

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



02

Title: ***Administration of State Forfeiture Program***

Date Issued: **03/01/98**

Applicability: **State & County Programs**

Supersedes: **N/A**

2:1 Policy Statement:

It is the policy of the Attorney General that the Office of the Attorney General (OAG) within the Department of Law and Public Safety (DLPS) shall administer proceeds and funds received by any Division or entity of the DLPS, or any other state law enforcement agency, as a result of forfeitures brought under the authority of N.J.S.A. 2C:64-1, et seq., (civil forfeiture), N.J.S.A. 2C:41-1, et seq. (racketeering), N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General. Additionally, the Division of Criminal Justice (DCJ) within the DLPS shall administer proceeds and funds received by any such state law enforcement agency as a result of seizures subject to forfeiture actions under the above referenced statutory authority. The OAG shall administer separately federally forfeited property or proceeds distributed to any state law enforcement agency by the United States Departments of Justice or Treasury through a Federal Equitable Sharing Program Agreement, as outlined under Forfeiture Program Administration Standard Operating Procedure 01.

2:2 Establishment of the Attorney General's Law Enforcement Forfeiture Account, (AGLEFA)

- A. The OAG has established a trust fund to be used solely for law enforcement purposes which is funded by completed forfeiture actions commenced under N.J.S.A. 2C:64-1 et seq., (civil forfeiture) or N.J.S.A. 2C:41-1, et seq. (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General. This dedicated fund is known as the Attorney General's Law Enforcement Forfeiture Account, (AGLEFA). AGLEFA shall be maintained by the Department of the Treasury and administered by the OAG. Investigations performed by three DL&PS divisions: the Division of State Police, (DSP), the Division of Alcoholic Beverage Control and the DCJ are the primary source of funds received from forfeiture actions. All forfeited funds or proceeds from the sale of forfeited property received by the DL&PS, any division of the DL&PS or any state law enforcement agency, shall be deposited into AGLEFA. All interest generated by AGLEFA shall be credited to AGLEFA. Because AGLEFA is a dedicated account, the funds shall not revert to the State General Treasury at the end of a fiscal year, but carryover from year to year.
- B. The Attorney General shall authorize disbursement from AGLEFA. Before

funds are expended from AGLEFA the OAG shall provide, upon request by the Director of the Office of Management and Budget, an expenditure plan advising of the intended uses of the funds.

2:3 Establishment of a Seized Asset Dedicated Account

- A. All funds seized by a state law enforcement agency, but not yet forfeited and not held for evidence in a criminal matter, shall be deposited into the DL&PS Cash Management Fund Seized Asset Dedicated Account (SADA) or, under circumstances as outlined in section 2:3B, the Seized Asset Trust Account (SATA) of the County Prosecutor handling the related forfeiture litigation.
- B. When a forfeiture action is litigated by the DCJ or, an individual seizure made by a state law enforcement agency is equal to or greater than fifty thousand Dollars, (50,000.00) and the related forfeiture action is litigated by a county prosecutor, all seized funds, except those held as physical evidence in a criminal matter, must be deposited into the DL&PS SADA. When an individual seizure made by a state law enforcement agency is less than fifty thousand Dollars, (50,000.00) and the related forfeiture action is litigated by a county prosecutor, the seized funds, except those held as physical evidence in a criminal matter, shall be deposited into the SATA of the county prosecutor's office handling the forfeiture litigation.
- C. The DL&PS SADA shall be a series of individual dedicated sub-accounts maintained by the Department of the Treasury and administered by the DCJ. Each seizure shall be deposited into a DL&PS SADA sub-account where they are individually identified but managed as one large group by the Department of the Treasury. Because the DL&PS SADA is a dedicated account, the funds shall not revert to the State General Treasury at the end of a fiscal year, but carryover from year to year.
- D. Disbursements from the DL&PS Seized Asset Dedicated Account shall be limited to the following:
 - 1. Transfer of funds to AGLEFA of the State's share of a forfeiture distribution made after either the DCJ or a county prosecutor's office obtains either:
 - a. a final judgment by default;
 - b. a consent decree/stipulation of settlement/final judgment;
 - c. a final judgment confirming forfeiture; or
 - d. a consent to forfeiture placed on the record at guilty plea, sentencing or similar dispositional proceeding.

2. Transfer of funds to a county or municipal Law Enforcement Trust Account or, an escrow account established for a specific municipal law enforcement agency as defined under Forfeiture Program Administration Standard Operating Procedures 04, as that governmental entity's share of a forfeiture distribution made after either the DCJ or a county prosecutor's office obtains one of the following:
 - a. a final judgment by default;
 - b. a consent decree/stipulation of settlement/final judgment;
 - c. final judgment confirming forfeiture; or
 - d. a consent to forfeiture placed on the record at guilty plea, sentencing or similar dispositional proceeding.
3. Return of all, or some portion of, a claimant's seized funds to either the claimant or the claimant's attorney of record in the forfeiture litigation if the claimant obtains either:
 - a. a final judgment by default;
 - b. a consent decree/stipulation of settlement/final judgment; or
 - c. a final judgment confirming the claimant's property right.
4. For seizures where the county prosecutor or the DCJ decline to file a forfeiture complaint or discontinue a forfeiture action, and the seized funds are not held as evidence in a criminal matter or covered under the terms of a settlement agreement, all of the seized funds will be returned to the person from whom the property was seized.
5. For seizures where:
 - a. an attempt to return seized funds as outlined in accordance with Section 2:3D.4 above has been unsuccessful; and
 - b. a claimant has not asserted a right over the seized funds or the owner cannot be found; and,
 - c. the seized funds were originally deposited in the DLPS SADA,

the funds shall remain in the SADA for a period of three years from the date of the seizure. At the conclusion of the three year period, the funds shall be disposed of as unclaimed property by the DCJ Civil

Remedies and Forfeiture Bureau, in accordance with applicable law.

- E. The interest generated from the DL&PS SADA shall be periodically transferred by the DCJ to the Asset Maintenance Account as outlined under Forfeiture Program Administration Standard Operating Procedure 02.

2:4 Establishment of an Asset Maintenance Account

- A. All interest generated from the DL&PS SADA shall be placed into a dedicated fund maintained by the Department of the Treasury and administered by the DCJ. This dedicated fund shall be known as the Asset Maintenance Account (AMA).
- B. Expenditures from the AMA shall be made in accordance with Forfeiture Program Administration Standard Operating Procedure 12 only for forfeiture related purposes. Forfeiture related purposes are those costs directly related to the administration or operation of the Statewide forfeiture program and the seizure, acquisition, maintenance and preservation of seized property prior to a final judgment of forfeiture. Unless otherwise approved by the Attorney General in a specific case, forfeiture related purposes shall not include the cost of routine maintenance of forfeited property for the use of the agency. Forfeiture related purposes shall include the following:
 - 1. The cost of maintaining and safeguarding seized property;
 - 2. The cost of maintaining and safeguarding seized or forfeited real property;
 - 3. The cost of returning seized property to the rightful owner;
 - 4. The cost of placing seized property into service in the DL&PS where a use order for the property has been obtained;
 - 5. The costs incurred when preparing to place forfeited property into service with the DL&PS;
 - 6. The cost of maintaining an equity interest in the seized property pending a forfeiture disposition;
 - 7. The cost of disposing of property, whether by sale or destruction, either directly after forfeiture or after use of such property by the agency; or
 - 8. The costs incurred in obtaining an appraisal or title insurance for real property or other costs of forfeiture prosecution or other action

generating funds subject to administration under this Standard Operating Procedure, including filing and recording fees, inspection fees, costs charged for compliance with subpoenas or investigative interrogatories, and other administrative costs.

- C. When the DL&PS decides to place forfeited property into active service, the AMA shall be charged the costs of bringing that piece of property up to applicable use standards, (e.g., the costs involved in making a forfeited vehicle roadworthy, or a forfeited boat seaworthy). However, once the property is placed into active service, all costs associated with the use and maintenance of the property shall be charged to the normal operating budget of the entity using the property. Any entity that uses forfeited property shall maintain a written form which documents the actual date that the property was placed into service.

Because this account is a dedicated account, the funds shall not revert to the State General Treasury at the end of a fiscal year, but carryover from year to year.

2:5 Division of Criminal Justice Asset Forfeiture/Property Management Office

The Property Management Office establishes and maintains cash management accounts for all State seized and forfeited monies. Attachment 1 to this standard operating procedure delineates the policies and procedures for opening, transferring and reporting on the status of these accounts as well as general file and information management.

2:6 Standards for the Holding Period and Tracking of Forfeiture Property

- A. Property forfeited to a law enforcement agency, or purchased by a law enforcement agency with funds from AGLEFA, including the AMA, shall be held by the law enforcement agency for law enforcement purposes:
1. if real estate, for as long as the property exists in the form of real property;
 2. if a motor vehicle, for at least two years from the date of forfeiture or purchase with funds from AGLEFA;
 3. in the case of all other property with a fair market value of five hundred dollars or more, for at least one year from the date of forfeiture or purchase with funds from AGLEFA.
- B. A law enforcement agency seeking to dispose or transfer property held for less than the periods stated above for the applicable property shall dispose of the property in accordance with all other applicable law and shall obtain reimbursement for the property for full market value of the property on the date of transfer. The proceeds from such disposal or transfer shall be

deposited in AGLEFA.

- C. A law enforcement agency disposing of or transferring property held beyond the periods stated above for the applicable property shall dispose or transfer the property in accordance with all other applicable law. The proceeds from such disposal or transfer shall be distributed in accordance with all other applicable law.

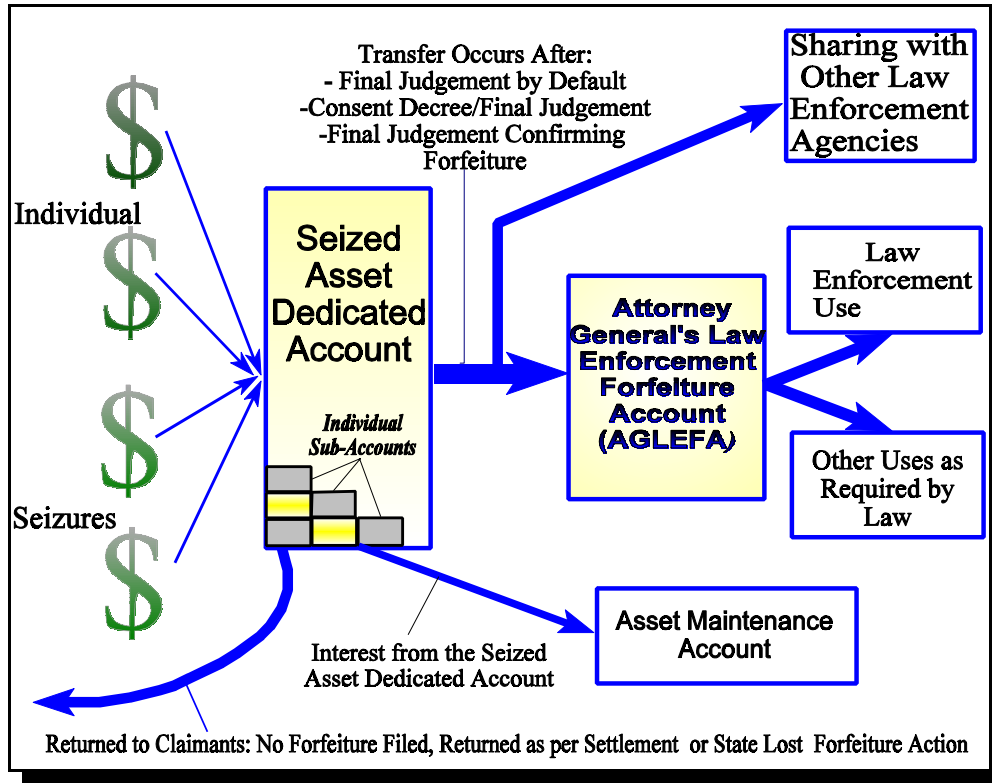


Figure 1 Flowchart of Accounts - Forfeiture Program - NJ / L&PS

2:7 Internal Audit and Compliance Review

In addition to regular audits by the OAG and other State agencies responsible for auditing, the Department's forfeiture program shall be reviewed on an annual basis by personnel assigned from the Divisions of State Police and Criminal Justice and managed by the OAG internal audit section, or private auditing firm hired for this purpose. The results of this review shall be forwarded to the Attorney General, the Superintendent of the DSP and the Director, DCJ.

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Attachment 1

A. Cash Management Fund

All seized funds except that required as evidence or that which must be maintained as cash shall be deposited in the State of New Jersey Cash Management Fund in individual accounts. The Cash Management Fund is supervised by the New Jersey Division of Investment and the State Investment Council .

1. Deposit of Cash

Cash deposits shall be made into a bank account established by the DCJ for such purpose. Checks may be deposited at any time and without prior notice to the bank and should be deposited within one business day of receipt. Deposits should be made within one business day of seizure, or as soon as practical, but not later than four business days after seizure. In instances of large cash deposits, (e.g., a sum in excess of \$25,000 large sum or large amount of small bills) arrangements can be made to count and verify the deposit through the bank's contracted armored car company.

The NJSP Forfeiture Unit or the DCJ Civil Remedies and Forfeiture Section shall promptly notify the Property Management Office of a cash seizure. Upon notification, the Property Management Office will make an appointment with the bank. A representative of the Property Management Office will accompany NJSP or DCJ sworn personnel to the bank and witness the counting and verification process. All cash deposits will be counted by the bank and verified. Any differences in cash amounts shall be noted. Differences in counts can occur if there are counterfeit bills found by bank personnel. All counterfeit bills shall be turned over to the United States Secret Service and deducted from the actual seizure amount.

Every deposit will be accompanied with a deposit slip. Every deposit slip shall include the case name, account number and any other information required by the bank. The Property Management Office shall be provided by the seizing entity with sufficient information required to accurately record the seizure in its records.

2. Establishment of Accounts

The CMF is operated by individual account numbers. In order to establish an account, the following shall be provided to the Division of Investment:

- a. Case name,

- b. Case number (both CJ and State Police number if available),
- c. Department of Law And Public Safety, Civil Remedies and Forfeiture Bureau Address.

The original shall be mailed the Division of Investments with original signatures of the DCJ Deputy Director of Administration and the Property Management Officer, or other authorized designee.

In cases where the amount seized is less than \$2,000, no individual account need be established. Seizures involving less than \$2,000 can be deposited directly into the Seized Monies Account.

The Division of Investments will provide, in written form, the individual account numbers requested by the Property Management Office. If, after five business days, no account numbers have been received, the Property Management Office shall follow-up with the Division of Investment.

3. Transferring Funds

All funds are initially deposited into a commercial bank account. Once checks are cleared, money is wire transferred to the general CMF account. After individual accounts have been established through the Division of Investments, funds may be wire transferred to each individual account. The Property Management Office shall maintain records of all transfers indicating the date of the transfer, the account transferred from and the account transferred receiving the funds. The Property Management Office shall only have authority to transfer funds into the CMF accounts. External transfers shall only be conducted by the OAG.

The funds that have been deposited in individual accounts remain in the account until a final disposition (court order or settlement agreement) is received. Settlement agreements are given to the Property Management Office from either the county prosecutor or DCJ. Money that has been forfeited to the State is then removed from the individual accounts.

All money forfeited to the State, except those funds which are mandated by State law for other purposes, is deposited in the Attorney General's Law Enforcement Forfeiture Account, (AGLEFA).

The Property Management Office shall reconcile all bank and Division of Investment statements within two business days of receipt, and shall also review the statements to insure that the transfers and deposits are within the proper accounts. Any discrepancies shall be

immediately reported to the DCJ Deputy Director of Administration.

4. CMF Withdrawals

Withdrawals can be requested to return funds to claimants or their attorney-of-record, share forfeited funds with other law enforcement agencies, or for other categories as a particular case may warrant. Checks are requested from the Property Management Office and authorized by the OAG. The Property Management Office shall make all withdrawal requests in memo form, attaching appropriate documentation, such as a court order, final judgment or consent degree accompanied with a hard copy memo signed by the prosecuting attorney and submitted to and approved by the Chief, Remedies and Forfeiture Bureau or her designee, and indicating the account number, amount, name and address of the recipient. All checks issued for an order to share forfeited funds with another law enforcement agency shall be sent under the signature of the Director, DCJ. All other checks shall be sent under the signature of designated personnel of the Property Management Office. The Property Management Office shall maintain a record of all checks that are requested.

B. Case Tracking

The seizing entity shall forward to the Property Management Office reports of all seizures on a timely basis. When sharing checks are received from a county, the Property Management Office shall close out the corresponding case report and notify the seizing entity of the received funds. Checks that are received without sufficient information, (e.g., case number, sharing number, etc.) to identify a specific seizure report, shall be referred to the seizing entity for proper identification.

1. Case Files

When a report of a seizure is received, a case file is established. At a minimum, the file shall contain the following information:

- a. Case name
- b. CMF account
- c. DCJ case number, and/or
- d. NJSP case number

The files shall be maintained numerically by CMF account number. All items related to a case shall be placed into its respective file.

2. Reports

Monthly summary reports shall be prepared by the Property Management Office and distributed to the DLPS Administrator, Superintendent of the NJSP and Director, DCJ. Six month reports shall also be prepared by the Property Management Office. These reports are due in February for forfeiture activity from July-December and due in August for forfeiture activity from January-June of the fiscal year. The semi-annual reports shall be distributed in the same manner as the monthly reports.