



U.S. Immigration
and Customs
Enforcement

1 JUL 13 2015

MEMORANDUM FOR: Assistant Directors
Deputy Assistant Directors
Special Agents in Charge
Attachés
Directors, Field Operations
Fines, Penalties and Forfeitures Officers

FROM:

Peter T. Edge *Peter T. Edge*
Executive Associate Director
Homeland Security Investigations

Thomas F. Overacker
Acting Executive Director
Cargo and Conveyance Services
Office of Field Operations
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

SUBJECT:

Updated Guidance Regarding Port of Entry Seizures Made in
Furtherance of HSI Investigations

Purpose:

This joint memorandum is being issued to establish updated guidance regarding equitable sharing on seizures generated by U.S. Customs and Border Protection (CBP), Office of Field Operations (OFO) in instances where U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and its law enforcement partners are involved with investigations or interdiction operations jointly within a Port of Entry (POE).

Background:

On January 21, 2015, the Executive Associate Director of HSI signed a memorandum titled, "Establishing Guidance Regarding Equitable Sharing on U.S. Customs and Border Protection Generated Seizures." This memorandum detailed circumstances where HSI would equitably share forfeited funds with law enforcement partners on CBP-generated seizures that resulted from HSI investigations or cold hit seizures that required a follow-up petition investigation in

SUBJECT: Updated Guidance Regarding Port of Entry Seizures Made in Furtherance of HSI Investigations

Page 2

order to perfect the seizure. In those instances where equitable sharing was approved, HSI's reserved funding was utilized to cover the sharing with law enforcement partners.

Discussion:

In April 2016, after discussions with HSI Field Offices and a review of current procedures in place at different POEs, members of the HSI Asset Forfeiture Unit (AFU) and Treasury Executive Office of Asset Forfeiture (TEOAF) conducted further analysis of (b) (7)(E) coding classification and the accounting utilized for the funding source information. This process was undertaken in an attempt to establish a uniform nationwide policy for the handling and accounting of these seizures. The analysis revealed that TEOAF is able to reallocate the forfeited funds within the Treasury Forfeiture Fund from CBP to HSI in order for HSI to utilize the funds for equitable sharing with its partners. This will further allow TEOAF to properly account and document the funding source that is being utilized to support HSI's equitable sharing program. It will also allow HSI to utilize the HSI reserved funding for its originally approved purpose instead of being utilized to cover the equitable sharing approved on these seizures. HSI AFU members discussed the issue with CBP Fines, Penalties and Forfeitures Division (FPFD) representatives in order to set up a system to track and account for these seizures.

Recommendation:

Based on the discussions between HSI AFU, CBP OFO, FPFD and TEOAF, the following instances will be utilized to re-allocate funding within the Treasury Forfeiture Fund from CBP to HSI to allow for equitable sharing:

Seizures conducted in furtherance of information derived from HSI investigations/ interdictions that law enforcement partner agencies are jointly working with HSI. This will include CBP seizures derived from and/or connected to HSI wall-off requests, Investigative Case Management case target information, as well as outbound interdiction operations conducted at POEs by HSI and law enforcement partner agencies.

In order to track and properly account for these seizures, the following project code will be utilized on the Search, Arrest and Seizure (SAS) report generated for the seizure:

AFU – HSI POE SHARING

The respective HSI Field Office Group Supervisor whose team generated the information that is related to the seizure will be responsible for coordinating with his or her respective CBP OFO counterpart to ensure that the project code is included on the SAS report as well as incorporating the HSI information into the SAS narrative if ongoing investigative concerns permit. The HSI Group Supervisor will also be responsible for promptly notifying his or her respective HSI Field Office Asset Identification and Removal Group (AIRG) Group Supervisor, who in turn will notify the current HSI AFU Equitable Sharing Section Chief and an Asset Forfeiture Specialist.

LAW ENFORCEMENT SENSITIVE

SUBJECT: Updated Guidance Regarding Port of Entry Seizures Made in Furtherance of HSI Investigations

Page 3

HSI AFU will utilize the project code to monitor and track the seizures in order to compile a monthly list which will be forwarded to CBP OFO, FPDF and TEOAF. This will allow all agencies to review the list and account for these seizures in their respective record-keeping system. The monthly Detailed Collection Report will also have a column added allowing HSI Field Offices to confirm that these particular seizures will still involve equitable sharing with law enforcement partners.

Pursuant to the guidance issued on January 21, 2015, if CBP OFO makes a "cold hit" seizure that is unrelated to any HSI investigative target and a state and local agency does not directly participate in the investigation leading to or perfecting the forfeiture, all equitable sharing requests will not be considered. A "cold hit" is a seizure conducted by CBP OFO from a target that is not related to or based on any information from an HSI or HSI law enforcement partner investigation. HSI will continue to review the instances where HSI law enforcement partner assistance is needed to perfect a forfeiture in order to determine if HSI will cover any equitable sharing requests pertaining to that seizure.

Superseded Document: HSI memorandum titled, "Establishing Guidance Regarding Equitable Sharing on U.S. Customs and Border Protection Generated Seizures," dated January 21, 2015.

If you have any questions or concerns regarding this matter, please contact HSI AFU Unit Chief (b)(6) (b)(7)(C) at (703) 877-^{(b)(6); (b)(7)(c)} or (b)(6); (b)(7)(c) @ice.dhs.gov; HSI AFU Acting Section Chief (b)(6) (b)(7)(C) at 703-877-^{(b)(6); (b)(7)(c)} or (b)(6); (b)(7)(c) @ice.dhs.gov; or CBP OFO FPDF Branch Chief (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C)