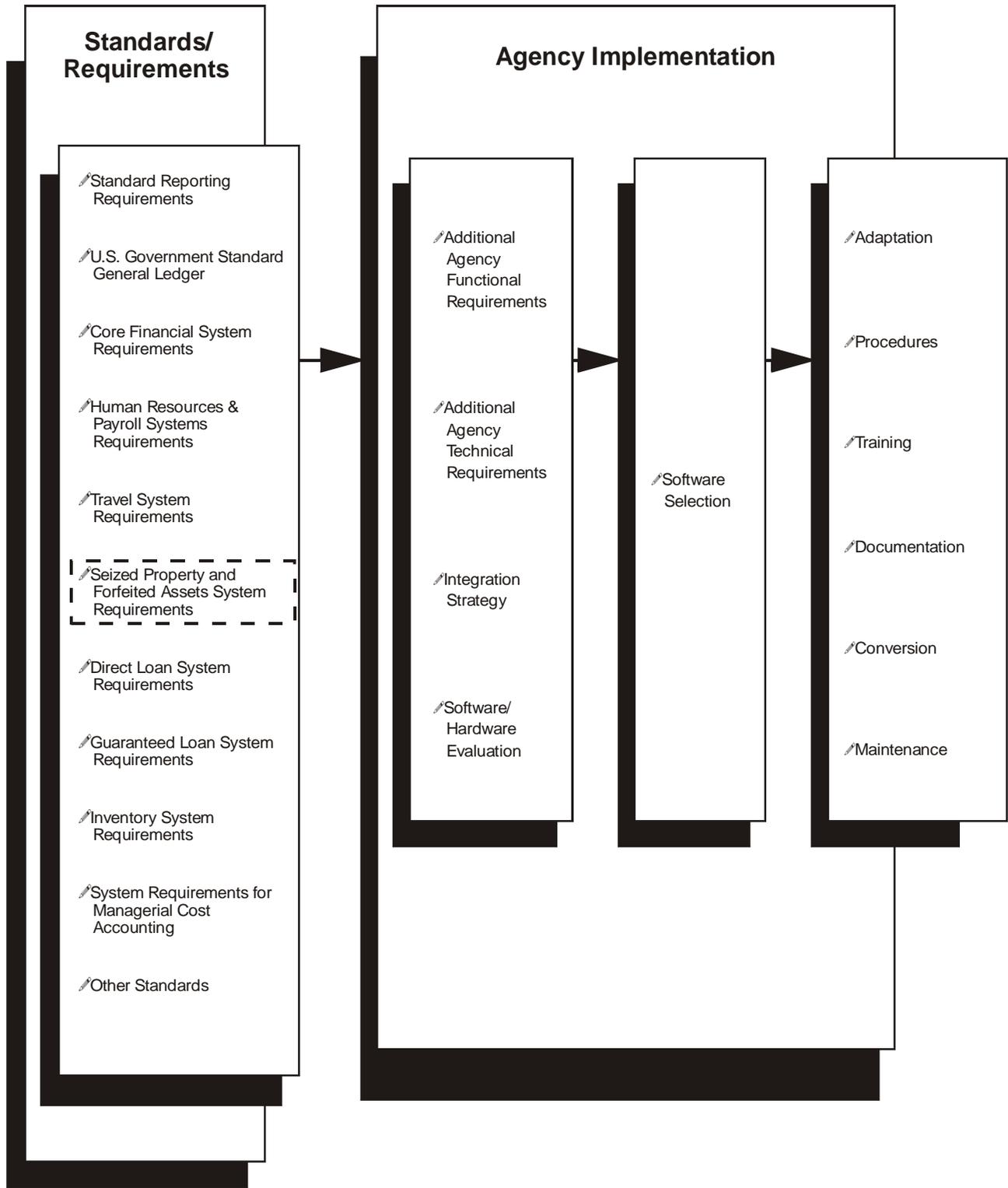
In support of this vision, the Federal government must establish governmentwide financial management systems and compatible agency systems, with standardized information and electronic data exchange, to support program delivery, safeguard assets, and manage taxpayer dollars.

It is critical that financial management system plans support the agency's mission and programs, including planned changes to them, and that financial management systems plans are incorporated into the agency's plans for information technology infrastructure and information systems as a whole. Further, systems design efforts should include an analysis of how systems improvements, new technology supporting financial management systems, and modifications to existing work processes can together enhance agency operations and improve program and financial management. Reassessing information and processing needs and redesigning processes, procedures, and policies are essential steps to meeting user needs.

Integrated Financial Management Systems

Financial management systems must be designed with effective and efficient interrelationships between software, hardware, personnel, procedures, controls, and data contained within the systems. To be integrated, financial management systems must have, as a minimum, the following four characteristics:

Financial System Improvement Projects



 Subject of this report

(1) standard data classifications (definitions and formats) established and used for recording financial events;

(2) common processes used for processing

similar kinds of transactions;

- (3) internal controls over data entry, transaction processing, and reporting applied consistently; and
- (4) a design that eliminates unnecessary duplication of transaction entry.

The financial management systems policy described in OMB Circular A-127, Financial Management Systems, requires that each agency establish and maintain a single integrated financial management system. Without a single, integrated financial management system to ensure timely and accurate financial data:

- Poor policy decisions are more likely to occur, due to inaccurate or untimely information;
- Managers are less likely to be able to report accurately to the President, the Congress, and the public on government operations in a timely manner;
- Scarce resources are more likely to be directed toward the collection of information rather than to delivery of the intended programs; and
- Modifications to financial management systems necessary to keep pace with rapidly changing user requirements cannot be coordinated and managed properly.

The basic requirements for a single, integrated financial management system are outlined in OMB Circular A-127.

Having a single, integrated financial management system does not necessarily mean having only one software application for each agency covering all financial management systems needs. Rather, a single, integrated financial management system is a unified set of financial systems and the financial portions of mixed systems encompassing the software, hardware, personnel, processes (manual and automated), procedures, controls, and data necessary to carry out financial management functions; manage financial operations of the agency, and report on the agency's financial status to central agencies, Congress, and the public.

Unified means that systems are planned and managed together, operated in an integrated

fashion, and linked together electronically in an efficient and effective manner to provide agency-wide financial system support necessary to carry out the agency's mission and support the agency's financial management needs. Integration means that the user is able to have one view into systems such that, at whatever level the individual is using the system, he or she can get to the information needed efficiently and effectively through electronic means. However, it does not mean that all information is physically located in the same database.

Interfaces, where one system feeds data to another system following normal business/transaction cycles such as salary payroll charges recorded in general ledger control accounts at the time the payroll payments are made, may be acceptable as long as the supporting detail is maintained and accessible to managers. In such cases, interface linkages must be electronic unless the number of transactions is so small that it is not cost-beneficial to automate the interface. Easy reconciliations between systems, where interface linkages are appropriate, must be maintained to ensure accuracy of the data.

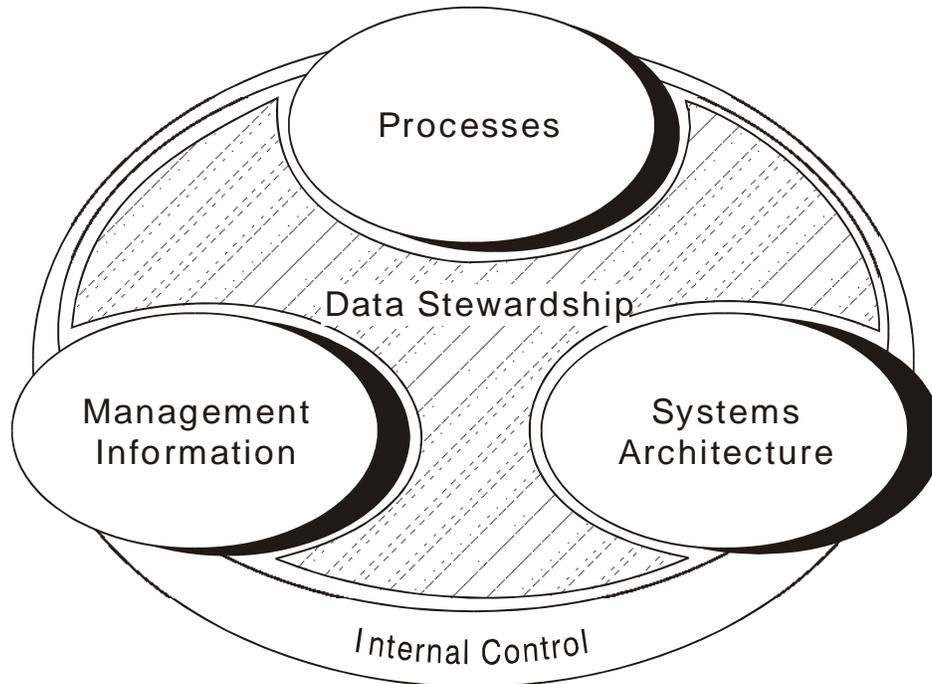
To develop any integrated information system, it is critical that senior systems analysts and systems accountants identify:

- the scope of the functions to be supported (processes);
- how data quality will be assured (data stewardship);
- the information to be processed (management information);
- how systems fit together to support the functions (systems architecture); and
- safeguards needed to ensure the integrity of operations and data (internal control).

All of these pieces must be brought together in a model such as the one shown in Illustration 2, Integrated Model for Federal Information Systems. These pieces must work together to form an efficient integrated information system. A change to any part of the model will require a determination of the implications on other parts of the model. For example, a new reporting requirement may require changes throughout the entire model.

governmentwide basis.

Integrated Model for Federal Information Systems



Agency Financial Management Systems Architecture

Agency financial management systems are information systems that track financial events and summarize information to support the mission of an agency, provide for adequate management reporting, support agency level policy decisions necessary to carry out fiduciary responsibilities, and support the preparation of auditable financial statements.

Agency financial management systems fall into four categories:

- (1) core financial systems;
- (2) other financial and mixed systems, including seized property and forfeited assets,
- (3) shared systems, and
- (4) departmental executive information systems (systems to provide management information to all levels of management).

These systems must be linked together electronically to be effective and efficient. Summary data transfers must be provided from agency systems to central systems to permit summaries of management information and agency financial performance information on a

Subject to governmentwide policies, the physical configuration of financial management systems, including issues of centralized or decentralized activities, processing routines, data, and organizations, is best left to the determination of the agency, which can determine the optimal manner in which to support the agency mission. The physical design of the system, however, should consider the agency's organizational philosophy, the technical capabilities available, and the most appropriate manner to achieve the necessary single, integrated financial management system for the agency.

System Overview

This document identifies functional requirements for seized property and forfeited assets systems. Although the document may be used for developing new seized property and forfeited assets systems, or improving and evaluating current systems, the document does not provide a specific model for such systems. Functional requirements not mandated by law, regulation, directive, or judicial decision must result in cost-effective systems that are in the interest of the government.

Functional requirements can be segregated into two general categories— mandatory and value-added. Following are the definitions for these two categories of requirements.

Mandatory requirements describe what the system must do, and they consist of the minimum acceptable functionality, necessary to establish a system, or are based on Federal laws, and regulations. Mandatory requirements are those against which agency heads evaluate their systems to determine substantial compliance with systems requirements under the FFMIA. These requirements apply to existing systems in operation and new systems planned or under development.

Value-added requirements describe features or characteristics and may consist of any combination of the following: using state of the art technology, employing the preferred or best business practices, or meeting the special management needs of an individual agency. Value-added, optional, and similar terminology may be used to describe this category of requirements. Agencies should consider value

added features when judging system options. The need for these value addedvalue-added features in agency system is left to the discretion of each agency head.

Overview on Seized Property and Forfeited Asset^s

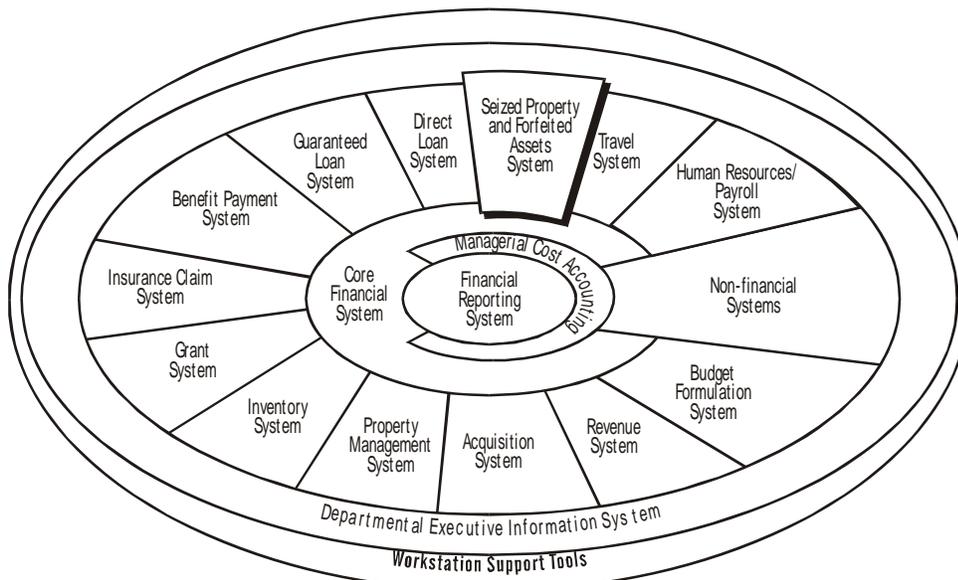
As shown in Illustration 3, seized property and forfeited assets systems are an integral part of the total financial management system for those Federal agencies which maintain these types of assets. The seized property and forfeited assets systems support programmatic objectives and interact with the agency's core financial system to validate funds availability; update budget execution data; record the custody of seized property^y and forfeited assets and the associated expenses and revenues.

Property may be seized under the authority of various laws or regulations that are enforced or administered by agencies of the Federal government. While the laws and regulations authorizing seizure of property differ, the basic internal controls and accounting requirements are to assure that the government maintains affirmative custody and control of this property during the pendency of the legal proceeding that allowed the seizure to be made. Property may be simultaneously seized for more than one purpose, i.e., seized as evidence of criminal activity and seized for the enforcement of a tax levy.

Seizures may be intended to

- satisfy a tax levy under the Internal Revenue Code,

Agency Systems Architecture



- take away instrumentalities or proceeds of crime under the Asset Forfeiture Program,
- preserve the status quo in a diversity of jurisdiction proceeding in Federal district court,
- restrain the property involved in certain Admiralty actions,
- restrict import and trademark violations under the Customs regulations,
- enforce the Code of Federal Regulations,
- remove certain contraband property from the stream of commerce,
- process abandoned property; or
- preserve the evidence of a suspected crime.

Considering the sensitive nature of governmental programs that authorize the seizure of property, financial management systems are a key program component which must provide the information and controls necessary to help guard against mistakes. Seizing and taking ownership of private property from citizens is an inherently governmental activity that requires a careful balancing of law enforcement objectives with the need to protect the rights of individuals. Legal requirements form a critical foundation for the systems used to support these activities. Within this legal framework, it is important to note that seizure^c and forfeiture^e are two separate processes.

Property seized by a Federal agency – whether that property is in the actual or constructive possession of the Federal government – still belongs to the owner of the property, not the Federal government. However, the United States has a fiduciary responsibility to the owners for the custody and administration of the seized property. In the context of these requirements, constructive possession of property is control that is declared by a judicial process or administrative process. This does not include assets that the Federal Deposit Insurance Corporation and the formerly Resolution Trust Corporation acquire through takeovers of insolvent financial institutions.

Property Seized for Tax Enforcement^t

Internal Revenue Code Section 6331 authorizes the Internal Revenue Service to levy (seize) and sell taxpayer property without regard to the forfeiture process. The IRS takes constructive possession of the taxpayer's right, title, and

interest in the seized property up to the taxpayer's equity in the property and offers it for public sale. The sale of the property is not made with clear title; encumbrances senior to the federal tax lien(s) for the delinquent tax liabilities under which the seizure was made remain with the property after sale. After seizure of the property, the title can be cleared and any encumbrances resolved in one of a number of ways:

Redemption: The taxpayer pays the delinquent tax liability with additions in full prior to sale, and the property is returned to the taxpayer. The funds are applied first to the direct expenses of the seizure and then to the taxpayer's delinquent tax liability, with the funds being forwarded to the general fund of the Treasury.

Release: It is determined to be in the government's interest that the property be returned to the taxpayer prior to sale for less than payment of the full tax liability. If any funds are received for the release of the property, they are applied first to the direct expenses of the seizure and then to the taxpayer's delinquent tax liability, with the funds being forwarded to the general fund of the Treasury.

Sale: The property is sold to a third-party bidder by either public auction or sealed bid for an amount equal to or greater than the established minimum bid. The funds are applied first to the direct expenses of the seizure and sale and then to the taxpayer's delinquent tax liability with the funds being forwarded to the general fund of the Treasury. Any proceeds of the sale in excess of the total of the delinquent tax liability and the expenses of seizure and sale are returned to the taxpayer.

Purchased for the United States: In certain instances where it is deemed advisable (for example, when at the time of sale there are no third party bidders willing to pay the established minimum bid), the property is declared purchased for the United States rather than being released to the taxpayer. The taxpayer's delinquent tax account is credited with the amount of the established minimum bid. The IRS later offers the property for sale as "acquired" property without regard to a minimum bid; the

proceeds of that sale are forwarded to the general fund of the Treasury.

In situations other than redemptions and sales that result in full payment of the delinquent tax liability, the IRS continues to attempt to collect the delinquent tax liability from other taxpayer assets or income.

Property Seized for Forfeiture

Before 1990, virtually all forfeitures of properties valued at more than \$100,000 were conducted judicially. On August 20, 1990, the President signed Public Law 101-382, which authorized the administrative forfeiture of cash, monetary instruments, and conveyances without regard to value and other property valued up to \$500,000.

The legislative history of this law makes clear that Congress sought to increase the speed and efficiency of uncontested forfeiture actions and has confidence in the notice and other safeguards built into administrative forfeiture laws. The Attorney General has instituted asset forfeiture policies to implement the higher statutory ceilings for administrative forfeitures including a requirement that all forfeitures of realty or interests therein must be conducted judicially.

Through many forfeiture statutes, the Congress has made clear its intent that the government must be expeditious in providing notice and initiating forfeiture actions against seized property. Further, a fundamental aspect of due process in any forfeiture proceeding is that notice must be given as soon as practicable to make affirmative notification to interested parties of the pendency of the proposed action and afford them an opportunity to be heard. For all administrative forfeiture cases, 19 U.S.C. 1607 requires that "written notice" of the seizure and intent to forfeit be sent to owners and all interested parties. The Attorney General's policy has been that the "written notice" under 19 U.S.C. 1607 to possessors, owners, and other interested parties (including lien holders) known at the time of seizure must occur not later than 60 days from the date of seizure. For interested parties determined after seizure, the "written notice" must occur within 60 days after reasonably determining ownership or interest. Waivers of the 60-day limit may be obtained. However, if a waiver is granted, it must set forth the exceptional circumstances and be included in

the administrative forfeiture case file. Where a reasonable effort of notice has not been made within the 60-day period and no waiver has been obtained, the seized property must be returned to the owner and the forfeiture proceeding terminated.

Pursuant to statute, the seizing agency receiving a claim and a cost bond transmits them to the cognizant United States Attorney for the institution of judicial forfeiture. The cost bond secures the claimant's obligation to pay costs in the event that a forfeiture results. The costs that may be charged against the cost bond are set forth in 28 U.S.C. 1920 and 1921. The costs include the fees of the clerk, the fees of the United States Marshal, the fees of the court reporter, fees for witnesses, docket fees under 28 U.S.C. 1923, and compensation of court appointed experts, interpreters, and special interpretation services under 28 U.S.C. 1828. The costs must be filed in the case and, upon allowance, included in the forfeiture judgment or decree as required by 28 U.S.C. 1920.

The number of forfeiture cases against those who obtained property through theft or fraud in violation of federal law has increased. In many cases, a victim of the underlying crime with a cognizable ownership interest in the property forfeited can be identified. Victims with a traceable ownership interest (owner victims) in the property may submit a petition for remission or mitigation of the forfeiture. A purpose of remission is to ameliorate the effects of forfeiture for those with an interest in the forfeited property who lack involvement in, or knowledge of the conduct that resulted in the forfeiture. (Remission is a form of Executive clemency where the guilt has been recognized.)

Without the final decree or court order of forfeiture of property under seizure, the United States does not have title to the property. Any use of the property under seizure and pending forfeiture raises issues of liability and creates the appearance of impropriety. As a result, property under seizure must not be used for any reason, not even for official use, until the final decree or court order of forfeiture is issued. Exceptions may be granted in situations such as the seizure of ongoing business where the use of the property is necessary to maintain the value of the asset. As a general rule, occupants of real property seized for forfeiture are permitted to remain in the property pursuant to an

occupancy agreement pending the forfeiture.

“Adoptive seizure” refers to the federal adoption and forfeiture of property seized exclusively through the efforts of state or local agencies. Investigative bureaus empowered by statute or regulation may adopt such seized property for forfeiture where the conduct giving rise to the seizure is in violation of federal law. Forfeitures of seized property accepted in this manner have the same effect as if the property had originally been seized by the investigative bureau. Pursuant to statute, the Attorney General has the authority to equitably transfer forfeited property and cash to state and local law enforcement agencies that directly participated in the law enforcement efforts leading to the seizure and forfeiture of the property.

Property Seized in a Diversity of Jurisdiction Litigation

Federal district courts will have original jurisdiction of all civil actions where the matter in controversy is between citizens of different states, citizens of a state and citizens or subjects of a foreign state, and a foreign state as plaintiff and citizens of a state or different states. The court may order the United States Marshal to seize certain specified property in order to preserve its value or the ownership status quo.

The legal process underlying the detention or seizure of the property, including the provisions for notice to individuals or public advertisements of the seizure will be specified in the authorizing court order. Disposition will be in accordance with the court’s order.

Property Seized or Detained for the Enforcement of Duties

An available property may be seized by a United States Customs officer who has reasonable cause to believe that any law or regulation enforced by the Customs Service has been violated, making the property subject to seizure. The Customs Service has the obligation to seize property introduced or attempted to be introduced into the United States contrary to law. This includes merchandise that is stolen, smuggled, or clandestinely imported or introduced. It also includes controlled substances not imported in accordance with law as well as contraband or prohibited articles. The Customs Service may seize merchandise that is subject to any restriction or prohibition imposed by law

relating to health, safety, or conservation. In addition, any merchandise, the importation or entry of which requires a license, permit, or other authorization of a Federal agency, and which is not accompanied by such a license, may be seized. The Customs Service may also seize merchandise or packaging in which copyright, trademark, or trade name protection violations are involved. Merchandise that is intentionally marked in violation of law may also be seized. Merchandise for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have been in violation of law may be seized. Merchandise subject to quantitative restrictions, found to bear a counterfeit visa, permit, license, or similar document, or stamp from the United States or from a foreign government or issuing authority pursuant to a multilateral or bilateral agreement may be seized.

The legal process for resolving the underlying rationale for seizure, including the provisions for notice to individuals or public advertisements of the seizure, is specified in Customs regulations. Disposition should be in accordance with the authorizing enactment or regulation.

Property Seized or Detained for Regulatory Enforcement

Property may be detained or seized to enforce specific enactments or the resultant executive agency regulations. In general, upon the determination of an authorized official, property may be subject to actual or constructive seizure because there is probable cause to believe that a statute or regulation has been violated and that the seizure of certain offending property is warranted.

The legal process for resolving the underlying rationale for detention or seizure, including the provisions for notice to individuals or public advertisements of the seizure, is specified in the authorizing enactment or regulation. Disposition must be in accordance with the authorizing enactment.

Property Seized as Prohibited Property

The Federal government has unique law enforcement and social missions which may result in seizures of large quantities of items that often have no resale value (e.g. , illegal drugs,

firearms, explosives, counterfeit currency). Government agencies have a significant responsibility to safeguard, track, and dispose of these items even though they are carried at zero value in its financial records.

There is a legal rationale, independent of the forfeiture statutes, that allows the government simply not to return certain property to the person from whom it was seized. This property is considered to be “contraband per se” and is defined as any property the possession of which, without more, constitutes a crime. The return of this property would frustrate the express public policy against the possession of such property. This, of course, is distinguishable from the summary destruction of property for the preservation of the safety of the public. In the latter case, the property rights of the owner are preserved through the destruction.

Certain laws authorize the “forfeiture” of certain types of seized property “summarily” (i.e., without notice and an opportunity for a forfeiture hearing). Under 21 U.S.C. 881(f), schedule I and II controlled substances that are possessed, transferred, sold, or offered for sale illegally, as well as dangerous, toxic, or hazardous raw materials, products, equipment, or containers that are used in connection with drug offenses “shall be deemed contraband and seized and summarily forfeited to the United States.”

Abandoned Property

Personal property may be abandoned or destroyed by an executive agency when an authorized official makes a written determination that the property has no commercial value or the estimated costs of its continued care and handling would exceed the estimated proceeds from its sale, provided that the abandonment or destruction will be made in a manner that is not detrimental or dangerous to public health or that infringes on the rights of other persons.

Realty may be abandoned, destroyed, or donated to certain public bodies. Any Federal agency having control of realty that has no commercial value or whose estimated cost of continued care would exceed the estimated proceeds from its sale is authorized to abandon or destroy the government-owned improvements and related personal property or to donate the government’s interests to certain public bodies. No realty will

be abandoned, destroyed, or donated by a Federal agency unless an authorized official of the agency finds, in writing, that the property has no commercial value or that the estimated costs of continued care would exceed the estimated proceeds from its sale. Any public body receiving donated property will pay the disposal costs incident to the donation, such as dismantling, removal, and cleaning up of the premises.

Public notices of the intent to abandon or destroy property, either real or personal, will be given. Such notice will be in a local newspaper and will include an offer to sell. However, property may be abandoned or destroyed without public notice upon a written finding that the property is of such minimal value that its retention for advertising for sale, even as scrap, is clearly not economical or the abandonment or destruction is required for health, safety, or security reasons. Abandoned or other unclaimed property subject to the provisions of 40 U.S.C. 203(m) will remain in the custody of and remains the responsibility of the Federal agency finding it. The property will be held for a period of 30 days from the date of the finding. Upon expiration of this 30-day period, title to such property vests in the United States, except where a proper claim is filed by the owner prior to official use or sale of the property. Abandoned or other unclaimed property not utilized by the holding agency will be reported to the General Services Administration in accordance with Federal Property Management Regulations. Reimbursement for the value of the abandoned or other unclaimed property placed into official use must be deposited in a special fund by the finding or transferring agency for a period of at least three years. A former owner may be reimbursed from the special fund, based on a proper claim. Such reimbursement must not exceed fair market value at the time title was vested in the United States, less the costs incident to the care and handling of such property.

Property Seized as Evidence

Upon the request of a federal law enforcement officer or an attorney for the United States, a search warrant may be issued by a federal judge or a state court of record within the federal district for a search for property or for the seizure of any property that constitutes evidence of the commission of a criminal offense or contraband or the fruits of crime or things

otherwise criminally possessed or property designated or intended for use that is or has been used as the means of committing a criminal offense.

Property seized for its evidentiary value must be safeguarded to assure the preservation of this evidentiary value. Each Federal law enforcement agency has unique tracking and chain of custody requirements.

Forfeited Property

Title to property, real or personal, may be transferred to the United States as a result of forfeiture administrative or judicial proceedings, as a consequence of the satisfaction of a tax liability, or as a result of property abandonment procedure.

Under some circumstances, property may be forfeited to the United States that has not yet been seized. Under these circumstances, the seizure order will occur after the Court's order of forfeiture.

The final disposition of property forfeited to the United States is an executive branch decision and is not a matter for the court. Consequently, orders of forfeiture should broadly direct the forfeiture of the property to the United States for disposition in accordance with law. The Attorney General has been given the authority to dispose of forfeited property by sale or other commercially feasible means, without subsequent court approval. This is generally called a "forfeiture sale" of the property. Forfeiture sales do not require judicial confirmation pursuant to 28 U.S.C. 2001. However, if before forfeiture an interlocutory sale is necessary because the property is declining in value, then the procedures contained in Section 2001 should be followed. When property is sold in this manner, it is called a "judicial sale."

Introduction to Functional Requirements

This document identifies functional requirements for seized property and forfeited assets systems, and these requirements are segregated into mandatory or value-added system requirements. The narrative distinguishes mandatory and value-added system requirements by terminology. The words, "must," "shall" or "will" designate mandatory requirements; the words "may" or "should" designate value-added requirements. However, statutory requirements specific to a reporting entity may override mandatory requirements, or make value-added requirements mandatory. In such instances, when appropriate, the reporting entity should reference the statutory exception in footnotes to the entity's financial statements, and in pertinent compliance reports to Congress.

A seized property and forfeited assets system must track the status of a seized property from the time of seizure, through various processing steps, which may include forfeiture, until final return or other dispositionⁿ. The system must document seizure authorization and the key actions required for final disposition. Once the property is seized, the system must record a value for the property. The valuing of the property depends on the type of property seized and the purpose for which it was seized^d.

The system must track the asset's location, ownership, including interests and claims held by third parties against the property, record revenues and costs incurred while the asset is in custody, and costs incurred in disposition activities. The system must interface with the agency's financial accounting system so the revenue, expenses, receivables, and liabilities generated in conjunction with the assets can be properly recorded and reconciled, and an audit trail can be constructed. Costs incurred for most assets in custody are paid out of a central fund or appropriations.

Additionally, the financial management systems, including property tracking systems, must generate reports which provide results of the performance of the seized and forfeited asset programs so managers have a basis for informed

decision-making, so they can monitor areas of concern, properly evaluate results, and take appropriate corrective action. The sensitive nature of these activities heightens the importance of having sound policies, good internal controls, and adequate staff to effectively manage and dispose of the assets. Effective program management preserves the value of seized property for innocent owners, maximizes the economic return to the government on the sale of forfeited property, improves the timeliness of asset proceeds shared with state and local law enforcement agencies, and helps assure that innocent parties with valid interests in the property being forfeited are protected.

Seizure Activities

When certain civil and criminal laws or regulations are violated, enforcement agencies have the authority to seize the property. All Federal government seizures of private property must be made in accordance with applicable laws and regulations and must be specifically authorized. This initial authorization is the cornerstone of all subsequent activity.

A system that is designed to account for seized property must provide for the following:

- A unique identifier for the property that will facilitate tracking through seizure, holding, and disposition.
- Timely recording of the date of seizure, the type of property, the location where it was seized, the storage location, owner(s) if known, and any other entity involved in the seizure.
- Timely and accurate recording of the originally assigned value and any subsequent updates to the valuation.
- Timely recording of any mortgage and claim liabilities against each asset seized for forfeiture or Internal Revenue Code enforcement.
- Capability to obtain the current information on processing status of any seized property in the database by use of an automated query mechanism.
- Information necessary to enable routine verification of the legal authority for the seizure, including the ability to verify that the agency seizure or forfeiture criteria have been observed.
- Allowance for the correction, amendment, and cancellation of the seizure authorization for the property under seizure and provision of reports to responsible program officials on this activity.
- Information necessary to allow for the prompt payment of properly authorized and billed services. This system must interact with the core financial system to accomplish this task.
- Allocate and record all appropriate costs of the seizure on a basis consistent with the type of property and the nature of the seizure.

Custody Activities

Organizations that have custody of seized property and forfeited assets must have adequate policies and procedures to ensure that all property and assets are properly received, recorded, valued, maintained, and controlled throughout the legal process underlying the seizure.

A custody system component must have the capability to do the following:

- Capture, record and maintain accurate information on the current legal status, geographic location, responsible custodian, and the current recorded value of seized property and forfeited assets in custody.
- Provide a record documenting that advertising and the issuance of notice of property seized have been accomplished, if required.
- Provide information to enable seized cash to be deposited promptly into cash holding accounts, if required.
- Track and promptly record the deposit of revenue generated by seized businesses and cash on a basis consistent with the nature of the property.
- Segregate forfeited assets from property in a seized or detained status.
- Allocate and record all appropriate costs and revenues on a basis consistent with the type of property and the nature of the custodial action.
- Record and account for all theft, loss, and damage expenses by identification number.
- Provide accurate and timely reconciliations between the seizing agency's seizure records and property records of custodians being used to maintain, store, and dispose of seized property.
- Provide information to allow the independent verification that each item of seized property or each forfeited asset is in the physical or constructive custody of the government and that the recorded quantity, legal status, geographic location, and value are accurate.
- Provide information to allow an independent verification that all billed contractor or vendor services were actually performed.
- Record and track cost bonds, as appropriate.
- Provide information to pay promptly all contractors or vendors performing maintenance or management services, and interact with the core financial system to accomplish this task.
- Record the forfeiture, as appropriate.
- Record information on the legal authority for forfeiture, as appropriate.

Forfeiture Activities

As a consequence of certain legal proceedings, title to property, real or personal is transferred to the United States. A system which is designed to account for abandoned property and forfeited assets must provide for the following:

- A unique identifier for the property that will facilitate tracking through seizure, holding, and disposition.
- Timely recording of the date of seizure, the type of property, the location where it was seized, the storage location, owner(s) if known, and any other entity involved in the seizure.
- Timely and accurate recording of the originally assigned value and any subsequent updates to the valuation.
- Timely recording of any mortgage and claim liabilities against each asset seized for forfeiture.
- Capability to obtain the current information on processing status of any abandoned property or forfeited assets in the database by use of an automated query mechanism.
- Information necessary to enable routine verification of the legal authority for the seizure. This information must include the ability to verify that the agency seizure or forfeiture criteria have been observed.
- Information necessary for prompt payment of properly authorized and billed services, and interact with the core financial system to accomplish this task.
- Support the recording and capture of all appropriate costs of the forfeiture process on a basis consistent with the type of property.

Disposition Activities

A key component of effective property seizure and asset forfeiture processes is disposing of the property in an orderly fashion after determining that disposition is appropriate. If asset disposition is perceived to be unfair or inefficient, the effectiveness of the entire process could be called into question. In some cases, the property may be returned to an entity outside of the Federal government as a result of the law enforcement action. It is particularly important to account for all costs, revenues, and proceeds from disposition.

An effective asset disposition system component must have the capability to do the following:

- Record each disposition, including the unique identifier of the property or asset, type of property or asset, type of disposition, the individuals responsible for authorizing and executing the actions, the value at time of disposition or the gross proceeds generated from the disposition, and to whom the asset or property was released or transferred.
- Accurately record a partial distribution of an asset.
- Record all appropriate costs and revenues on a basis consistent with the type of property and the nature of the disposal action.
- Verify that proper authorization exists for all dispositions.
- Record and account accurately for all distributions of excess revenues over expenses.
- Provide a complete accounting for both the applicable central fund balances and any related deposit fund balance.
- Provide an audit trail for assets distributed to other entities.
- Record the deposit into the applicable account of all proceeds from the sale of forfeited or abandoned assets.
- Record transfers of cash from the applicable deposit fund to the applicable central fund account.
- Support the payment of contractors, innocent owners, or approved claimants.

Value-added features are as follows:

- Flag low value and time-sensitive assets to assure their timely recording and liquidation.
- Periodically test asset disposition transactions to ensure that the process is not being victimized by inside^r transactions.
- Ensure that all billed contractor services were actually performed.

Reporting and Other Requirements

All seized property and asset forfeiture systems must be able to support management's objectives for efficiency and quality in order to ensure compliance with GPRA requirements. They must fully disclose the financial results of the program. In addition, they must support performance measures that management can use to assess the efficiency and quality of the financial management process. Performance measurement for specific program components, such as property disposal, must also be supported. Management should be able to assess performance from a variety of perspectives, including program-wide or agency-wide levels. Reports for accounting and payment history purposes must also be provided and adapted to meet agency needs.

Efficiency and quality performance indicators may include the periodic calculation of the time elapsed for each seizure to proceed through the asset forfeiture process and a comparison to established management goals. At a minimum, both the time necessary to complete the entire process and the time intervals between the following key processing steps should be measurable for any individual seizure and for each asset type on an average basis: The following are value-added features:

- Cash seizure to deposit into holding account, if appropriate.
- Seizure to noticing.
- Petition receipt to petition ruling.
- Seizure to forfeiture.
- Forfeiture to disposal.
- Equitable sharing request to sharing decision.
- Forfeiture to equitable sharing disbursement.
- Periodic recording of the results of individual contract compliance audits of valuation, custodial, disposition, and maintenance activities.
- Periodic comparisons between the date that each seizure or forfeiture event is captured in the system and the date the event actually occurred and comparisons of results to established management data entry goals.

- Periodic calculation of trends in theft, loss, or damage to seized property or forfeited assets.
- Record of preliminary estimates of the timing and the financial results (net dollar value realized, the percentage of the currently recorded appraised value realized, and the percentage of value lost) for each forfeited asset.
- Periodic calculation of trends in the ratio of property management and disposal costs to gross sales proceeds for all assets sold and comparisons of results to established management goals.
- Periodic calculation of trends in the ratio of gross sales proceeds to appraised or market value of all assets sold by asset type and comparison to established management goals.
- Periodic assessment of management control structure to ensure, to the extent possible, that seized property and forfeited assets are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements.
- Accumulate performance information on all vendors and contractors (both private and government) that perform custodial or maintenance services.

General Systems Requirements

The *JFMIP Framework for Federal Financial Management Systems* contains information on internal controls, systems architecture, software documentation, and other matters related to seized property and forfeited assets systems development, operations, and maintenance. Throughout the editing and processing activity of the seized property and forfeited assets system, supporting documentation must be maintained.

The seized and forfeited assets system must be able to accept, process, and report on transactions with other internal and external systems. The system must record and track such transactions and related information in order to

provide the basis for control.

The requirements for software documentation are listed in the *Core Financial System Requirements*. The information provided is meant to identify the scope and intent of the documentation requirements rather than to state them definitively. The software and documentation will be maintained under configuration management in order to maintain system integrity and assure internal controls.

After the seized property and forfeited asset system is implemented, transactions should be reviewed to make sure that transactions are processing correctly and the data produced is reliable. This testing will be conducted with structure test data and with actual production data. Whenever possible, daily, monthly, quarterly, and fiscal year-end reports should be reviewed prior to dissemination to ensure that the data have been updated correctly.

Interfacing Systems

Agency financial management systems track financial events and summarize information to support the mission of an agency. These systems provide for adequate management reporting, support agency level policy decisions necessary to carry out fiduciary responsibilities, and support the preparation of auditable financial statements. Agency financial management systems fall into four categories: core financial systems, other and mixed systems (including inventory systems), shared systems, and departmental executive information systems (systems to provide management information to all levels of managers). These systems must be linked together electronically to be effective and efficient. Summary data transfers must be provided from agency systems to central systems to permit summaries of management information and agency financial performance information on a government-wide basis. Subject to government-wide policies, the physical configuration of financial management systems, including issues of centralized or decentralized activities, processing routines, data, and organizations, is best left to the determination of the agency to decide the optimal manner in which to support the agency mission.

The physical design of the system, however, should consider the agency's organizational philosophy, the technical capabilities available, and the most appropriate manner to achieve the necessary single, integrated financial management system for the agency.

A seized property and forfeited assets system should be able to process transactions from other external systems and record and track such transactions and related information to provide the basis for central control. This may require a customized interface to properly identify and format the transactions.

The system should:

- provide the flexibility to accept data input from multiple media that recognize user agencies' unique data input requirements.
- provide the capability to customize data input, processing rules, and edit criteria and to give agencies flexibility in defining internal operational procedures and supporting agency requirements.
- provide the capability, if necessary, to

identify and process transactions from other systems that enter and update the standard seized property and forfeited assets system.

- provide the capability to subject all transactions from interfacing systems to the standard seized property and forfeited assets system edits, validations, and error-correction procedures.
- provide the capability to upload and download data in an interface environment.
- provide the flexibility to provide multiple-media output reports and recognize user agencies' unique data output requirements.
- provide the capability to allow users to customize output for reporting and providing interfaces to other systems necessary to link financial and program results and meet agency requirements for external processing (e.g., general ledger posting, budget reconciliation and execution, cost accumulation).
- provide the capability to transmit information on the results of seizure transactions and forfeiture transactions to the core financial system requirements itemized in the *Core Financial System Requirements* for such purposes as generating requests for disbursements, updating the standard general ledger, generating obligation records, generating requests for funds transfer, and updating funds control.

System Administration

System administration provides centralized control over a seized property and forfeited assets system.

Functions to be performed by the systems administration support personnel include:

- maintaining an adequately skilled work force.
- maintaining effective financial systems interfaces.
- monitoring and responding to user needs for information.
- supporting and maintaining an effective system of internal controls.
- maintaining general system information and

documentation.

- maintaining an effective record retention process.
- providing capability to interact directly with other system users and develop automated exchange of information, where feasible.
- maintaining system security.

Records Retention

All records created within the Federal government may be destroyed only with the approval of the National Archives and Records Administration (NARA), per 36 CFR 1228.

For questions regarding the disposition of federal records, please contact:

National Archives and Records Administration
(NARA)

7th Street and Pennsylvania Avenue NW
Washington, DC 20408.

The telephone number for the Life Cycle
Management Division is (301) 713-7110.

Other General Systems Issues

A variety of general systems requirements, including data stewardship, systems architecture, systems integration, internal control, and others are contained in the *Framework for Federal Financial Management Systems* (JFMIP FFMSR-0, January 1995). The Framework document, along with all other JFMIP requirements documents can be found at www.financenet.gov/financenet/fed/jfmip/jfmip.htm

Appendix A: References

Chief Financial Officers Act of 1990

Federal Financial Management Act of 1994

Federal Financial Management Improvement Act of 1996

Federal Managers' Financial Integrity Act of 1982

Government Management Reform Act of 1994

OMB Circular A-123, Internal Control Systems

OMB Circular A-127, Financial Management Systems

OMB Circular A-134, Financial Accounting Principles and Standards

FASAB Statement of Federal Financial Accounting Standard No. 3, Accounting for Inventory and Other Related Property

FASAB Statement of Federal Financial Accounting Standard No. 4, Managerial Cost Accounting Concepts and Standards for the Federal Government

AAPC Reporting on Non-Valued Seized and Forfeited Property, Technical Release Number 4

JFMIP Framework for Federal Financial Management Systems (FFMSR-0)

JFMIP Core Financial System Requirements (JFMIP-SR-99-4) and other System Requirement documents

Please refer to JFMIP website:

www.financenet.gov/financenet/fed/jfmip/jfmip.htm.

Appendix B: Glossary

Abandoned Property

Property of any type over which the rightful owner has relinquished possession and any claim of an ownership interest, without assertion of an adverse right to possession and control by the Federal government. This would include property left at a government facility and unclaimed by the rightful owner following notice of intent to dispose. This property is a type of seized property.

Accounting and Auditing Policy Committee (AAPC)

AAPC was established in May 1997 by the Office of Management and Budget, General Accounting Office, the CFO Council, and the President's Council on Integrity and Efficiency, as a body to research accounting and auditing issues requiring guidance. It serves as a permanent committee sponsored by the Federal Accounting Standards Advisory Board.

Actual custody

Physical possession and control of property by government personnel.

Agency

Any department, agency, commission, authority, administration, board, or other independent establishment in the Executive branch of the government, including any corporation wholly or partly owned by the United States that is an independent instrumentality of the U.S., not including the municipal government of the District of Columbia. (OMB Circular A-34)

Central Fund

A federal entity established to finance the costs of seizure, management and disposition of property seized for forfeiture, and to receive any proceeds from the sale or other disposition of that property.

Constructive custody

Legal possession of property by Federal government personnel through a non-federal agent, such as a commercial contractor or state or local official, under a legal agreement or court order that the agent maintains physical possession and control of the property on behalf of, and subject to the orders of, the Federal government personnel.

Custodial agency

The Federal agency that has actual possession of seized or forfeited property, or constructive possession of property through a non-federal agent. The custodial agency would be responsible for reporting material quantities of non-valued items.

Detained Property

Property taken into custody temporarily for purposes of preserving the status quo (items in or around a crime scene) or to protect the government from liability for loss (luggage of an arrested traveler,

vehicle of an arrested drunk driver), or determining Customs admissibility, with the intent to release the property as soon as it is no longer necessary to preserve the status quo or the owner can assume responsible custody. This action is not a seizure under the law and thus detained property is not considered seized property.

Embargoed Property

Property that may be legal to possess or own in the U.S., but whose import/export is prohibited (e.g., Iranian carpets, Cuban cigars).

Financial Management System

The financial systems and the financial portions of mixed systems necessary to support financial management.

Financial System

An information system, comprised of one or more application, that is used for collecting, processing, maintaining, transmitting, and reporting data about financial events; supporting financial planning or budgeting activities; accumulating and reporting cost information; or supporting the preparation of financial statements.

Forfeited property

Property of any type (currency, monetary interests, realty, intangible property, and tangible personal property) for which title has vested in the Federal government, over any other asserted legal interest in the property, by exercise of a legal forfeiture process.

Mixed System

An information system that supports both financial and non-financial functions of the Federal government or components thereof.

Prohibited Property

Property for which no private right of ownership is recognized under U.S. law, or of which mere private possession is prohibited under U.S. law. Examples include certain controlled substances, counterfeit currency, counterfeit monetary and financial instruments, and certain firearms. This property is a type of seized property.

Requirements

JFMIP systems requirements are either mandatory or value-added. The definitions of these two categories are:

Mandatory Requirements describe what the system must do and consists of the minimum acceptable functionality, necessary to establish a system, or are based on Federal laws and regulations. Mandatory requirements are those against

which agency heads evaluate their systems to determine substantial compliance with systems requirements under the FFMIA. These requirements apply to existing systems in operation and new systems planned or under development.

Value-added requirements describe features or characteristics and may consist of any combination of the following: (1) using state of the art technology, (2) employing the preferred or best business practices, or (3) meeting the special management needs of an individual agency. Value-added, optional, and other similar terminology may be used to describe this category of requirements. Agencies should consider value-added features when judging systems options. The need for these value-added features in agency systems is left to the discretion of each agency head.

Seizing agency

The Federal agency that seizes property as part of its law enforcement activities.

Seized property

Property of any type (currency, monetary interests, realty, intangible property, and tangible personal property) over which the federal government has exercised its power under law to assert possession and control in opposition to any other party asserting a legal interest in the property.

Seized for evidence

Property the Federal government has seized for the sole purpose of preserving and protecting the property for possible use in civil or criminal judicial proceeding. The expectation is that the property will be returned to its rightful owners upon conclusion of the judicial proceedings. However, circumstances can allow the status of property seized for evidence to change to property seized for forfeiture.

Seized for forfeiture

Property the Federal government has seized for the purpose of transferring title to the Federal government through exercise of a legal forfeiture process. This includes property seized for forfeiture that also may be used in an evidentiary proceeding.

Seized for tax purposes

Property the Federal government has seized for the purpose of satisfying a tax liability to the Federal government through exercise of a legal tax enforcement process. This includes property seized for tax purposes that also may be used in an evidentiary proceeding.

Seized for other purposes

Property the Federal government has seized for purposes other than for evidence, for forfeiture, or for tax purposes. Examples of property in this category include seizures for satisfaction of debts owed the government, for protection of public safety or navigation (adrift vessel), and for preservation of environmental conditions (sinking vessel). This includes property seized for these other governmental purposes that also may be used in an evidentiary proceeding.

Sensitive items

Items that could be a hazard or threat to public safety or the economy in federal custody that would cause discredit or embarrassment to the Federal government if it lost accountability over those items.

Note: Most of the terms and definitions are from the Accounting and Auditing Policy Committee (AAPC) document on Reporting on Non-Valued Seized and Forfeited Property, Technical Release Number 4.

Appendix C: Contributors

JFMIP Steering Committee

Donald Hammond (Chair, Steering Committee)
Department of the Treasury

Karen Cleary Alderman
JFMIP

William Early
General Services Administration

Jeffrey Steinhoff
General Accounting Office

Sheila Conley
Office of Management and Budget

J. Gilbert Seaux
Office of Personnel Management

Department of Justice
Michael Perez (Project Sponsor)
Justice Management Division (JMD) Asset
Forfeiture Management Staff

Robert Weeks
JMD

Candy Olds
JMD

Marla Freedman
OIG

Joan Holland
Internal Revenue Service (IRS)

Richard Huether
IRS

Jack Roziner
IRS
Bunnie Gutterman
IRS

Stuart Sporn

Katie Drew
JMD-Finance Staff

James Cole
Federal Bureau of Investigations

Dorothy Floyd
Drug Enforcement Agency

Marilyn Kessinger
Office of Inspector General (OIG)

Melissa Loughan
OIG

Tim Virtue
U.S. Marshals Service

Susan Franklin
Immigration and Naturalization Service

Nora Kelly Waldren
Criminal Division

Department of the Treasury
Denise S. Wood (Project Sponsor)
Executive Office of Asset Forfeiture (EOAF)

Clayton Byers
Office of Inspector General (OIG)

Eric Hampl
EOAF

IRS

Gail Donaldson
IRS

Edna Decker
Customs Service

Tim Raeck
Customs Service

Diane Frazier
Secret Service

Ken Lee
Secret Service

Yvone Mattison
Secret Service

Sandi Nini
Secret Service

Federal Accounting Standards Advisory Board

Wendy Comes
Rick Wascak

General Accounting Office

Gary Engel
Robert Gramling
Casey Keplinger
J. Chris Martin
Bruce Michelson

JFMIP Staff

Doris Chew
Patricia Clark
Janet McBride
Dennis Mitchell
Thane Thompson
(Presidential Management Intern—Department
of Labor)

^A central fund is a federal entity specifically established to finance the costs of seizure, management and disposition of property seized for forfeiture, and to receive any proceeds from the sale or other disposition of that property.

^Property subject to seizure is defined in the enabling statutes and regulations; however, for reporting purposes financial systems generally defined property as cash (including monetary instruments), real property, and tangible personal property as categories.

^This *Federal Financial Management Systems Requirement for Seized Property and Forfeited Assets Systems* is not intended to create or confer any rights, privileges, or benefits on any prospective or actual claimant, defendants, or petitioners. Likewise, it is not intended to have the force of law with respect to the conduct or prosecution of law enforcement activities.

^Agencies that deal with non-valued seized and forfeited property must comply with specific accounting and reporting requirements for this activity. See SFFAS No. 3 and Accounting and Auditing Policy Committee's Technical Release Number 4, *Reporting on Non-valued Seized and Forfeited Property*.

^Seizure is the act performed by an officer of the law, acting under authority, in taking into the custody of the law the property, real or personal, of a person against whom the judgment of a competent court has passed or the act of taking possession of property as a consequence of a violation of public law.

^Forfeiture is to lose title to, or lose the right to, property by some error, fault, offense, or crime.

^Title 26 of the United States Code. Levy (seizure) under Internal Revenue Code section 63 31(b) to collect delinquent taxes involves no legal proceeding. The seizure is an administrative act.

19 U.S.C. 1608, 26 U.S.C. 7325(3).

See 28 U.S.C. 1332. See also Supplemental Rules for Certain Admiralty and Maritime Claims

21 U.S.C. 881(f)(1). See also 18 U.S.C. 924(d).

41 C.F.R. 101-47.5

41 C.F.R. 101-48.102-4

^Federal Rules of Criminal Procedure Number 41.

^The seized property system must be able to record property seized in a diversity of jurisdiction action, seized as evidence, seized as contraband, and seized in order to enforce a specified regulation in order to meet the government's responsibilities. The system must also record all appropriate costs or revenues that may be recovered in conjunction with the legal process or action leading to the seizure. The system should also interact with the agency's property system when property is placed into official use or retained by the agency .

^{SF}FAS 3 in paragraph number 63-65 and in paragraph 77 establish the basis for valuations. Paragraphs 66 and 78 establish the disclosure requirements for the basis of valuation.

^Most Federal agencies have specific prohibitions or outright bans on certain employees and contractors participating in the disposal of property from acquiring that property.