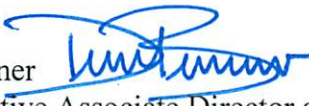




**U.S. Immigration
and Customs
Enforcement**

JUN 18 2018

MEMORANDUM FOR: Assistant Directors
Deputy Assistant Directors
Special Agents in Charge
Attachés

FROM: Derek N. Benner 
Deputy Executive Associate Director and
Senior Management Official Performing the Duties
of the Executive Associate Director

SUBJECT: Task Force Agreements and Equitable Sharing Guidance

The Treasury Executive Office for Asset Forfeiture (TEOAF) Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies (April 2004), also known as the “Green Book,” provides guidance related to the proper procedures for Equitable Sharing and Task Force Agreements. Homeland Security Investigations (HSI) field offices are reminded to process all equitable sharing documents in accordance with the established TEOAF policy. This memorandum is intended to encourage all HSI field offices to review the Task Force Agreement guidance provided in the “Green Book” and consider the fair and appropriate implementation of these agreements. This memorandum supersedes the January 7, 2013, HSI memorandum titled “Equitable Sharing Guidance” issued by HSI Executive Associate Director James A. Dinkins.

Task Force Agreements ease the equitable sharing documentation process especially in task force and multi-agency cases involving pre-established numbers of personnel and/or continuous contributions to long-term interdiction or ongoing operations. Task Force Agreements are reviewed annually and ensure that provisions are acceptable to all participating agencies. Additionally, Task Force Agreements do not preclude the processing of equitable sharing outside the established agreement, where total contributions or devoted hours of the participating agencies exceed the degree of participation. For seizures that occur outside these Task Force Agreements, the process of equitable sharing remains as established in the “Green Book” by TEOAF.

Task force equitable sharing agreements dictate the agreed upon percentages for participation in a task force and enable a more efficient processing of payments. In circumstances of ad-hoc participation or when an HSI office chooses not to formalize a task force agreement, equitable

sharing determinations will continue to be based on a narrative justification and review of hours expended by the foreign, federal, state, or local law enforcement officers directly involved in the efforts leading up to the seizure.

All task force sharing agreements must meet the criteria established by the "Green Book". New agreements must undergo legal review by agency counsel. For HSI field offices, this legal review will be conducted by the Office of the Principal Legal Advisor. All equitable sharing agreements must be in writing and signed by authorized officials from the participating agencies. Furthermore, the agreements are to be reviewed annually by all participating agencies to ensure that the provisions continue to be acceptable.

The Asset Forfeiture Unit (AFU) at HSI Headquarters (HQ) will maintain a repository of finalized agreements and can assist offices in developing agreements or determining appropriate sharing percentages. Once task force equitable sharing agreements are finalized, HSI field offices must contact their designated HQ Asset Forfeiture Specialist in AFU to provide a copy of the agreement and ensure proper application of the agreement's terms.

HSI, as the lead investigative entity, should normally conduct the seizure/forfeiture. Any other agency contributing to the seizure efforts of the task force must be entitled to a share of the forfeitures that is reflective of the assistance rendered by that agency. Pre-determined percentages in a task force may be agreed to if those percentages generally reflect the overall contributions of the involved agencies.

For all HSI-led cases, it is incumbent on managers to ensure that HSI retains a minimum of 30% of the net proceeds from each forfeiture. If the sharing request is a federal adoptive seizure, HSI shall retain a minimum of 20% net proceeds, as outlined in the memorandum "Updated Federal Adoptions Policy and Equitable Sharing Guidance," signed by Acting EAD Derek N. Benner on August 30, 2017, or as updated or superseded. This minimum retention is in place to cover the investigative and forfeiture expenses incurred by all Department of Homeland Security agencies leading to perfection of the forfeiture; however, it should not be considered the default percentage for HSI for all equitable sharing requests. In most cases, the retention of the minimum only ensures that HSI is not expending more funds than it deposits into the Treasury Forfeiture Fund (TFF). By retaining only the minimum amount, TEOAF will not be able to provide HSI with sufficient funds to support initiatives such as State and Local Overtime (SLOT), Purchase of Information/Purchase of Evidence (POI/POE), and other HSI priorities. Written justification shall be required from HSI field offices for all obligations requesting that HSI retain only the minimum percentage of the forfeiture and will be considered by AFU during the review process.

Timely submission of equitable sharing obligations is critical to ensure that sufficient funding remains available at TEOAF to pay the requesting agencies. AFU will continue to receive a Detailed Collection Report (DCR) from TEOAF on a monthly basis, which lists all (b) (7)(E) seizure numbers that have been forfeited and deposited into the TFF. AFU will provide a copy of the DCR to all HSI offices and request that funds associated with the specific (b) (7)(E) seizure number are obligated for equitable sharing, if applicable. The responses containing the percentages for equitable sharing must be returned to

SUBJECT: Task Force Agreements and Equitable Sharing Guidance

Page 3

AFU within 10 business days. After obligating funds on the DCR, HSI field offices must submit the respective equitable sharing requests to AFU within 30 calendar days. Offices that have Task Force Agreements will be able to confirm that sharing should proceed as previously agreed upon or advise if circumstances for a specific seizure fall outside of the agreement (for example, a seizure conducted on behalf of another HSI office). Failure to request obligation on a DCR by HSI field offices may result in TEOAF funding being approved for HSI priorities or becoming subject to Congressional rescissions.

Outside of approved Task Force Agreements, equitable sharing will continue to be principally determined by the number of hours expended by a participating agency. In circumstances where hours do not adequately reflect the degree of participation of the agency, it is important to ensure that the narratives contained in the documents submitted to AFU specifically detail the participation of the agencies involved in the events leading up to the perfection of the seizure. This should include the origin of the information leading to the seizure, the unique and indispensable assistance provided by an agency, and if the state agency could have achieved forfeiture under state law but joined forces with HSI to conduct a more effective investigation.

Superseded Document:

HSI memorandum, "Equitable Sharing Guidance," dated January 7, 2013.

If you have any questions regarding this matter, you may contact AFU Unit (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) at (b)(6); (b)(7)(c) or (b)(6); (b)(7)(c)@ice.dhs.gov.