



Report to the Ranking Member,
Committee on Homeland Security,
House of Representatives

March 2014

DHS ASSET FORFEITURE

Additional Actions
Could Help
Strengthen Controls
over Equitable
Sharing

GAO Highlights

Highlights of [GAO-14-318](#), a report to the Ranking Member, Committee on Homeland Security, House of Representatives

Why GAO Did This Study

Every year, DHS components seize millions of dollars in assets during investigations and other activities and contribute forfeited proceeds to the Treasury Forfeiture Fund. Treasury manages the fund, which held about \$1.7 billion in assets in fiscal year 2013. DHS components use proceeds primarily to cover forfeiture activity costs, which include sharing proceeds with state and local agencies that participate in DHS investigations through Treasury's equitable sharing program. GAO was asked to review the management of the fund.

This report addresses (1) DHS revenues contributed to and obligations from the fund and (2) the extent to which DHS components have designed controls to help ensure compliance with Treasury's guidance when implementing the equitable sharing program. GAO analyzed financial data from fiscal years 2003 through 2013 on the forfeiture fund; Treasury's equitable sharing guidance; and a sample of 40 DHS equitable sharing packages, selected based on payment amounts and other factors; Sample results are not generalizable but provided information on DHS's compliance with guidance. GAO also interviewed DHS and Treasury officials.

What GAO Recommends

GAO recommends that Treasury ensure that the basis for DHS equitable sharing determinations is fully documented and develop additional guidance on qualitative factors used to make determinations. Treasury concurred with both recommendations and outlined steps it plans to take to address them.

View [GAO-14-318](#). For more information, contact David C. Maurer at (202) 512-9627 or maurerd@gao.gov

March 2014

DHS ASSET FORFEITURE

Additional Actions Could Help Strengthen Controls over Equitable Sharing

What GAO Found

From fiscal years 2003 through 2013, Department of Homeland Security (DHS) components that participate in the Treasury Forfeiture Fund—U.S. Immigration and Customs Enforcement (ICE), the U.S. Secret Service (USSS), U.S. Customs and Border Protection (CBP), and the U.S. Coast Guard (USCG)—contributed approximately \$3.6 billion in revenues to the fund and obligated about \$2.6 billion from the fund for forfeiture-related activities. These obligations included, among other things, approximately \$1.2 billion that DHS components shared with state, local, federal, and foreign law enforcement agencies that participated in forfeiture efforts. Also, during this period, DHS components used about \$348 million from the fund to support various law enforcement activities and projects, such as the construction of Border Patrol facilities along the southwest border.

DHS components have designed controls to help ensure compliance with the Department of the Treasury's (Treasury) equitable sharing guidance, but controls could be enhanced through additional documentation and guidance.

Documentation: Treasury's guidance directs components to base equitable sharing determinations on the work hours that all participating agencies contributed to an investigation and then consider qualitative factors regarding agency contributions, such as originating the information that led to the seizure, to adjust percentages. However, 31 of the 40 DHS component equitable sharing packages—which contain sharing determinations and other documents—that GAO reviewed did not include key information, such as component work hours expended on a case and documentation of how qualitative factors were applied to make determinations, to support the basis for final sharing percentages, consistent with federal internal control standards. For example, in 1 package GAO reviewed, two police departments contributed the same number of work hours, but one received a 10 percent larger share than the other, resulting in a difference of about \$48,000 in forfeiture proceeds. However, the package did not clearly document how qualitative factors were applied to adjust the percentages. Fully documenting the basis for DHS equitable sharing determinations could help enhance the transparency of decision making and better position DHS components and Treasury to ensure that equitable sharing decisions are made in compliance with Treasury's guidance.

Guidance: Treasury's guidance on qualitative factors includes three examples, but does not include three other factors listed on the equitable sharing application or provide specific information on how to apply factors to adjust sharing percentages. For example, incurring extraordinary expenses is listed as a factor on the application, but is not included as an example in the guidance. Providing guidance on qualitative factors that are listed on the application, including what they entail and how to apply them, could help participating agencies have a better and more consistent understanding of these factors. In addition, headquarters officials from the three DHS components that conduct equitable sharing stated that additional guidance could help ensure a more consistent understanding of these factors among headquarters and field offices. Developing additional guidance on qualitative factors could help better ensure consistency with which these factors are applied across cases.

Contents

Letter		1
	Background	6
	Since 2003, DHS Components Have Contributed about \$3.6 Billion in Revenues to the TFF and Obligated about \$2.6 Billion from the Fund	9
	Additional Controls Could Help Improve the Transparency and Consistency of Equitable Sharing Determinations	24
	DHS Components and TEOAF Coordinate on Many Equitable Sharing Oversight Activities	39
	Conclusions	41
	Recommendations for Executive Action	41
	Agency Comments	42
Appendix I	Objectives, Scope, and Methodology	44
Appendix II	Comments from the Department of the Treasury	50
Appendix III	GAO Contact and Staff Acknowledgments	53
Table		
	Table 1: DHS Components Participating in the Treasury Forfeiture Fund (TFF)	6
Figures		
	Figure 1: DHS Component and Non-DHS Revenue Contributions to the Treasury Forfeiture Fund, Fiscal Years 2003 through 2013	10
	Figure 2: DHS Component and Non-DHS Obligations from the Treasury Forfeiture Fund, Fiscal Years 2003 through 2013	13
	Figure 3: Total Equitable Sharing Payments Made by DHS Components to State and Local Law Enforcement Agencies by State in Fiscal Year 2013	15

Figure 4: Funds from the Treasury Forfeiture Fund Carried Over to Maintain Operations and Cover Additional Obligations, Fiscal Years 2003 through 2013	19
Figure 5: Funds Received from the Treasury Forfeiture Fund by DHS and Other Agencies for Law Enforcement Activities, Fiscal Years 2003 through 2013	20
Figure 6: Process for Making Equitable Sharing Determinations	27

Abbreviations

AFF	Asset Forfeiture Fund
CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
HSI	Homeland Security Investigations
ICE	U.S. Immigration and Customs Enforcement
IRS-CI	Internal Revenue Service-Criminal Investigation
OMB	Office of Management and Budget
TEOAF	Treasury Executive Office for Asset Forfeiture
TFF	Treasury Forfeiture Fund
USCG	U.S. Coast Guard
USPS	U.S. Postal Service
USSS	U.S. Secret Service

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March 28, 2014

The Honorable Bennie G. Thompson
Ranking Member
Committee on Homeland Security
House of Representatives

Dear Mr. Thompson:

Protecting the public from criminal organizations and enterprises through the use of asset forfeiture is an essential part of the law enforcement process for federal, state, and local law enforcement agencies. At the federal level, the Department of the Treasury (Treasury) and Department of Homeland Security (DHS) seize millions of dollars in assets every year that are forfeited, liquidated, and then deposited into the Treasury Forfeiture Fund (TFF), which over the course of fiscal year 2013 held approximately \$1.7 billion in assets.¹ Forfeited assets can include, but are not limited to, businesses, cash, bank accounts, automobiles, boats, airplanes, jewelry, art objects, and real estate.² Any revenues generated from forfeitures are used to fund program-related expenses, including payments to victims of crimes, the costs of storing and maintaining forfeited assets, and certain law enforcement activities related to forfeiture investigations (e.g., funds to compensate informants). After funds have been obligated for program expenses, any unobligated funds that remain in the TFF at the end of the fiscal year are then carried forward to the next fiscal year.³ Specifically, at the end of each fiscal year, Treasury carries over funds to ensure it has resources to cover expenses at the start of the

¹The Treasury Forfeiture Fund Act of 1992 established the TFF within Treasury to receive the proceeds of forfeitures. The TFF was established as a successor to what was then the Customs Forfeiture Fund. Pub. L. No. 102-393, § 638 (codified as amended at 31 U.S.C. § 9703).

²Once a seized asset is officially forfeited, it becomes the property of the U.S. government. Treasury and DHS agencies also seize illegal drugs and counterfeit items that have no resale value to the federal government. These items are typically held by the agencies until they are approved for destruction.

³In general, an obligation is a definite commitment that creates a legal liability of the government for the payment of goods and services. Payment may be made immediately or in the future. Obligated balance refers to the amount of obligations already incurred for which payment has not been made. An unobligated balance is the portion of obligational authority that has not yet been obligated.

next fiscal year. Funds determined to be in excess of those requirements (excess unobligated balances) may be declared as Super Surplus and, after Office of Management and Budget (OMB) approval and congressional notification, can be used at Treasury's discretion for a variety of law enforcement purposes.⁴

Within the TFF, participating Treasury and DHS agencies include Treasury's Internal Revenue Service-Criminal Investigation (IRS-CI) and DHS's U.S. Immigration and Customs Enforcement (ICE), the U.S. Secret Service (USSS), U.S. Customs and Border Protection (CBP), and the U.S. Coast Guard (USCG).⁵ Investigations by these federal law enforcement agencies may include participation by state and local law enforcement agencies. As a result, through Treasury's equitable sharing program, state and local law enforcement agencies can receive a portion of the proceeds—in the form of cash or, less frequently, personal property—that may result from forfeited assets in these investigations. In fiscal year 2013, Treasury reported that DHS components that conduct equitable sharing—ICE, USSS, and CBP—made over 3,000 payments to state and local agencies.⁶ These components coordinate with Treasury in overseeing the equitable sharing program. In September 2012, we reported on the extent to which TFF participating agencies were coordinating the administration of forfeited assets with the Department of Justice (Justice), which maintains its own asset forfeiture fund.⁷ We recommended that Justice and Treasury study the feasibility, costs, and benefits of consolidating their asset management activities. The agencies have taken steps to conduct a study, such as approving a project plan

⁴DHS appropriations acts have provided that these funds may only be obligated by DHS agencies after approval by the Committees on Appropriations of the Senate and the House of Representatives. For example, see Consolidated Appropriations Act, 2014, Pub. L. No. 113-76, § 530 and Consolidated Appropriations Act, 2012, Pub. L. No. 112-74, § 534.

⁵IRS-CI is the only Treasury agency that produces revenue and that can initiate equitable sharing on behalf of the TFF. Additional Treasury agencies that participate in the TFF include the Financial Crimes Enforcement Network, the Federal Law Enforcement Training Center, and the Tax and Trade Bureau.

⁶USCG is a member of the TFF but, according to USCG officials, does not conduct equitable sharing because it has no forfeiture authority and therefore is not a revenue producer.

⁷GAO, *Asset Forfeiture Programs: Justice and Treasury Should Determine Costs and Benefits of Potential Consolidation*, [GAO-12-972](#) (Washington, D.C.: Sept. 12, 2012).

and assembling a working group that meets once every 2 weeks to discuss coordinated efforts, but this action has not been fully implemented. Agency officials anticipate completing the study by late March 2014. You asked us to assess the contribution of DHS components participating in the TFF, including their role in the equitable sharing program. This report addresses the following questions:

1. What have been DHS components' revenues contributed to and obligations from the TFF from fiscal years 2003 through 2013?
2. To what extent have DHS components designed controls to help ensure compliance with Treasury's guidance when implementing the equitable sharing program?
3. To what extent do DHS components coordinate with Treasury in overseeing the equitable sharing program?

To determine TFF revenues from and obligations by DHS components from fiscal year 2003—the year in which DHS began operations—through fiscal year 2013, we analyzed Treasury's reported data on revenues and obligations by fiscal year, using information contained in CBP's National Finance Center's financial accounting systems.⁸ We interviewed officials from the four DHS components that participate in the TFF, DHS's Office of the Chief Financial Officer, and the Treasury Executive Office for Asset Forfeiture (TEOAF) to discuss trends and variations in the revenues and obligations over this 11-year period.

Regarding DHS controls over the equitable sharing program, we analyzed federal statutes and Treasury guidance on making equitable sharing determinations and documentation of DHS component controls designed to help ensure compliance with guidance.⁹ We analyzed nongeneralizable samples of 40 equitable sharing determination packages for forfeited assets of less than \$1 million and 5 packages for forfeited assets of \$1 million or more to determine the extent to which the packages complied

⁸Under a memorandum of understanding with Treasury, CBP acts as the executive agent for certain operations of the TFF. Pursuant to that executive agent role, CBP's National Finance Center is responsible for accounting and financial reporting for the fund.

⁹Federal statutes include 31 U.S.C. § 9703, 18 U.S.C. § 981(e) and 19 U.S.C. § 1616a(c). Treasury's primary guidance on equitable sharing is its *Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies* (April 2004).

with Treasury's guidance.¹⁰ We selected these packages from payments made and packages approved from October 2012 through June 2013 based on payment amounts and amounts forfeited, among other factors.¹¹ We also interviewed officials from TEOAF; ICE, USSS, and CBP in headquarters; and selected field offices of these components in California, New York, and Texas to identify and assess controls designed to help ensure compliance with guidance. These three states received the highest amounts of equitable sharing payments on average from fiscal years 2010 through 2012.¹² We selected field offices to include those that processed high amounts and large numbers of equitable sharing payments. We compared controls designed to help ensure compliance with Treasury's guidance with the overall framework for establishing and maintaining internal control outlined in *Standards for Internal Control in the Federal Government*.¹³ In addition, we interviewed officials from three state or local law enforcement agencies in each of these three states, which we selected based on such factors as the amount and number of payments they received in fiscal year 2012.¹⁴ The results of our analysis of packages and interviews are not generalizable to the universe of packages and agencies, but they provided valuable information on the

¹⁰An equitable sharing package is to contain the documents (e.g., application and decision form) used to make equitable sharing determinations—the sharing percentages for forfeiture proceeds allocated to participating agencies. DHS components have decision-making authority when the appraised value of the forfeited assets is less than \$1 million, and Treasury has authority when the value is \$1 million or more.

¹¹For the 40 packages, we selected our sample of packages from payment data because TEOAF does not track the number of equitable sharing determination packages that are processed. We selected 26 ICE, 10 USSS, and 4 CBP packages from a range of each component's field offices across the nation. Within our sample time period, ICE accounted for 1,902 payments to state and local agencies, USSS accounted for 347, and CBP accounted for 4. Because multiple payments can result from one equitable sharing package, we could not determine the number of packages processed during this time period. For the 5 packages for forfeited assets of \$1 million or more, we selected our sample from a list of packages approved by TEOAF. We selected packages from those paid and approved from October 2012 through June 2013 to obtain the most recent data available given our review time frames.

¹²Fiscal year 2012 was the most recent full year for which payment data were available when we selected the states to include in our review. We used an average across 3 years to take into account potential variations in annual payments.

¹³GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

¹⁴Fiscal year 2012 was the most recent full year for which payment data were available when we selected the agencies to interview.

equitable sharing determination process, designed controls, and extent to which the selected packages adhered to guidance.

Regarding coordination, we analyzed guidance and other documents on equitable sharing, including those in our samples of equitable sharing packages, to determine the extent of coordination between DHS components and TEOAF in overseeing equitable sharing. In addition, we interviewed officials from ICE, USSS, and CBP in headquarters; selected field offices of these components as discussed above; and TEOAF to obtain information about, among other things, the extent to which DHS and TEOAF coordinate on overseeing the equitable sharing program, including making sharing determinations and developing guidance. We compared DHS and TEOAF coordination mechanisms with leading practices on interagency collaboration.¹⁵

To assess the reliability of data for revenues and obligations, excess unobligated balances, and equitable sharing payments used to select our samples, we reviewed documentation, such as annual financial plans and standard operating procedures related to reporting TFF data in the fund's financial accounting system, which is maintained by CBP. We also conducted interviews with CBP and Treasury officials to determine how they ensure the consistency, accuracy, and completeness of the data. We determined that these data are sufficiently reliable for the purposes of our report. See appendix I for more information on our scope and methodology.

We conducted this performance audit from April 2013 to March 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹⁵For example, GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012). To identify mechanisms that the federal government uses to lead and implement interagency collaboration and issues to consider when implementing these mechanisms, we conducted a literature review of academic work, interviewed experts in governmental collaboration, and analyzed a sample of our prior work. We reported that these mechanisms can be used to address such purposes as oversight, program implementation, and information sharing and communication.

Background

Treasury Forfeiture Fund

The TFF is a multidepartmental fund and has four primary goals: to (1) deprive criminals of assets used in or acquired through illegal activities; (2) encourage joint operations among federal, state, and local law enforcement agencies, as well as foreign countries; (3) protect the rights of individuals; and (4) strengthen law enforcement. TEOAF is responsible for providing management oversight of the TFF, which is the receipt account for the deposit of nontax forfeitures made by Treasury and DHS participating agencies. DHS components that participate in the TFF contribute revenues through forfeitures made as a result of their investigations and operations. They also receive payments and reimbursements from the fund for expenses incurred during the seizure and forfeiture process, such as investigative or transportation costs. Table 1 shows DHS component activities that contribute to the TFF.

Table 1: DHS Components Participating in the Treasury Forfeiture Fund (TFF)

Department of Homeland Security (DHS) component participating in the TFF	Description
Immigration and Customs Enforcement (ICE)	ICE's Homeland Security Investigations (HSI) directorate is a seizing agency that investigates immigration crimes; human-rights violations and human smuggling; smuggling of narcotics, weapons and other types of contraband; financial crimes; cybercrime; and commercial trade fraud enforcement issues.
U.S. Secret Service (USSS)	USSS is a seizing agency that has primary investigative authority for counterfeiting, access device fraud, and cybercrimes. ^a
U.S. Customs and Border Protection (CBP)	CBP is a seizing agency that enforces immigration and customs laws along the nation's borders, while facilitating the flow of legitimate travel and commerce. CBP seizes assets primarily as a result of conducting border patrols and processing passengers and cargo. Within CBP, the U.S. Border Patrol (Border Patrol) and Office of Field Operations are revenue producers.
U.S. Coast Guard (USCG)	USCG is the lead federal agency for maritime drug interdiction and shares lead responsibility for air interdiction with CBP. ^b

Source: GAO analysis of DHS documents.

^aAn access device is any card, plate, code, account number, or other means of account access that can be used to obtain money, goods, or services.

^bUSCG is a member of the TFF, but does not conduct equitable sharing because, according to USCG officials, the component has no forfeiture authority, and is therefore not a revenue producer. If USCG participates in a seizure, it passes all items seized to a DHS component with forfeiture authority.

Asset Forfeiture Process

The asset forfeiture process involves a number of steps, including planning the seizure; seizing and taking custody of the asset; notifying interested parties; and addressing any claims and petitions, to include

those from third parties.¹⁶ Within the asset forfeiture process, there are two types of forfeiture: administrative and judicial. In administrative forfeitures, a federal agency is permitted to commence forfeiture proceedings on seized assets without judicial involvement.¹⁷ In judicial forfeitures, both civil and criminal, assets may be forfeited to the United States by filing a forfeiture action in a federal court.¹⁸ In civil forfeitures, the action is against the assets and thus does not require that the owner of the assets be charged with a federal offense. The federal government must only prove a connection between the assets and the crime. In contrast, criminal forfeiture requires a conviction of the defendant before assets can be forfeited. According to TEOAF officials, it can take from many months to several years to complete the forfeiture process, depending on a variety of factors, including, among other things, the types of assets seized; number of parties involved; and, if applicable, the litigation process, with judicial forfeitures generally taking more time.

Equitable Sharing

DHS components that have forfeiture authority and are therefore revenue producers—ICE, USSS, and CBP—can conduct equitable sharing on behalf of the TFF with federal, state and local, and other law enforcement entities.¹⁹ State and local law enforcement agencies typically qualify for equitable sharing by participating directly with DHS components in joint

¹⁶When assets are seized for forfeiture, there may be several individuals or entities that have claims to the assets, including the individual from whom they were seized and third-party claimants such as lien holders. The term “claimant” is defined as a person who has filed a claim in an administrative forfeiture action requesting judicial determination of the forfeiture.

¹⁷Federal law authorizes the seizing or adopting federal agency to administratively forfeit monetary instruments (e.g., cash, checks, or other bearer instruments) with unlimited value, hauling conveyances (e.g., vehicles, vessels and aircraft used to transport illegal drugs) also with unlimited value, and other assets (e.g., bank accounts, jewelry, etc.) with a value of \$500,000 or less. A state or local law enforcement agency or foreign country that has seized property may request that one of the Treasury investigative agencies adopt the seizure, therefore becoming the adopting federal agency, and proceed with federal forfeiture.

¹⁸Judicial forfeiture is required for any assets other than monetary instruments and hauling conveyances if the value of the other assets exceeds \$500,000; a claim and, if required, a cost bond has been filed; or the property is real estate.

¹⁹A shared services agreement between ICE and CBP provides for CBP facilitating the seizure and forfeiture process for ICE because ICE does not have the infrastructure in place to unilaterally effect seizures.

investigations leading to the seizure and forfeiture of assets. Although such qualification is less common, state and local agencies can also qualify for equitable sharing by requesting that DHS components adopt a case initiated at the state or local level, provided that the assets in question are forfeitable under federal law.²⁰ According to TEOAF officials, the equitable sharing of forfeiture proceeds from seizures has proved invaluable in fostering enhanced cooperation among federal, state and local, and other law enforcement entities.

As the management component of the TFF, TEOAF provides guidance on the equitable sharing program, including setting forth policies, procedures, and oversight of the program. Treasury's most recent guidance, which it issued in 2004, governs how state and local law enforcement agencies should apply for equitable sharing and how DHS components should make equitable sharing determinations. Treasury also established guidance on decision-making authority for equitable sharing. Specifically, the lead federal agency—in this case, the DHS component—is responsible for making equitable sharing determinations when forfeited assets are less than \$1 million, which are designated as low-value determinations.²¹ The Director of TEOAF is responsible for making determinations when forfeited assets are \$1 million or more, which are designated as high-value determinations. DHS components are responsible for managing equitable sharing in joint investigations with state and local law enforcement agencies and for following the equitable sharing guidance, such as ensuring that sharing in joint investigations reflects the degree of direct participation of the agency in the law enforcement effort resulting in the forfeiture.

²⁰Adoptive seizures are those seizures where 100 percent of the preseizure activity and related investigation is performed by the state or local seizing agency before a request is made for a Treasury adoption. There must be a state violation and a federal basis for forfeiture in order for the seizure to be adopted. Joint operations or task force cases are not adoptive seizures.

²¹There are exceptions for cases involving foreign sharing or the transferring of real property, which require approval from the Director of TEOAF.

Since 2003, DHS Components Have Contributed about \$3.6 Billion in Revenues to the TFF and Obligated about \$2.6 Billion from the Fund

From fiscal years 2003 through 2013, Treasury reported that DHS components contributed about \$3.6 billion to the TFF and obligated about \$2.6 billion for costs associated with forfeiture activities. At the end of each fiscal year, a balance of funds remains in the TFF to maintain operations at the start of the next fiscal year, and, as available, to fund additional expenditures including funding law enforcement activities by TFF members.²² For example, Treasury reported that from fiscal years 2003 through 2013, about \$348 million of the fund's remaining balances have been used to fund law enforcement activities and projects by DHS components.

DHS Components Contributed about \$3.6 Billion in Revenues to the TFF since 2003, Accounting for More than Half of All Revenues to the Fund

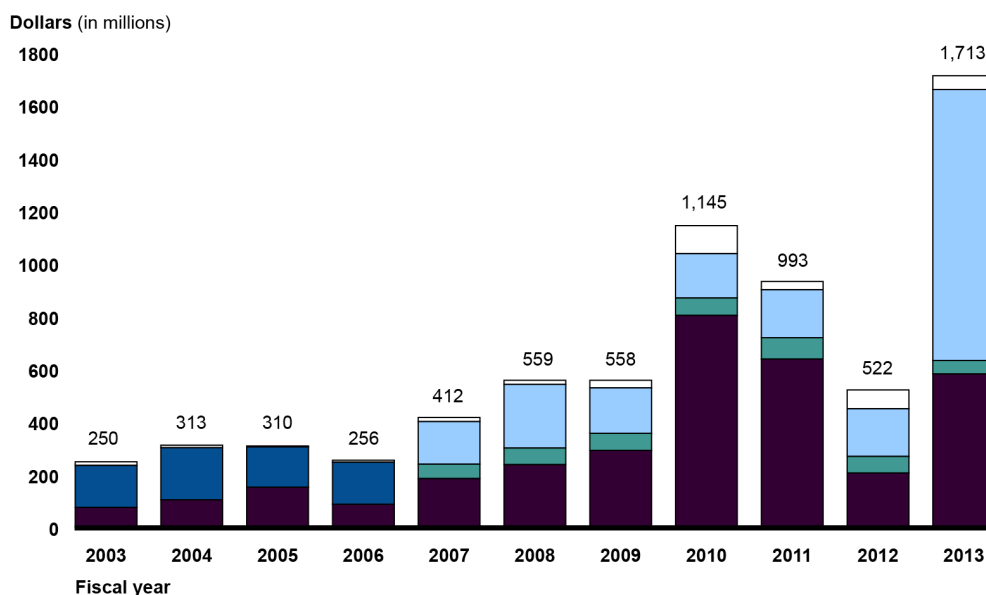
Treasury reported that from fiscal years 2003 through 2013, DHS components contributed approximately \$3.6 billion to the TFF's approximately \$7 billion in total revenues, or 52 percent of total revenues.²³ Over this period, the DHS components' contribution to the TFF fluctuated annually, but generally remained above 50 percent or more of total TFF revenues per year. Among DHS components—ICE, USSS, and CBP—contributing to the TFF, ICE contributed the majority of revenue.²⁴ In fiscal year 2013, DHS components contributed approximately \$1.1 billion in revenues, of which ICE contributed approximately \$1 billion (91 percent) and USSS contributed \$52 million and CBP contributed \$51 million (approximately 4.5 percent each), as shown in figure 1.

²²The operational expenses include, among other things, expenses and contracts associated with storing and maintaining seized and forfeited assets.

²³Within the TFF, the only non-DHS member agency with seizure and forfeiture authority is Treasury's IRS-CI.

²⁴USCG is a participating agency of the TFF, but according to USCG officials, does not have forfeiture authority in order to contribute revenue to the fund.

Figure 1: DHS Component and Non-DHS Revenue Contributions to the Treasury Forfeiture Fund, Fiscal Years 2003 through 2013



	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
U.S. Secret Service (USSS)	14	10	4	8	16	16	29	106	31	71	52
Immigration and Customs Enforcement (ICE)	0	0	0	0	161	241	172	168	182	181	1,027
Customs and Border Protection (CBP)	0	0	0	0	55	63	65	66	81	63	51
Customs	159	197	152	89	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Non-DHS	77	106	154	89	186	239	293	805	639	207	583

Source: GAO analysis of Treasury and DHS data.

Note: This figure reports Treasury's and the Department of Homeland Security's (DHS) data rounded to the millions of dollars and not adjusted for inflation. Prior to fiscal year 2007, Treasury Executive Office for Asset Forfeiture and DHS officials did not maintain revenue data separated between ICE and CBP. After DHS began operations in 2003, the revenue data were broken out into ICE and CBP, but revenue streams were not differentiated until 2007. Therefore, revenue data are described as Customs prior to 2007 and comprise the combined revenue contributions of both ICE and CBP.

According to TEOAF and DHS officials, a number of factors affect the total revenues that components contribute to the TFF. The officials noted that a higher revenue total in 1 year compared with another does not necessarily mean that more investigations took place or that more assets were seized in that year. For example, a USSS investigation in fiscal year 2011 may result in millions of dollars in seized assets; however, if the forfeiture process associated with these seized assets was not completed until fiscal year 2013, then USSS's contribution of revenues into the TFF are not apparent until fiscal year 2013, even though all assets were seized in fiscal year 2011.

For fiscal years 2003 through 2012, Treasury reported that DHS component revenue contributed to the TFF ranged from \$156 million to \$340 million. However, as noted earlier, in fiscal year 2013, DHS components' contributions surpassed a billion dollars to \$1.1 billion, their highest during this 11-year period. According to TEOAF officials, this growth in revenue was due in part to an increase in the prosecution of multimillion-dollar bank fraud and financial crime cases, which led to substantial onetime forfeiture revenue from these cases. In fiscal year 2013, TEOAF reported a total of nine multimillion-dollar revenue contributions that involved forfeitures greater than \$6 million each. DHS components—ICE and USSS—led investigations related to two of these nine contributions, which accounted for approximately \$892 million (68 percent) of these multimillion-dollar contributions in fiscal year 2013. For example, ICE's HSI led an anti-money-laundering case that resulted in forfeiture of \$881 million in fiscal year 2013—the largest deposit into the TFF in its history.²⁵ The case involved the failure of HSBC Bank USA N.A., a federally chartered banking corporation, to implement anti-money-laundering controls. This resulted in narcotics traffickers and others laundering hundreds of millions of dollars through HSBC subsidiaries, and facilitating hundreds of millions more in transactions with sanctioned countries including Cuba, Iran, Libya, Sudan, and Burma.²⁶

According to TEOAF officials, the share of forfeiture revenue DHS components contribute to the TFF varies depending on the types of investigations that each agency may pursue in accordance with its mission.²⁷ Since fiscal year 2007, forfeiture revenue from ICE has

²⁵This investigation was led by HSI's El Dorado Task Force, a joint task force composed of 55 law enforcement agencies in New York and New Jersey.

²⁶Sanctions can be either comprehensive or selective, using the blocking of assets and trade restrictions to accomplish foreign policy and national security goals. Treasury administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy, or economy of the United States.

²⁷ICE investigates a range of crimes from drug trafficking to money laundering, whereas Border Patrol has a border security mission and most of the items its agents seize are prohibited (e.g., narcotics and weapons) and are destroyed, a fact that results in lower forfeiture revenue contributions. Moreover, USSS conducts a number of types of fraud-related investigations, which result in more payments to victims.

consistently been approximately 50 percent or more of total forfeiture revenues by DHS components to the TFF.²⁸

Across all fiscal years, and across all DHS components, currency from forfeitures constituted 65 to 96 percent of the DHS revenue sources in the TFF. Currency encompasses financial instruments such as cash, money orders, or amounts from bank accounts. According to TEOAF officials, as a result of an increase in the prosecution of fraud and financial crimes, the primary source of revenues contributed into the TFF is likely to continue to be currency. For example, since fiscal year 2008, currency has constituted 81 percent or more of DHS component revenues.²⁹ In fiscal year 2013, revenues from currency (96 percent) and the sale of forfeited property—including automobiles, boats, airplanes, jewelry, and real estate, among others (3 percent)—together accounted for 99 percent of DHS component revenues.³⁰

²⁸Prior to fiscal year 2007, TEOAF and DHS officials did not maintain revenue data separated between CBP and ICE.

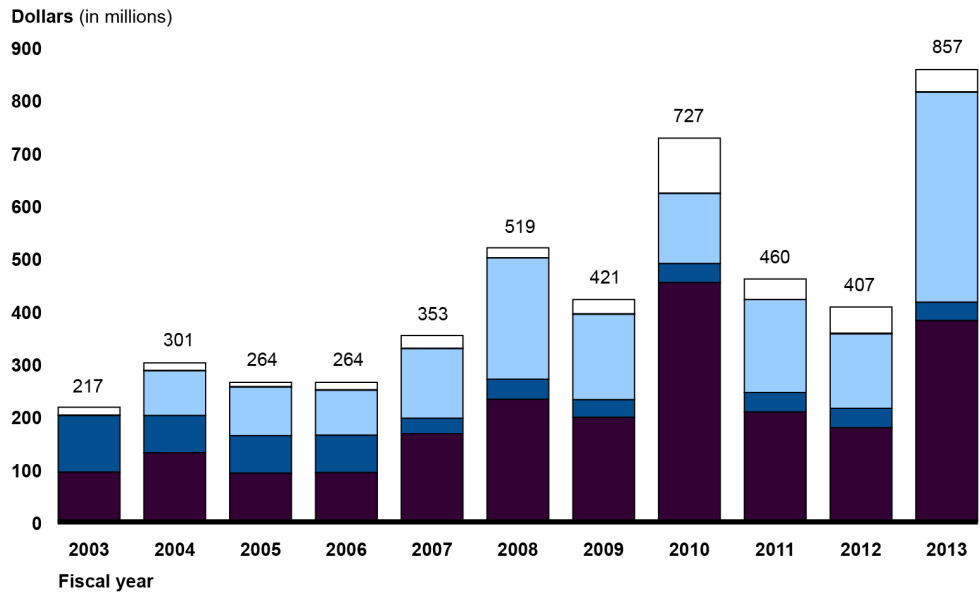
²⁹In fiscal years 2003 and 2008 through 2012, other revenue—which includes revenue from sources other than currency, sales proceeds, and real property—was the second-highest source of revenues. For example, border mitigation may result in “other” revenue. If a car crosses the border and assets are seized, then these assets can be turned over to the Border Patrol agent in lieu of a fine or penalty. In fiscal years 2004 through 2006, the proceeds of sales emerged as the second-highest source of revenue. Subsequently, in fiscal years 2007 through 2011, the sale of forfeited property was the second-highest source of revenue. In fiscal year 2012, the proceeds of sales was the second-highest source of revenue, while in fiscal year 2013, it was the sale of forfeited property.

³⁰Another source of DHS component revenue contributed into the TFF includes transfers from Justice’s Asset Forfeiture Fund (AFF) or the U.S. Postal Service’s (USPS) forfeitures. These transfers, or equitable shares, include DHS components’ share of forfeited assets resulting from investigations initiated by a Justice law enforcement agency or USPS, and are collected under the Secretary’s Enforcement Fund. This fund’s revenue is available for federal law enforcement purposes of any law enforcement organization participating in the TFF. Over this 11-year period, this source of revenue from DHS components to the TFF has not exceeded more than 5 percent of total revenues. Similarly, total transfers from the AFF or USPS to all members of the TFF have been between 4 to 14 percent of total revenues. One exception is in fiscal year 2012, when transfers to the TFF totaled 21 percent of total revenues because of IRS-CI’s share of forfeited assets resulting from two multimillion-dollar investigations initiated by a Justice component.

DHS Components Have Obligated about \$2.6 Billion from the TFF since 2003; Equitable Sharing Payments Were the Largest Obligation

Treasury reported that from fiscal years 2003 through 2013, DHS component obligations from the TFF totaled approximately \$2.6 billion, or 54 percent, of the TFF's total obligations of approximately \$4.8 billion. As revenues have fluctuated annually there generally has been a concurrent increase or decrease in obligations in support of asset forfeiture activities. In fiscal year 2013, DHS component obligations were the highest during this 11-year period, at \$476 million, coinciding with an increase in revenues that year. Prior to 2013, obligations by DHS components generally ranged from \$123 million to \$287 million. As with revenues, ICE is responsible for the majority of obligations among DHS components contributing to the TFF. Figure 2 shows the obligations by each DHS component, as well as by non-DHS members of the fund, from fiscal years 2003 through 2013.

Figure 2: DHS Component and Non-DHS Obligations from the Treasury Forfeiture Fund, Fiscal Years 2003 through 2013



	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
U.S. Secret Service (USSS)	15	14	8	14	24	19	27	104	39	50	42
U.S. Coast Guard (USCG)	1	1	1	1	1	0	1	1	0	1	1
Immigration and Customs Enforcement (ICE)	0	85	92	85	132	230	162	133	176	141	398
Customs and Border Protection (CBP)	107	70	71	71	29	38	33	36	37	37	35
Non-DHS	94	131	92	93	167	232	198	453	208	178	381

Source: GAO analysis of Treasury and DHS data.

Note: This figure reports Treasury's and the Department of Homeland Security's (DHS) data rounded to the millions of dollars and not adjusted for inflation. In fiscal year 2013, approximately \$348 million,

or 88 percent, of ICE's total \$398 million in obligations was for equitable sharing payments. In addition, USCG had obligations in fiscal years 2008 and 2011, but they were under \$500,000 and did not round up to \$1 million.

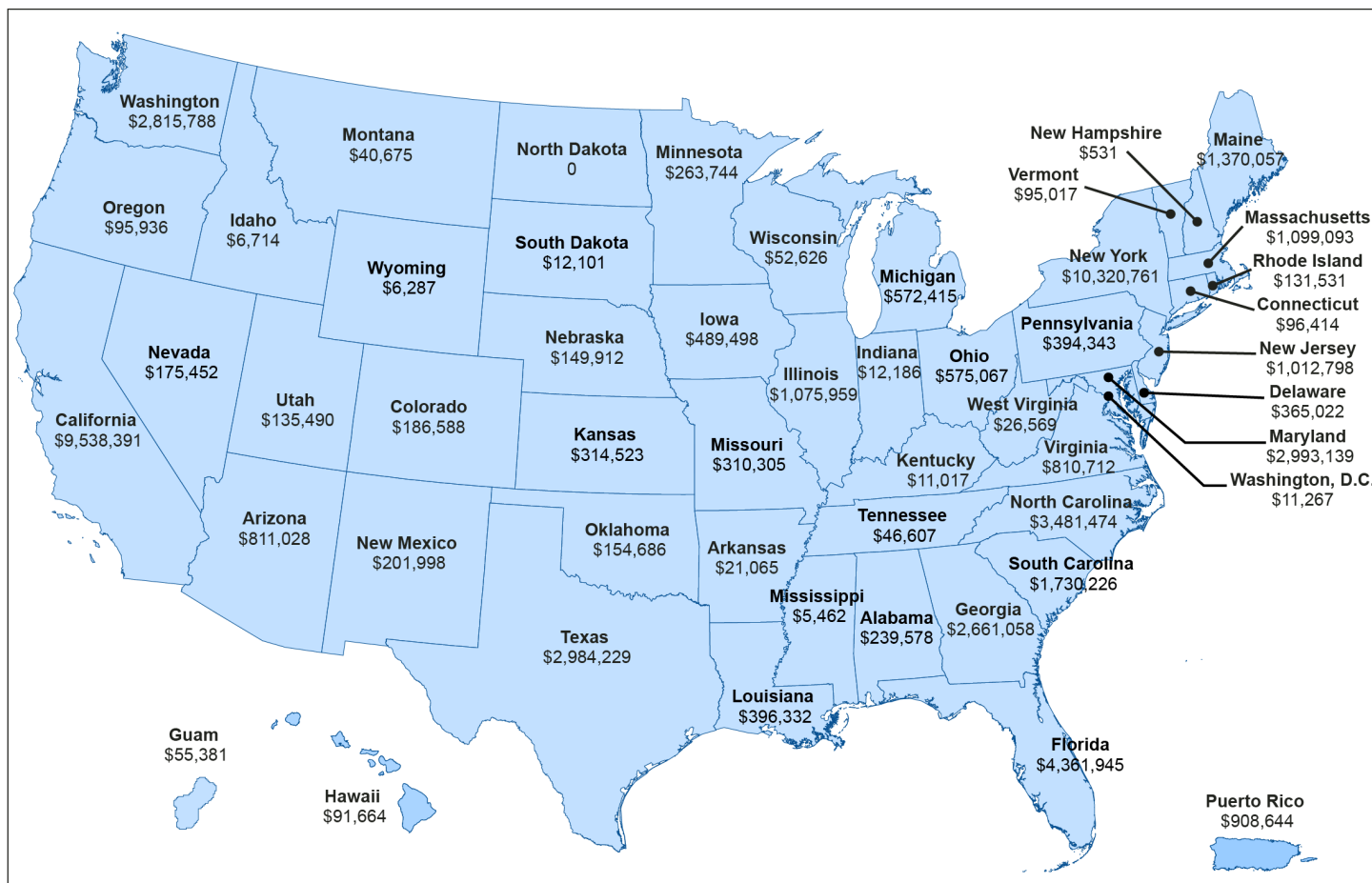
According to TEOAF officials, the TFF in its capacity as a multidepartmental fund collects and uses revenues from forfeitures to focus resources to enhance support of more law enforcement efforts, including the quality of investigations. Accordingly, revenues resulting from forfeitures are used to obligate funds for the forfeiture program's expenses in four major categories—equitable sharing payments, remission and mitigation payments, seizure investigative costs and asset management expenses, and other expenses.

Equitable sharing payments: Treasury reported that from fiscal years 2003 through 2013, equitable sharing payments constituted the largest TFF obligation by DHS components. During this period, DHS components shared approximately \$1.2 billion, or 45 percent of total DHS obligations, with a range of state and local law enforcement agencies across the country—as well as other federal agencies and foreign entities—that participated in law enforcement efforts resulting in forfeitures. Specifically, from fiscal years 2003 through 2012, DHS components' obligations for equitable sharing payments ranged from \$48 million to \$136 million per year. However, in fiscal year 2013, DHS components shared approximately \$355 million, the highest amount of obligations for equitable sharing payments by DHS components during this 11-year period. Among the three DHS components making equitable sharing payments, ICE made up over 90 percent of total DHS obligations for equitable sharing payments.³¹ State and local agencies accounted for the majority of sharing recipients, and accounted for an average of 96 percent of total obligations for equitable sharing payments from fiscal years 2010 through 2012. According to officials at all nine state and local law enforcement agencies we met with, the equitable sharing program has improved the relationship between federal agencies and their offices. Moreover, officials stated that under the current fiscal constraints, these funds are needed by their agencies and have allowed them to purchase equipment such as bulletproof vests, weapons, mobile computers, and police station security cameras. See figure 3 for equitable sharing

³¹For example, in fiscal year 2013, ICE's \$348 million equitable sharing obligations as a percentage of DHS's total equitable sharing was 98 percent compared with 2 percent by USSS (and less than 0.01 percent by CBP).

payments made by DHS components to state and local law enforcement agencies within each state in fiscal year 2013.

Figure 3: Total Equitable Sharing Payments Made by DHS Components to State and Local Law Enforcement Agencies by State in Fiscal Year 2013



Source: GAO analysis of Treasury and DHS data; Map Resources (map).

Note: Aside from Guam and Puerto Rico, no other U.S. territory received equitable sharing payments in fiscal year 2013. While Treasury reported that it obligated \$355 million in fiscal year 2013 for the Department of Homeland Security (DHS) components to make equitable sharing payments to state and local law enforcement agencies, the Treasury Forfeiture Fund's actual payments for this category in fiscal year 2013 totaled over \$53 million. This difference represents funds that had been obligated but not yet spent. According to Treasury Executive Office for Asset Forfeiture officials, there may be a lag between the funds obligated in a fiscal year and the actual payments, and, therefore, it is not uncommon for the total obligations to be higher than the payments in a given fiscal year.

Payments for remission and mitigation: According to TEOAF officials, a priority of all TFF members is to return assets to victims of crime, and accordingly, remission and mitigation payments are another major cost category across all DHS components.³² No funds are shared with state and local law enforcement partners until remission and mitigation payments have been made to address compensating victims or other third parties for their financial losses. Treasury reported that from fiscal years 2003 through 2013, total obligations for DHS remissions and mitigation payments were approximately \$477 million, or about 19 percent of total DHS obligations, and varied from 2 to 45 percent of DHS obligations each year. For example, in fiscal year 2008, DHS components made \$128 million in obligations for remission and mitigation payments, or 45 percent of total obligations. In contrast, in fiscal year 2013, DHS components made \$30 million in obligations for remission and mitigation payments, accounting for 6 percent of total obligations. Moreover, among DHS components, USSS made up between 60 and 90 percent of total DHS obligations for remission and mitigation payments from fiscal years 2010 through 2013. TEOAF officials attribute the variation in total obligations for remission and mitigation payments each year to the different types of investigations that lead to forfeiture from 1 year to the next. According to these officials, higher remission and mitigation payments in a fiscal year may be in part due to high-impact forfeitures resulting from fraud investigations with significant numbers of victims.

Seizure investigative costs and asset management expenses: In addition to carrying out equitable sharing and making payments to victims, DHS components use funds to pay for the costs associated with the seizure of assets. Treasury reported that over this 11-year period, total obligations for seizure investigative costs and asset management expenses were \$450 million, or approximately 18 percent of total DHS obligations. These costs included investigative and asset management expenses (e.g., salaries for positions supporting the asset forfeiture program, travel for oversight activities, overtime worked by specialists involved in securing seized merchandise, and equipment and supplies).

³²Remission occurs when forfeited assets are returned to the victims of a crime underlying a forfeiture. According to TEOAF officials, operationally at TEOAF, pursuant to 31 U.S.C. 9703, payments for remission and mitigation are a type of payment “refund.” Other refunds include those made pursuant to a court order, a petition for remission or mitigation, or a restoration request—with particular emphasis on the return of funds to victims of crimes.

For example, one of CBP's primary responsibilities is to secure the border at and between points of entry. Accordingly, CBP is generally responding to reports and seizures of illegal narcotics and other contraband smuggling, including firearms and ammunition. These seizures result in additional costs, including the storage of assets and disposal or destruction expenses.³³

Other expenses: All DHS components have a variety of other program operations expenses, including compensation to informants and reimbursement for the cost of training. Treasury reported that from fiscal years 2003 through 2013, DHS components had a total of \$483 million in other expenses, or approximately 19 percent of total DHS component obligations, in other program operations expenses. These other expenses include a total of seven expense categories, such as asset-related contract services, funds to compensate the services of experts and consultants, reimbursement to state and local law enforcement agencies for overtime costs incurred during joint special operations, and training.

The TFF Contained Balances of \$888 Million in 2013; Excess Balances Have Supported DHS Law Enforcement Activities and Covered Rescissions, among Other Things

At the end of each fiscal year, the TFF maintains a balance from revenue contributions into the fund that exceeds obligations incurred throughout the year. TFF balances at the end of each fiscal year have progressively increased since fiscal year 2003. Treasury reported that TFF balances totaled \$75 million in fiscal year 2003 and \$888 million in fiscal year 2013. TEOAF carries over funds at the end of each fiscal year to maintain operations including the anticipated costs associated with continuing forfeiture activities at the start of the next fiscal year, before revenue from forfeitures starts coming in.³⁴ TEOAF reported that from fiscal years 2003 through 2008, it had carried over between \$50 million to \$70 million at the end of each fiscal year to maintain operations at the start of the next year. Since the end of fiscal year 2009, Treasury reported that a set amount of

³³Because of the type of assets seized by CBP's Border Patrol, the component's equitable sharing and payments for remission and mitigation are often much lower than those of USSS and ICE.

³⁴The operational expenses include expenses and contracts associated with storing and maintaining seized and forfeited assets.

\$100 million has been carried over to fund operations at the start of the next fiscal year.³⁵

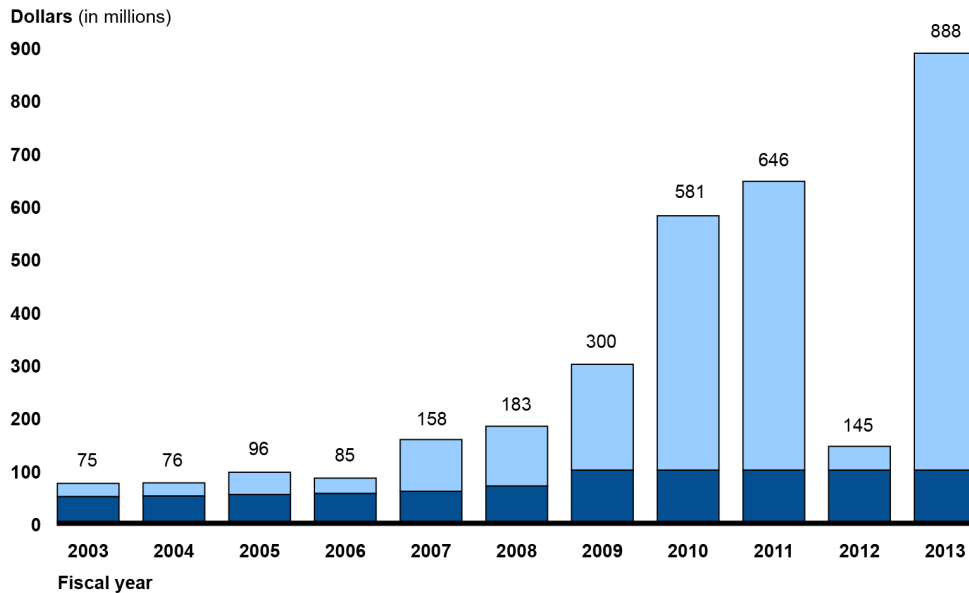
TEOAF uses balances in excess of this amount—excess unobligated balances—to cover additional obligations.³⁶ These additional obligations include funding for law enforcement activities by TFF members, rescissions, and other uses.³⁷ According to TEOAF officials, the balances available to cover these obligations vary each year, as they are determined by a variety of factors including the enacted budgets, negotiations with Congress, and ultimately the enacted rescissions. Figure 4 shows the carryover funds retained in the TFF at the end of each fiscal year to maintain operations, as well as the amounts set aside for additional obligations.

³⁵According to TEOAF officials, during any given fiscal year, TFF monies are generally reserved obligations related to the forfeiture process such as equitable sharing or payments for remission and mitigation. TEOAF officials stated that as a practice, they do not reserve balances to cover expected or future obligations. For example, TFF balances are not set aside to cover anticipated equitable sharing or remission and mitigation payments that are not yet in the final stages of the forfeiture process.

³⁶TEOAF officials referred to these balances as Super Surplus, which represents the remaining unobligated balance at the close of the fiscal year after an amount is reserved to fund operations in the next fiscal year. Super Surplus can be used for any federal law enforcement purpose. For the purposes of this review, we refer to Super Surplus funds as excess unobligated balances. 31 U.S.C. § 9703(g)(4)(B).

³⁷Rescissions are legislative actions to reduce an agency's discretionary budget. Other uses include items such as victim payments and other mandatory costs.

Figure 4: Funds from the Treasury Forfeiture Fund Carried Over to Maintain Operations and Cover Additional Obligations, Fiscal Years 2003 through 2013



	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Additional expenses	25	25	42	29	98	113	200	481	546	45	788
Maintain operations	50	51	54	56	60	70	100	100	100	100	100

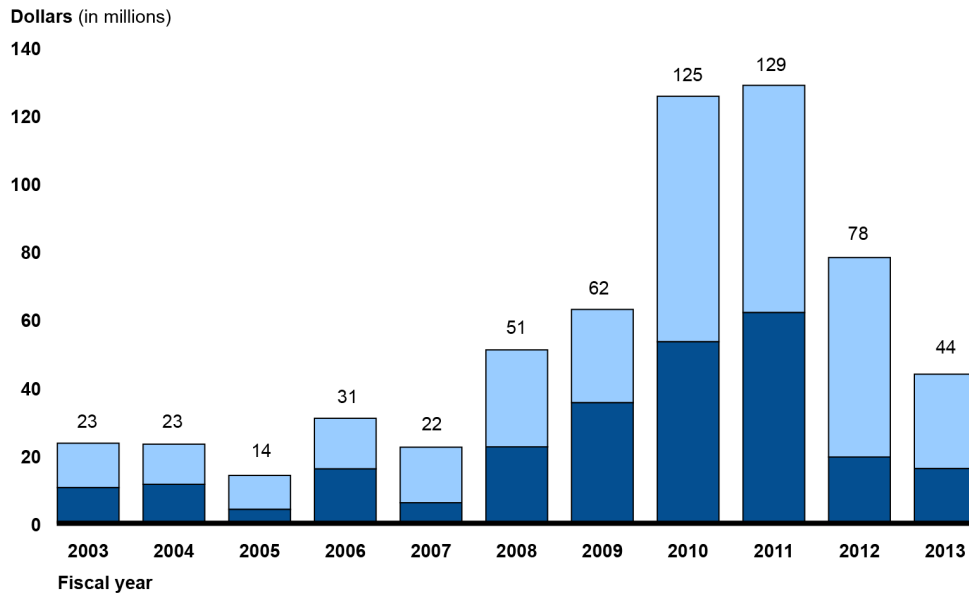
Source: GAO analysis of Treasury and DHS data.

Note: This figure reports Treasury's and the Department of Homeland Security's (DHS) data rounded to the millions of dollars and not adjusted for inflation. One exception to the increase in carryover of funds over this 11-year period is fiscal year 2012, when balances at the end of the fiscal year were smaller than in previous years. According to Treasury Executive Office for Asset Forfeiture officials, the rescission enacted for this fiscal year was greater than anticipated and ultimately reduced the total balances available at the end of the fiscal year.

Balances to Support Law Enforcement Activities

Treasury reported that from fiscal years 2003 through 2013, about \$348 million of the excess unobligated balances has been obligated to fund DHS component law enforcement activities and projects. Figure 5 shows the funds received from fiscal years 2003 through 2013 by DHS components—ICE, USSS, CBP, and USCG—as well as the total funds received by other agencies—such as Treasury's Financial Crimes and Enforcement Network—for law enforcement activities.

Figure 5: Funds Received from the Treasury Forfeiture Fund by DHS and Other Agencies for Law Enforcement Activities, Fiscal Years 2003 through 2013



	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
DHS components	13	12	10	15	16	29	27	72	67	59	28
Other agencies	10	11	4	16	6	22	35	53	62	19	16

Source: GAO analysis of Treasury and DHS data.

Note: This figure reports Treasury's and the Department of Homeland Security's (DHS) data rounded to the millions of dollars and not adjusted for inflation.

DHS, per Treasury's reported data, has submitted and received approval from Treasury to fund a variety of projects across all four DHS components that participate in the TFF.³⁸ For example,

³⁸Traditionally, ICE, USSS, CBP, USCG, and in certain years, the Federal Law Enforcement Training Center have submitted annual funding proposals for the use of excess unobligated balances. However, other federal agencies may submit requests for the use of funds for law enforcement purposes. For example, in past years, DHS has received approval to fund training programs for southwest border operations at the Federal Law Enforcement Training Center, and to allow the Bureau of Alcohol, Tobacco, Firearms and Explosives to participate in the El Paso Intelligence Center, which is a joint effort among federal, state, and local agencies including DHS's CBP and ICE. The El Paso Intelligence Center is a regional intelligence center created to collect and disseminate information relating to, among other things, drug, alien, and weapon smuggling.

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- CBP received \$29.6 million in fiscal year 2010, of which \$15 million was obligated to support the construction of Border Patrol facilities in southwest border locations and the purchase of equipment for these facilities; \$6.8 million was used for the purchase and installation of Non-Intrusive Inspection equipment; and, the remainder was spread out for smaller purchases such as field and intelligence equipment.³⁹
 - ICE received \$21.3 million in fiscal year 2011 for a range of activities, including \$6 million to defray the costs of Title III court-ordered intercepts, which support investigations related to the southwest border, among other things; \$2 million to cover costs of investigative activities with ICE's HSI, such as translation, transcription, and duplication services; \$2 million to support Border Enforcement Security Taskforces; and \$2.5 million to purchase a system to conduct multiple undercover operations online, simultaneously. The remainder was spread among other projects and needs such as replacement of an undercover operations database.⁴⁰
 - USSS received about \$27 million in fiscal year 2012, and obligated \$11 million for the purchase of equipment and tools to enhance USSS's protection capabilities, including metal detector equipment and X-ray equipment replacement, and \$6 million to acquire desktop and laptop computers to replace the aging inventory of computers for USSS task forces. The remainder was spread among other projects and needs such as investigative software.
 - USCG received \$1.5 million in fiscal year 2013 to fund the upgrade and purchase of fingerprint biometric kits for patrol boats, cutters, and the Deployable Operations Group, allowing USCG to run fingerprints against other federal law enforcement databases.⁴¹

³⁹CBP's Non-Intrusive Inspection Systems Program supports the detection and prevention of contraband—including weapons of mass effect, illicit radioactive materials, illicit drugs and currency, and other illegal contraband—from entering or furthering their entry into the United States. The goal of the program is to match the technology and equipment with the conditions and requirements at each domestic port of entry and U.S. facilities that process international mail, based upon an analysis of the conditions at each location.

⁴⁰The federal electronic surveillance statutes (commonly referred to collectively as "Title III") are codified at 18 U.S.C. § 2510, *et seq.* According to ICE, since its inception in 2003, ICE has used Title III non-consensual telecommunication intercepts (wiretaps) as an investigative tool in criminal investigations.

⁴¹USCG's Deployable Operations Group was established in July 2007 to align all of the service's deployable specialized forces under a single unified command.

Overall, the total funds received by DHS components for law enforcement activities varied from year to year.⁴² According to TEOAF officials, because of the current fiscally constrained environment, the TFF excess unobligated balances available each year are important, as they help to fund innovative initiatives such as the purchase of equipment, training, and other programs that the fund's members may otherwise not be able to fund. Additionally, the Deputy Assistant Director of DHS's Budget Division, Office of the Chief Financial Officer, stated that DHS encourages components to request these funds, particularly to support innovative activities that develop new capabilities or provide proof of concept for new technologies or processes.

Balances to Cover Rescissions

Since 2009, TEOAF has retained excess unobligated balances to cover yearly proposed rescissions. In fiscal year 2009—the first year a TFF rescission was proposed and enacted—\$30 million was rescinded from the TFF, which since increased to a \$950 million rescission in 2013. The effect of these rescissions has been a reduction in TEOAF's budgetary resources, thereby decreasing the amount of money TEOAF has available to obligate for allowable purposes. A rescission could potentially decrease the size of the federal deficit, provided the decreased spending from the rescission is not offset by increased spending elsewhere. For annual appropriations, rescinded funds are generally taken from an agency and returned to the Treasury before they are obligated.⁴³ However, per OMB guidance, from fiscal years 2009 through 2013, rescinded funds from the TFF were not returned to the Treasury.⁴⁴ As a

⁴²In fiscal year 2003, the CBP and ICE data on excess unobligated balances were maintained by U.S. Customs. ICE received between \$6 million and \$17 million, or approximately 50 percent or more, of the funds from 2004 through 2009. However, since fiscal year 2010, CBP has received the most funds, between \$13 million and \$32 million, or 41 to 48 percent of funds, except in fiscal year 2012, when USSS received \$27 million (approximately 46 percent) and CBP received \$24 million, or 42 percent of the total DHS funds available for law enforcement activities. On average, USCG received 6 percent of the total DHS funds across this 11-year period. Moreover, since 2010, ICE has received 10 to 42 percent of total funds received by DHS components.

⁴³Rescinded funds are generally permanent and deposited into the General Fund of the Treasury, which is not the same fund as the TFF.

⁴⁴OMB guidance provides that rescissions and cancellations of amounts appropriated from special and trust fund receipts, as well as spending authority from offsetting collections, are usually temporary reductions. An exception is when the legislation makes clear that the amounts are permanently canceled or rescinded, in which case the amounts are returned to the General Fund of the Treasury. OMB Circular No. A-11, Section 20 & App. F (2011).

result, TEOAF treated the funds as unavailable for obligation for the remainder of the fiscal year for which the rescission was enacted. With the enactment of a new rescission for the subsequent fiscal year, TEOAF continued to treat the rescinded funds as unavailable for obligation and applied the amounts to the rescission in the next fiscal year. For example, the \$30 million that was rescinded from the TFF in fiscal year 2009 was treated as unavailable for obligation in fiscal year 2009, and was then obligated again to cover part of the enacted \$90 million rescission in fiscal year 2010. To make up the difference needed to meet the \$90 million rescission in fiscal year 2010, TEOAF used excess unobligated balances in the amount of \$60 million. According to TEOAF officials, one effect of these rescissions is that a larger portion of the balances available for additional obligations is being reserved to cover rescissions and is unavailable to fund other obligations such as law enforcement activities.

In fiscal year 2014, Congress passed two rescissions of TFF funds totaling approximately \$1.7 billion. First, the Bipartisan Budget Act of 2013 permanently canceled \$867 million of the TFF's unobligated balances and TEOAF returned the total to the General Fund of the Treasury.⁴⁵ Accordingly, unlike in previous years, these funds will not be available for any purpose, including applying to any subsequent rescission. In addition, the Consolidated Appropriations Act of 2014 rescinded \$836 million of the TFF's unobligated balances.⁴⁶ As in previous fiscal years, TEOAF did not return these rescinded funds from the TFF to the Treasury, and they are unavailable for obligation in fiscal year 2014. According to TEOAF officials, the TFF received revenues from several large forfeiture cases in the first quarter of fiscal year 2014 that helped enable the fund to operate with these rescissions under its current financial plan.

⁴⁵Pub. L. No. 113-67, § 704.

⁴⁶Pub. L. No. 113-76, div. E, tit. I, div. F, tit. V, § 574.

Additional Controls Could Help Improve the Transparency and Consistency of Equitable Sharing Determinations

DHS components have designed controls to help ensure compliance with Treasury's equitable sharing guidance, such as designing multiple levels of review for equitable sharing determinations. However, added controls—specifically, full documentation of the basis for determinations and additional guidance on the factors to consider when making determinations—could further enhance transparency and consistency across determinations, among other things. DHS components have taken steps to help ensure the equitable sharing process complies with required time frames.

DHS Components Have Designed Controls to Help Ensure Compliance with Treasury's Equitable Sharing Guidance

DHS components that conduct equitable sharing—ICE, USSS, and CBP—have designed controls to help ensure compliance with Treasury's guidance.⁴⁷ The guidance requires that sharing in joint investigations reflect the degree of direct participation of the agency in the law enforcement effort resulting in the forfeiture, in accordance with federal law.⁴⁸ Specifically, it directs responsible officials to base equitable sharing determinations on the work hours that all participating agencies expended on the investigation and then, if applicable, consider qualitative factors regarding additional contributions that agencies may have made, such as providing unique and indispensable assistance, to adjust percentages.

⁴⁷Within ICE and CBP, the HSI directorate and Border Patrol, respectively, conduct equitable sharing. USSS officials stated that USSS conducts equitable sharing in cases under its investigations mission. USCG does not conduct equitable sharing because, according to USCG officials, it does not have forfeiture authority. DHS officials stated that DHS is not involved in conducting or overseeing equitable sharing at the department level.

⁴⁸Section 9703 of title 31 of the U.S. Code requires the Secretary of the Treasury to assure that any equitable sharing payment made to a state or local law enforcement agency and any property transferred to a state or local law enforcement agency has a value that bears a reasonable relationship to the degree of participation of the state or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. See also 18 U.S.C. § 981(e) and 19 U.S.C. § 1616a(c).

Equitable Sharing Determination Example

HSI initiated a task force investigation of a suspected money-laundering organization, which was identified as being involved in the laundering and transportation of narcotics proceeds from the United States into Colombia. As a result, the organization was found guilty of conspiracy to defraud the government and directed to forfeit \$1,000,000. Three police departments and two county sheriffs' offices participated in the task force and provided assistance in executing the search warrant, conducting interviews, and cataloguing evidence, among other support. Agencies received a share of the forfeiture proceeds based on the percentage of work hours that they contributed to the investigation. TEOAF increased one agency's share because it provided a Special Assistant United States Attorney to handle the forfeiture, which was considered unique and indispensable assistance. The attorney had expertise in asset forfeiture cases, negotiated the terms of the forfeiture payments to help ensure recovery of the entire forfeited amount, and provided a range of other legal support.

Source: GAO analysis of HSI equitable sharing package.

DHS components have designed controls to help ensure that equitable sharing packages contain required information and are reviewed and approved by appropriate component authorities to help ensure compliance with Treasury's guidance. According to the guidance, state and local law enforcement agencies are to submit an application for equitable sharing in which they outline the asset that was seized, the number of work hours they expended on the investigation, and other contributions.⁴⁹ One control to help ensure DHS components comply with guidance is the requirement to prepare and submit an equitable sharing decision form when making determinations. The decision form is to include estimated work hours, recommended and approved sharing percentages, and a narrative section for providing an overview of the case and describing specific agency contributions. Another control involves required signatures on the form documenting submission by field office officials and approval by component headquarters officials.

Moreover, all three DHS components have designed multiple levels of review for equitable sharing packages. First, component field office officials—including the agents leading the investigation, asset forfeiture specialists, and supervisory agents or sector chiefs, among others—are to review equitable sharing applications and provide recommended sharing percentages on the equitable sharing decision form. HSI officials

⁴⁹The equitable sharing application form includes check boxes for a list of agency contributions to the investigation, including originating the information leading to the seizure, incurring extraordinary expenses, and supplying unique or indispensable assistance. Treasury's guidance lists unique *and* indispensable assistance as a qualitative factor, which differs slightly from the application.

stated that HSI has an asset forfeiture specialist in each special agent in charge field office, and Border Patrol officials stated that Border Patrol has an asset forfeiture officer in each sector.⁵⁰ According to USSS's Asset Forfeiture Liaison, USSS does not have asset forfeiture specialists in its field offices, with the exception of New York, and instead has designated staff that review and process equitable sharing requests as collateral duties.⁵¹ Officials from all nine of the DHS component field offices with whom we spoke said that they review applications to ensure that they are complete and accurate. These officials noted that they work closely with state and local agencies requesting equitable sharing and as a result are knowledgeable about their work hours and other contributions. Officials from all nine of the state and local agencies we interviewed said that component field offices can contact them if they need clarification or additional information regarding their participation.

After field office review, the equitable sharing package—which is to include the decision form, state and local equitable sharing applications, and other relevant documents, such as the forfeiture order—is submitted to component headquarters for approval. Each component has a full-time asset forfeiture liaison who is responsible for reviewing packages and overseeing all interactions with TEOAF on forfeitures and equitable sharing.⁵² The review process at the headquarters level varies across components. HSI headquarters officials stated that within the Asset Forfeiture Unit, an asset forfeiture specialist, program manager, section chief, and unit chief review all equitable sharing packages.⁵³ According to Border Patrol officials, the Assistant Chief of the Asset Forfeiture Program, who is the asset forfeiture liaison to TEOAF, reviews all packages. USSS officials said that the asset forfeiture liaison and an administrative staff person review packages. Component headquarters

⁵⁰HSI officials stated that the asset forfeiture specialists in HSI's special agent in charge field offices are funded through the TFF.

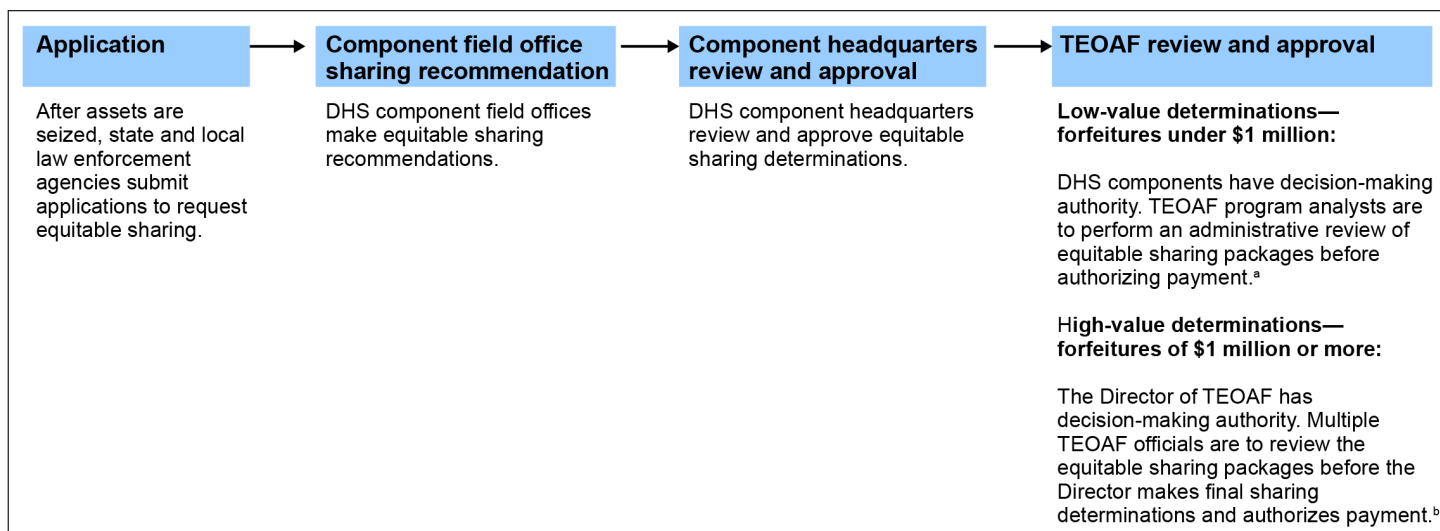
⁵¹According to USSS's asset forfeiture liaison, USSS has an asset forfeiture specialist in the New York field office because of the large number of equitable sharing requests that this office processes.

⁵²According to TEOAF, the TFF provides the funding for DHS component asset forfeiture liaisons.

⁵³HSI officials stated that for packages where forfeited amounts are \$1 million or greater, HSI's Deputy Associate Director and Assistant Director, among others, also review the packages before final review and approval by ICE's Executive Associate Director.

officials told us that they review packages to ensure that they are complete, include the necessary forms and information, and reflect the degree of agency participation in the seizure. Components then are to submit the packages to TEOAF for payment authorization. DHS asset forfeiture liaisons are to be available to address any questions that TEOAF may have regarding their packages or obtain additional information about sharing determinations from the field offices if needed. Figure 6 shows the steps involved in making equitable sharing determinations.

Figure 6: Process for Making Equitable Sharing Determinations



Source: GAO analysis of Treasury's and the Department of Homeland Security's (DHS) equitable sharing guidance, determination packages, and interviews with officials from the Treasury Executive Office for Asset Forfeiture (TEOAF), DHS, and state and local agencies.

^aTEOAF's equitable sharing program analysts are to perform an administrative review to ensure that the package includes the necessary forms and information before approving payment of state and local shares of forfeiture proceeds. TEOAF's program analysts stated that they review the packages to ensure they include the equitable sharing decision and application forms and comply with requirements to have an up-to-date equitable sharing agreement form, annual certification report, and Automated Clearing Housing deposit information on file.

^bThese packages are to be reviewed by an equitable sharing program analyst, the Assistant Director for Financial Management and Operations, and the Director of TEOAF, among others, when making sharing determinations.

HSI and Border Patrol have also issued additional guidance to their field offices to help ensure compliance with Treasury's guidance for making equitable sharing determinations. Specifically, HSI issued a memorandum in January 2013 to remind all offices on the proper procedures to follow when dealing with equitable sharing requests. HSI officials stated that the

memorandum was intended to underscore and clarify Treasury's guidance as it pertained to HSI cases. For example, it outlines time frames for submitting equitable sharing packages to the Asset Forfeiture Unit in HSI headquarters. It also reiterates Treasury's guidance on how equitable sharing determinations should be made based on investigative work hours and qualitative factors, if applicable. In addition, the memorandum provides additional guidance on what should be considered unique and indispensable assistance. Specifically, it lists an additional example of such assistance—an undercover officer with a special skill or language ability not readily available elsewhere. Border Patrol issued additional guidance in 2006 that outlines the equitable sharing process in detail. The guidance lists the steps that the requesting agency, sector asset forfeiture office, headquarters asset forfeiture office, and TEOAF perform in the process. It also reiterates Treasury's guidance on factors to consider when making equitable sharing determinations, among other things. USSS has not issued additional guidance because, according to the component's asset forfeiture liaison, field office staff use Treasury's guidance and can contact headquarters if they need assistance in making sharing determinations.

HSI and USSS have also provided training to headquarters and field office staff responsible for equitable sharing. HSI headquarters officials said that they began providing training to field office staff in August 2012 and asset forfeiture officials from all 26 field offices have received training. Training sessions addressed the process for equitable sharing, factors to consider when making equitable sharing determinations, and what to include in packages submitted to HSI headquarters, among other things. USSS officials stated that since fiscal year 2011, USSS has provided 37 field office trainings for operational personnel—including a nationwide asset forfeiture training in February 2013—and has conducted 19 training sessions and seminars for field office senior management personnel. According to DHS component and TEOAF officials, both HSI and USSS training were funded by and provided in coordination with TEOAF. Officials from all six HSI and USSS field offices we contacted stated that the training provided useful information on equitable sharing requirements and processes. According to Border Patrol headquarters officials, Border Patrol has not provided training to its sectors because of the limited number of equitable sharing requests they process.

Additional Controls Could Help Improve the Transparency and Consistency of Equitable Sharing Determinations

Documenting the Basis for Equitable Sharing Determinations

According to TEOAF officials, equitable sharing determinations should be clearly supported by the information in the package. TEOAF requires high-value packages (forfeitures of \$1 million or more) to include DHS component work hours and justifications for material deviations from work hour calculated percentages due to qualitative factors. This is not, however, required of low-value packages (forfeitures under \$1 million).⁵⁴ Accordingly, 31 of the 40 low-value equitable sharing packages that we reviewed were missing key information to support the basis for final sharing percentages. Specifically, these 31 packages did not include one or more of the following: DHS component work hours, support for how qualitative factors were applied to make determinations, and the rationale for changes made to sharing percentages recommended by the field offices.⁵⁵ In contrast, the equitable sharing determinations in the 5 high-value packages that we reviewed were fully supported by the information in the package.

Component work hours: Treasury's guidance states that equitable sharing determinations are normally determined by comparing the number of investigative hours expended by state, local, and other requesting agencies and the lead component through the completion of the forfeiture. According to TEOAF officials, work hours should be the primary indicator of agency participation in a case.

⁵⁴TEOAF also requires high-value packages to include a transmitting memorandum, a letter from the Assistant United States Attorney providing input on the proposed shares, and other information. According to TEOAF officials, additional information is required for high-value packages because of the large dollar amounts involved and to help ensure that TEOAF has the necessary information to make equitable sharing decisions. These officials stated that low-value packages do not have the same requirements because of their lower sharing amounts and the administrative workload it would entail given the higher volume of these packages.

⁵⁵The 9 equitable sharing packages in which we found determinations to be supported had sharing percentages that were the same as or close to the proportion of work hours that agencies contributed to the case or were cases in which the agency received the maximum share and either the work hours or the narrative supported this determination.

Example of How Work Hours Are Used to Determine Equitable Sharing

In an HSI-led drug smuggling case, a state police department assisted an HSI field office in executing search warrants and conducting background checks and surveillance on drug-trafficking suspects, among other things, resulting in a seizure and forfeiture of \$95,138 in currency. According to documents in the equitable sharing determination package, the state police expended an estimated 671 work hours on the case and HSI expended 670, resulting in a 50 percent share of forfeiture proceeds for the state police.

Source: GAO analysis of HSI equitable sharing package.

State and local agency work hours were included in all 40 low-value equitable sharing packages that we reviewed. HSI included its own work hours in all 26 low-value HSI packages that we reviewed, but USSS and Border Patrol did not include this information in any of their packages. Specifically, all 10 USSS and 4 Border Patrol packages that we reviewed did not include lead component work hours or the total work hours contributed by all agencies involved in the case.⁵⁶ USSS's asset forfeiture liaison stated that this information was not included because the lead USSS component does not receive equitable sharing funds and the information is not explicitly required on the equitable sharing decision form. This official said, however, that he has directed field offices to include component work hours in equitable sharing decision forms starting in fiscal year 2014.⁵⁷ We reviewed an additional USSS equitable sharing package that was approved by headquarters in fiscal year 2014 and found that the USSS field office included its work hours. Border Patrol's Asset Forfeiture Liaison said that because most of the component's seizures occur at checkpoints or while agents are on patrols—unlike HSI and USSS seizures, which result primarily from investigations—work hours can be difficult to measure and are not always used to make equitable sharing determinations.⁵⁸ However, state and

⁵⁶Within our sample time frame—October 2012 through June 2013—HSI accounted for 1,902 payments to state and local agencies, USSS accounted for 347, and Border Patrol accounted for 4. Because multiple payments can result from 1 equitable sharing package, we could not determine the number of packages processed during this time period.

⁵⁷USSS officials in one field office noted that it may take some time before this requirement is fully implemented because most determinations that are processed in fiscal year 2014 are from seizures made over a year earlier and component work hours from those cases may not be available.

⁵⁸For example, Border Patrol's Asset Forfeiture Liaison said that if a seizure was made at a checkpoint where agents worked an 8-hour shift, it is unclear if Border Patrol would input the full 8 hours or the 20 minutes it took to seize the assets. TEOAF officials noted that because the volume of Border Patrol's equitable sharing is low, either approach would be acceptable, as long as the hours are recorded in a uniform way and Border Patrol's share of the contribution is captured.

local agency work hours were included in all 4 Border Patrol equitable sharing packages that we reviewed. Border Patrol's Asset Forfeiture Liaison stated that it would be useful to include Border Patrol work hours when possible if they are measured consistently across all participating agencies. In the absence of documented component work hours, we could not determine what proportion of total work hours components contributed to the case and how deciding authorities verified whether equitable sharing determinations were calculated in accordance with Treasury's guidance.

Application of qualitative factors: All 31 low-value packages we reviewed that did not include full support for sharing determinations did not contain clear documentation of how qualitative factors were used to adjust sharing determinations. Treasury's guidance directs deciding officials to consider additional factors when the work hours do not adequately reflect the degree of agency participation in the investigation. These factors could include, for example, originating the information leading to the seizure or providing unique and indispensable assistance. The decision forms in the packages that we reviewed generally contained narratives that summarized what each agency contributed to the case, which included interviewing suspects, executing search warrants, conducting surveillance, providing a drug-sniffing canine, and a range of other investigative support. However, the forms did not identify which specific agency contributions were used to adjust percentages and what adjustments were made.⁵⁹ For example, in 1 HSI equitable sharing package we reviewed, two police departments contributed the same number of work hours, but one received a 10 percent larger share than the other, resulting in a difference of about \$48,000 in forfeiture proceeds. Both departments indicated on their application forms that they provided unique or indispensable assistance and originated the information leading to the seizure. HSI's equitable sharing decision form for this package includes a summary of how each police department participated in the investigation, such as assisting in undercover operations, interviews, and search and surveillance, but does not explicitly state which specific

⁵⁹ HSI officials noted that additional information on agency contributions may be included in e-mails and other documents that HSI retains, but are not part of the packages submitted to TEOAF. They said that they can provide these documents if TEOAF requests them. However, the two additional packages we reviewed from HSI's files that included such information did not specify which contributions were used to adjust sharing percentages.

contribution or contributions were used to adjust percentages or why one agency's contribution was valued more than the other's.

HSI's January 2013 guidance memorandum states that when work hours do not adequately reflect the degree of agency participation, it is critical that the narratives contained in the documents submitted to the Asset Forfeiture Unit in headquarters specifically detail the participation of all agencies involved.⁶⁰ This helps to ensure that agency contributions outside of work hours are documented in the equitable sharing packages, but does not require field offices to identify which qualitative factors or contributions were used to adjust percentages and how these factors were applied. Moreover, in USSS and Border Patrol equitable sharing packages where component work hours were not documented, it was not possible to determine if adjustments were made to sharing percentages based on qualitative factors. Border Patrol's Asset Forfeiture Liaison stated that Border Patrol could document this information if required. USSS's Asset Forfeiture Liaison said that it would be administratively burdensome to specify which, if any, qualitative factors were used to adjust percentages and how they were applied because USSS primarily relies on field office staff to process equitable sharing requests as collateral duties, in addition to their other responsibilities. However, agency contributions are generally already included in the decision form narratives and specifying which contribution was used to adjust percentages could be done by including a short sentence or annotation. For example, in a USSS high-value package that we reviewed, TEOAF documented that a state agency's percentages were adjusted upward because the agency conducted all key interviews in the investigation. Components could document the same kind of information for low-value packages with minimal additional narrative. Documenting the rationale for making adjustments to sharing percentages based on qualitative factors could improve transparency for approving authorities and officials overseeing equitable sharing regarding how and why adjustments are made when work hours alone do not fully reflect the degree of agency participation in the investigation. Such documentation could also help these officials better assess the extent to which qualitative factors were applied appropriately and consistently in determinations.

⁶⁰HSI headquarters officials noted that it may take some time before this is fully implemented because some determinations that were submitted after the guidance was issued are from seizures made over a year earlier and detailed descriptions of agency participation may not be available.

Component headquarters changes to sharing percentages: USSS and HSI headquarters made changes to sharing percentages in 8 of the 31 low-value packages we reviewed that did not include full support for determinations, and in all 8 of these instances, the reasons for the changes were not documented. USSS and HSI officials noted that they contact field office staff to discuss any changes, but that the reasons for the changes are generally not included in the packages submitted to TEOAF. USSS headquarters made changes to sharing percentages recommended by field offices in 6 of the 10 USSS packages that we reviewed. For example, in 1 package, USSS headquarters decreased a state agency's share from 60 to 40 percent—resulting in a difference of about \$28,400—but the decision form did not note why the change was made. USSS's Asset Forfeiture Liaison stated that these changes are primarily due to headquarters taking into account additional work that USSS agents perform to identify victims of financial crimes after the field offices submit the decision forms to headquarters. The liaison said that these additional work hours and resources are not reflected in the field office's recommended sharing percentages or on the decision forms. According to the USSS liaison, headquarters has only one other official who reviews and approves equitable sharing determinations, and documenting the rationale for changes to sharing percentages would require additional work. However, he noted that including a short annotation would be feasible.⁶¹ HSI officials stated that the reasons for headquarters' changes to field office sharing percentages are generally documented in HSI review forms and e-mail correspondence with the field and provided examples of such documentation. However, this support is not included in the packages that HSI submits to TEOAF for review and payment authorization. HSI officials said that they could include this information if requested by TEOAF.⁶² Documenting the rationale for changes to sharing percentages recommended by the field—by, for example, including a short sentence or annotation—could help enhance transparency regarding why changes were made and how final sharing percentages were determined.

⁶¹In commenting on a draft of this report, USSS officials stated that the reasons for changes to sharing percentages are to be detailed in packages submitted after March 1, 2014.

⁶²HSI officials said that the equitable sharing decision form does not include an area for component headquarters to document why percentages were changed. They noted that including such an area would allow components to explain the rationale for changes without having to submit additional documents.

Standards for Internal Control in the Federal Government states that controls are to provide reasonable assurance for compliance with laws and regulations and help ensure that management’s directives are carried out, among other things.⁶³ To achieve these objectives, it states that transactions should be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire process or life cycle of a transaction or event from the initiation and authorization through its final classification in summary records. In addition, internal control standards state that all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. In the absence of consistently documenting component work hours, how qualitative factors are applied to adjust sharing percentages, and the reasons for headquarters’ changes to percentages, it is unclear how equitable sharing deciding authorities evaluated the nature and value of the contributions of each of the agencies involved in the investigation. TEOAF officials said that clearly documenting the basis for equitable sharing determinations in low-value packages would be helpful for approving officials. This is important because, according to TEOAF officials, equitable sharing determinations have grown more complex in recent years as a result of the increase in large investigations that involve multiple agencies. These officials said that it would be feasible for TEOAF—as the manager of the TFF and the equitable sharing program—to issue a memorandum to DHS components to include additional information in equitable sharing packages and work with components as needed to implement it. Establishing a mechanism to ensure that the basis for low-value equitable sharing determinations is fully documented by all DHS components responsible for making determinations could enhance the transparency of decision making and help DHS components and TEOAF better ensure that equitable sharing decisions are made in compliance with Treasury’s guidance.

Guidance on Qualitative Factors

Treasury has established general guidance on the qualitative factors to consider if work hours do not adequately reflect the degree of agency participation in the investigation. The guidance includes three examples of these factors—whether the agency originated all of the information leading to the seizure, provided unique and indispensable assistance, or could have achieved forfeiture under state law—and a short narrative

⁶³[GAO/AIMD-00-21.3.1](#)

describing each of them. For example, the guidance states that unique and indispensable assistance entails an agency providing support only it can provide, such as seizing assets in a jurisdiction hundreds of miles from where the investigation is being conducted or providing an informant who has access to documents that are essential to securing a conviction. The guidance does not provide specific information on how to apply these examples to adjust sharing percentages. Treasury is in the process of revising its guidance, and as of January 2014, the draft guidance contained a more abbreviated discussion of qualitative factors, with two examples and less detail regarding the contributions to consider. For example, the draft guidance does not provide examples of contributions that could be considered unique or indispensable assistance.⁶⁴ TEOAF officials stated that the revised guidance is being finalized and indicated that they do not plan to include more information on qualitative factors in the guidance. The office expects to issue the guidance in 2014, but did not have a more specific time frame, in part because the guidance was undergoing an interagency review. HSI's January 2013 memorandum includes additional guidance on qualitative factors, such as clarifying what types of activities are considered unique and indispensable assistance. USSS and Border Patrol have not issued similar guidance.⁶⁵

TEOAF and DHS component officials stated that guidance on qualitative factors is general because equitable sharing determinations are made on a case-by-case basis and the facts and circumstances of each case must be considered in totality when making adjustments to sharing percentages. Accordingly, DHS component field office and headquarters officials said that they use their judgment and experience when determining if and how qualitative factors should be applied in making equitable sharing decisions. However, officials from six of the nine field offices we interviewed across all DHS components that conduct equitable sharing stated that additional guidance on qualitative factors would be useful. Specifically, these officials said that additional examples of factors, such as what constitutes extraordinary expenses; clarification of what is considered unique and indispensable assistance; guidance on how to

⁶⁴The draft guidance changed the example of a qualitative factor to unique or indispensable assistance (from unique *and* indispensable assistance) to be consistent with the equitable sharing application form.

⁶⁵Border Patrol's guidance on qualitative factors contains the same examples as Treasury's guidance and does not include additional information on these examples.

apply factors, including more information on how to adjust percentages based on the type and significance of agency contributions; or illustrations of how factors were applied in real-world cases would be helpful for making equitable sharing determinations. Officials from the remaining three field offices said that additional guidance was not needed because sharing recommendations are made in consultation with requesting agencies or they can contact component headquarters to discuss any questions about qualitative factors. Nonetheless, headquarters officials from all three DHS components that conduct equitable sharing stated that additional guidance could help ensure a more consistent understanding of these factors among headquarters and field offices. For example, HSI officials said that adjustments related to qualitative factors are one of the reasons for headquarters changes to sharing percentages recommended by field offices. These officials noted that any additional guidance should continue to allow for determinations to be based on the facts and circumstances of each case.

Officials from all nine state and local law enforcement agencies with whom we spoke were generally satisfied with the equitable shares that they received. These officials noted that they typically do not have visibility over the equitable sharing process after they have submitted their applications.⁶⁶ In addition, the equitable sharing determinations we reviewed indicate that state and local agencies may not have a clear understanding of how some qualitative factors are defined and considered. For example, in 12 of the 15 low-value packages we reviewed where an agency indicated on its application form that it incurred extraordinary expenses during the investigation, the expenses were not clearly described in the narrative. In 1 equitable sharing package we reviewed for a currency-smuggling case, a police department checked that it had incurred extraordinary expenses and stated that its officer had conducted surveillance, assisted in a search of a suspect's house, and

⁶⁶Officials from five of the nine state and local agencies with whom we spoke said that it can be difficult to match equitable payments received with their associated seizures. These officials noted that it can take over a year to receive funds as a result of the lengthy forfeiture and equitable sharing processes. They said that receiving additional information regarding the case, such as the case number, assets forfeited, and final sharing percentages, when payments are received would be helpful for matching purposes. They stated, however, that they can obtain this information from DHS components if requested. TEOAF officials said that they are aware of this issue and are working to address it through various communication mechanisms to inform state and local officials of where they can obtain this information.

participated in the interview of two individuals who were detained as part of the investigation. However, we could not determine how these activities constituted extraordinary expenses. Treasury's guidance does not include incurring extraordinary expenses as an example of a qualitative factor, despite this factor being included in the equitable sharing application. In addition, the application includes two other factors to consider when assessing agency contributions that are not included in Treasury's guidance. Providing guidance on qualitative factors that are listed on the application form, including what they entail and how to apply them, could help officials from state and local agencies, as well as DHS components, have a better and more consistent understanding of these factors.

Standards for Internal Control in the Federal Government calls for significant events to be clearly documented in directives, policies, or manuals to help ensure operations are carried out as intended.⁶⁷ While we recognize the subjective nature of evaluating agency contributions based on the facts and circumstances of each case, additional guidance on qualitative factors could help better ensure consistency with which these factors are applied across cases. Such guidance could also help DHS components better assess agency contributions when making equitable sharing determinations.

Component Actions to Address
Equitable Sharing
Requirements

TEOAF performs an administrative review of low-value packages to ensure that the required applications and decision forms are included, among other things. TEOAF officials said that because DHS components have decision-making authority for low-value determinations, they primarily rely on the components to ensure that these packages comply with equitable sharing requirements.

The low-value packages that we reviewed did not always comply with certain requirements in Treasury's guidance. However, HSI and USSS officials have taken steps to address the deficiencies we found in our analysis of these packages. Specifically, the guidance requires that state and local law enforcement agencies submit equitable sharing applications within 60 days after the seizure, and if this deadline is not met, agencies need to submit a written request stating the reasons for the late submission in order for components to waive the requirement. TEOAF officials said that this requirement is in place to ensure that components

⁶⁷ [GAO/AIMD-00-21.3.1](#)

receive all sharing requests in a timely manner and are aware of all agency contributions before determining equitable shares. HSI and USSS headquarters officials stated that if a state or local agency submitted a request for a waiver, they would include it in the package provided to TEOAF. However, requests for waivers were not included in 8 of the 9 HSI and USSS packages we reviewed where an agency did not meet the 60-day deadline.⁶⁸ HSI headquarters officials stated that they began enforcing the waiver requirement in January 2013.⁶⁹ The officials said that this requirement may take some time to fully implement. Specifically, because of the potential lengthy forfeiture process, equitable sharing determinations processed after January 2013 may be from applications that were submitted to field offices over a year earlier. USSS's Asset Forfeiture Liaison stated that in fiscal year 2013, USSS's asset forfeiture system was programmed to automatically notify field offices when equitable sharing applications are due to meet the 60-day requirement and provided an example of such a notice.⁷⁰

In addition, Treasury's guidance specifies that final determination of sharing percentages cannot be made until after assets have been forfeited. TEOAF officials said that this requirement is in place so that state and local agencies do not expect equitable shares before forfeitures are finalized, because in some cases, funds may not be available for sharing. However, USSS headquarters officials approved sharing determinations in 5 of the 10 low-value USSS equitable sharing packages we reviewed before assets were forfeited. These 5 packages were all approved by headquarters in 2011. USSS's Asset Forfeiture Liaison said that with the assignment of a new asset forfeiture specialist in 2012, USSS changed its review process and no longer approves determinations

⁶⁸The 2 Border Patrol packages in which an agency did not meet the 60-day deadline both included requests for waivers.

⁶⁹HSI officials said that by January 2013, the Asset Forfeiture Unit had nearly a full staff of asset forfeiture specialists, which provided the resources to begin enforcing this requirement. They noted that reviewing equitable sharing requests had previously been done by contractors and waiver requirements may not have been enforced. According to HSI officials, asset forfeiture specialists in the field were directed to enforce this requirement in a briefing. They said that headquarters officials review packages to help ensure compliance.

⁷⁰Field offices receive a notice of key document due dates, which include the 60-day equitable sharing application deadline, after a seizure has been entered into its asset forfeiture system. According to USSS's Asset Forfeiture Liaison, field offices also receive an alert the week before the application is due as a reminder.

before forfeiture. The 5 packages we reviewed that USSS headquarters approved after 2011 complied with this requirement. We also reviewed 3 additional packages that USSS approved in September 2013 and these complied as well.

DHS Components and TEOAF Coordinate on Many Equitable Sharing Oversight Activities

DHS components and TEOAF coordinate in a variety of ways to oversee the equitable sharing program. For example, DHS and TEOAF have established roles and responsibilities for the processing, review, and approval of equitable sharing determinations, consistent with leading practices on interagency coordination.⁷¹ In addition, each DHS component has an asset forfeiture liaison who is responsible for overseeing interactions with TEOAF on forfeitures and equitable sharing. These liaisons are the primary points of contact between TEOAF and DHS field offices and help facilitate the processing of equitable sharing determinations. Further, according to TEOAF and DHS component officials, TEOAF holds meetings with component asset forfeiture liaisons once every 2 weeks to discuss TFF issues, including equitable sharing and any major forfeiture cases that are expected, among other things. HSI also coordinated with TEOAF to provide equitable sharing training to field office staff. For example, TEOAF officials stated that TEOAF staff worked with HSI to develop an agenda of the areas that needed to be covered during the training sessions. Officials from both HSI and TEOAF provided presentations during the training.⁷² USSS and TEOAF officials stated that they coordinated to provide training to USSS field office staff as well.

In addition, TEOAF has collaborated with DHS components to develop equitable sharing guidance. Specifically, as part of the ongoing development of updated Treasury guidance, TEOAF provided a draft of the guidance to DHS components for their review and, according to TEOAF and DHS officials, held meetings with components to discuss revisions. Border Patrol also collaborated with TEOAF to develop additional equitable sharing guidance for its sectors, according to Border Patrol and TEOAF officials. Such actions are consistent with leading

⁷¹We reported that interagency collaborative mechanisms benefit from clarifying roles and responsibilities, which could include defining steps for decision making. [GAO-12-1022](#).

⁷²TEOAF officials stated that the office's internal controls contractor worked in conjunction with HSI and TEOAF staff to coordinate the training effort and to provide presentations.

practices on interagency coordination that call for agencies to address the compatibility of standards, policies, and procedures that will be used in the collaborative effort through effective communication, among other things.⁷³ However, HSI did not inform TEOAF that it was planning on issuing additional equitable sharing guidance in January 2013 or provide a draft of the guidance for TEOAF to review before issuance. According to HSI officials, HSI did not take these steps because HSI's additional guidance was based on Treasury's guidance and prior discussions in which TEOAF directed HSI to address concerns about HSI allocating large shares of forfeiture proceeds to state and local agencies that were disproportionate to their contributions in investigations and did not retain sufficient revenues to support TFF expenses.

TEOAF officials said that it would have been beneficial for HSI to have consulted with TEOAF when developing the memorandum to verify that it was consistent with Treasury's guidance and consider potential impacts of new requirements. For example, HSI's guidance requires that the component retain a 30 percent minimum share in all joint investigations. The guidance states that this requirement was added to cover investigative and forfeiture expenses incurred by DHS agencies.⁷⁴ TEOAF officials said that at the time the guidance was issued, TEOAF did not know how HSI established the 30 percent minimum or how it related to Treasury's guidance that sharing allocations to agencies should reflect work hours and other contributions. However, these officials stated that the 30 percent requirement is consistent with Treasury's guidance—which requires that TFF members retain at least a 20 percent minimum share⁷⁵—and that the guidance as a whole is a positive step in helping to ensure that HSI field offices base sharing determinations on agency

⁷³GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005). To identify key interagency collaboration practices, we reviewed relevant literature, including academic literature and our prior reports, and interviewed experts in the area of collaboration. We reported that agencies can enhance and sustain their collaborative efforts by engaging in these practices.

⁷⁴HSI officials stated that this includes overhead-related expenses that HSI incurs, such as administrative and storage costs. The officials said that the 30 percent minimum was based on an analysis of HSI investigative expenses and is intended to help ensure that HSI's expenses do not exceed its forfeiture revenues.

⁷⁵Treasury's guidance notes that the minimum federal share in joint cases or when a federal agency adopts a case from a state or local agency should not be less than 20 percent.

contributions and include required information in the packages they submit.

Conclusions

The authorization to share federal forfeiture proceeds with participating state and local law enforcement agencies is an important component of federal asset forfeiture activities and critical in fostering enhanced cooperation with these agencies. In fiscal year 2013, DHS components obligated about \$355 million in equitable sharing payments to state and local agencies—the highest annual amount over the past decade. In addition, equitable sharing determinations have grown more complex in recent years because of the increase in large investigations that involve multiple agencies, according to TEOAF officials. Such developments underscore the need for controls to help ensure compliance with established equitable sharing guidance and federal statutes.

DHS components have designed controls to help ensure compliance with Treasury's guidance when making equitable sharing determinations. However, there are gaps in the documentation of key information that serves as the basis for making sharing decisions. Without a mechanism to ensure documentation of the number of work hours expended by lead components, how qualitative factors were used to adjust sharing percentages, and the reasons for headquarters' changes to equitable sharing percentages in low-value packages, it is unclear how equitable sharing deciding authorities could fully evaluate the nature and value of the contributions of each of the agencies involved in an investigation. Further, additional guidance on the qualitative factors to consider when making equitable sharing determinations could help better ensure that they are consistently applied over time and across cases.

Recommendations for Executive Action

As the manager of the TFF and equitable sharing program, TEOAF is best positioned to help ensure that DHS components consistently comply with Treasury's equitable sharing guidance. To help improve management controls over the equitable sharing program, we recommend that the Director of TEOAF take the following two actions:

- Establish a mechanism to ensure that the basis for DHS's low-value equitable sharing determinations—including component work hours, how qualitative factors are applied to adjust percentages, and the rationale for component headquarters' changes to percentages—is documented in equitable sharing packages.
- Develop additional guidance on qualitative factors to be used when making adjustments to equitable sharing percentages.

Agency Comments

We provided a draft of this report to Treasury and DHS for their review and comment. Treasury provided written comments, which are reprinted in appendix II. Treasury and DHS also provided technical comments, which we incorporated in this report as appropriate.

Treasury concurred with both recommendations in this report in an e-mail provided on March 20, 2014. In its written comments, the department outlined steps that it plans to take to implement them. Specifically, Treasury stated that it plans to

- implement changes in its equitable sharing forms, policy guidance, and processes to address our recommendation that the basis for DHS's low-value equitable sharing determinations is documented in equitable sharing packages. For example, Treasury noted that it is to require all equitable sharing packages to include component work hours and emphasize that upward adjustments to a local law enforcement agency's sharing percentage must include a coherent and compelling explanation of the unique or indispensable assistance provided. Treasury also plans to redesign the equitable sharing decision form to accommodate these and other changes.
- discuss changes made to the equitable sharing program, including those related to qualitative factors, with components over the next 6 months to address our recommendation that Treasury develop additional guidance on qualitative factors to be used when making adjustments to equitable sharing percentages.

We are sending copies of this report to the Secretary of the Treasury, the Secretary of Homeland Security, selected congressional committees, and other interested parties. In addition, this report is available at no charge on GAO's website at <http://www.gao.gov>.

If you or your staff have any further questions about this report, please contact me at (202) 512- 9627 or maurerd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix III.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'D. C. Maurer', with a long horizontal flourish extending to the right.

David C. Maurer
Director, Homeland Security and Justice Issues

Appendix I: Objectives, Scope, and Methodology

This report addresses the following objectives:

1. What have been Department of Homeland Security (DHS) components' revenues contributed to and obligations from the Treasury Forfeiture Fund (TFF) from fiscal years 2003 through 2013?
2. To what extent have DHS components designed controls to help ensure compliance with the Department of the Treasury's (Treasury) guidance when implementing the equitable sharing program?
3. To what extent do DHS components coordinate with Treasury in overseeing the equitable sharing program?

Assessing Revenues and Obligations

To determine TFF revenues from and obligations by DHS components from fiscal year 2003—the year in which DHS began operations—through fiscal year 2013, we analyzed Treasury's reported data on revenues and obligations by fiscal year, by the four participating DHS members of the TFF—U.S. Immigration and Customs Enforcement (ICE), the U.S. Secret Service (USSS), U.S. Customs and Border Protection (CBP), and the U.S. Coast Guard (USCG)—and for the fund as a whole.¹ We used information on revenues and obligations contained in CBP's National Finance Center's financial accounting systems.² We interviewed officials from the four DHS participating components, DHS's Office of the Chief Financial Officer, and the Treasury Executive Office for Asset Forfeiture (TEOAF) to discuss trends and variations in the revenues and obligations over this 11-year period. We also reviewed information on unobligated and excess unobligated balances contained in the TFF's financial accounting systems. We interviewed TEOAF officials who are responsible for oversight of the TFF regarding processes for carrying over funds at the end of the fiscal year. Further, we analyzed Treasury's reported data on the TFF's excess unobligated balances from fiscal years 2003 through

¹An obligation is a definite commitment that creates a legal liability of the government for the payment of goods and services ordered or received, or a legal duty on the part of the United States that could mature into a legal liability by virtue of actions on the part of the other party beyond the control of the United States. Payment may be made immediately or in the future.

²Under a memorandum of understanding with Treasury, CBP acts as the executive agent for certain operations of the TFF. Pursuant to that executive agent role, CBP's National Finance Center is responsible for accounting and financial reporting for the fund, including timely and accurate reporting and compliance with Treasury, the Comptroller General and the Office of Management and Budget (OMB) regulations and reporting requirements.

2013, and interviewed DHS officials from the four participating components, DHS's Office of the Chief Financial Officer, and TEOAF officials about how excess unobligated balances have been used since 2003.

Assessing DHS Controls

To determine the extent to which DHS components that conduct equitable sharing—ICE, USSS, and CBP—have designed controls to help ensure compliance with Treasury's guidance when implementing the equitable sharing program, we analyzed federal statutes and Treasury guidance on making equitable sharing determinations and DHS controls designed to help ensure compliance with guidance.³ We compared these controls with the overall framework for establishing and maintaining internal control outlined in *Standards for Internal Control in the Federal Government*.⁴

We reviewed nongeneralizable samples of (1) 40 equitable sharing determination packages for forfeitures below \$1 million (low-value) and approved by DHS components, and (2) 5 equitable sharing packages for forfeitures of \$1 million or more (high-value) and approved by TEOAF to determine the extent to which the packages complied with Treasury guidance and contained documentation to support sharing decisions.⁵ We selected these packages from two sets of data provided by TEOAF. Specifically,

³Federal statutes include 31 U.S.C. § 9703, 18 U.S.C. § 981(e) and 19 U.S.C. § 1616a(c). Treasury's primary guidance on equitable sharing is its *Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies* (April 2004). We did not assess controls related to state and local agency compliance with accounting requirements and permissible uses of equitable sharing funds because DHS components do not have any roles and responsibilities in these areas. According to TEOAF and DHS officials, TEOAF has sole responsibility for compliance requirements after equitable sharing payments are made. In addition, Treasury's Office of the Inspector General is conducting an audit of controls related to permissible uses of equitable sharing funds. As of February 2014, the office did not have an expected issuance date for its report.

⁴GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

⁵An equitable sharing package is to contain the documents (e.g., application and decision form) used to make equitable sharing determinations—the sharing percentages for forfeiture proceeds allocated to participating agencies. DHS components have decision-making authority when the appraised value of the forfeited assets is less than \$1 million and Treasury has authority when the value is \$1 million or more.

- We selected the 40 packages from equitable sharing payments made to state and local agencies from October 1, 2012, to June 30, 2013, to obtain the most recent payments given our timeframes.⁶ We selected this sample based on payment amounts and to reflect a range of DHS components and field offices that conduct equitable sharing. We reviewed 26 ICE, 10 USSS, and 4 CBP low-value packages from a range of each component's field offices across the nation.⁷ Within our sample time frame, ICE accounted for 1,902 payments to state and local agencies, USSS accounted for 347, and CBP accounted for 4. Because multiple payments can result from 1 equitable sharing package, we could not determine the number of packages processed during a given time period.⁸
- We selected the 5 packages from a list of those approved by TEOAF from October 1, 2012, to June 30, 2013, based on such factors as amounts forfeited and the number of seizures involved.⁹ Out of the 10 packages approved during this time period, we reviewed 3 from ICE and 2 from USSS investigations.

The results of our analysis of equitable sharing packages are not generalizable to the universe of packages paid or approved within the same time frames. However, they provided information on the extent to

⁶We selected our sample from payment data because TEOAF does not track the number of equitable sharing determination packages that are processed. DHS also conducts equitable sharing with other federal agencies and foreign entities. We focused our review on sharing with state and local agencies because they accounted for an average of 96 percent of total equitable sharing payments from fiscal years 2010 to 2012. Equitable sharing with federal agencies and foreign entities each accounted for about 2 percent across the same time period.

⁷Within ICE and CBP, the Homeland Security Investigations directorate and U.S. Border Patrol (Border Patrol), respectively, conduct equitable sharing. USSS officials stated that USSS conducts equitable sharing in cases under its investigations mission. USCG does not conduct equitable sharing because, according to USCG officials, it does not have forfeiture authority. DHS officials stated that DHS is not involved in conducting or overseeing equitable sharing at the department level

⁸For example, 1 package might produce 1 payment or 15 payments, depending on how many state and local agencies were involved.

⁹We selected the high-value packages from a list of approved packages manually compiled by TEOAF because these packages could not be identified from the payment data used to select the low-value packages. We selected packages from those approved from October 1, 2012, to June 30, 2013, to obtain the most recently approved packages given our time frames.

which the selected packages adhered to guidance and included documentation of controls, among other things.

We also interviewed officials from TEOAF; ICE, USSS, and CBP in headquarters; and selected field offices of these components in California, New York, and Texas to assess controls established to help ensure compliance with guidance. These three states received the highest amounts of equitable sharing payments on average from fiscal years 2010 through 2012 and composed about 50 percent of total payments nationwide.¹⁰ We selected ICE, USSS, and CBP field offices to interview in each state to include those that processed high amounts and large numbers of equitable sharing payments.¹¹ In addition, we interviewed officials from three state or local law enforcement agencies in each of these states to obtain their perspectives on the equitable sharing process. We selected these agencies based on the amount and number of payments they received in fiscal year 2012 and to cover a range of government agencies (e.g., state, county, or city).¹² While the results of these interviews are not generalizable to all DHS component field offices and agencies, they provided valuable information and perspectives on the equitable sharing determination process and controls.

Assessing DHS Coordination with Treasury

To determine the extent to which DHS components coordinate with Treasury in overseeing the equitable sharing program, we analyzed guidance and other documents. For example, as part of our review of selected equitable sharing determination packages, we assessed documentation of how DHS components and TEOAF coordinate and communicate when making equitable sharing decisions. In addition, we interviewed officials from ICE, USSS, and CBP in headquarters; selected field offices of these components as discussed above; and TEOAF to obtain information about, among other things, the extent to which DHS

¹⁰Fiscal year 2012 was the most recent full year for which payment data were available when we selected the states to include in our review. We used an average across 3 years to take into account potential variations in annual payments.

¹¹CBP's Border Patrol does not have a field office in New York. Instead, we interviewed officials from Border Patrol's office in Swanton, Vermont, which is responsible for processing equitable sharing requests from New York.

¹²Fiscal year 2012 was the most recent full year for which equitable sharing data were available when we selected the agencies to interview.

and TEOAF coordinate on overseeing the equitable sharing program, including making sharing determinations and developing guidance. We compared DHS and TEOAF coordination mechanisms with leading practices on interagency collaboration.¹³

To assess the reliability of data for revenues and obligations and excess unobligated balances for the first objective and equitable sharing payments used to select our samples of packages to review for the second and third objectives, we reviewed relevant documentation, such as annual financial plans and standard operating procedures related to reporting TFF data in the fund's financial accounting system, which is maintained by CBP. We also conducted interviews with CBP officials responsible for managing data, as well as Treasury officials who review and work with the data to understand how CBP and Treasury collect, categorize, and tabulate the information and the actions they take to ensure its consistency, accuracy, and completeness. We determined information on the financial accounting system provided by CBP to be sufficiently reliable for presenting Treasury's reported data on total revenues, obligations such as equitable sharing payment data, and excess unobligated balances by DHS components and as a proportion of the TFF for fiscal years 2003 through 2013.

We conducted this performance audit from April 2013 through March 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe

¹³GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012). To identify mechanisms that the federal government uses to lead and implement interagency collaboration and issues to consider when implementing these mechanisms, we conducted a literature review of academic work, interviewed experts in governmental collaboration, and analyzed a sample of our prior work. We reported that these mechanisms can be used to address such purposes as oversight, program implementation, and information sharing and communication. GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005). To identify key interagency collaboration practices, we reviewed relevant literature, including academic literature and our prior reports, and interviewed experts in the area of collaboration. We reported that agencies can enhance and sustain their collaborative efforts by engaging in these practices.

the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the Department of the Treasury



DEPARTMENT OF THE TREASURY
UNDER SECRETARY FOR TERRORISM AND FINANCIAL INTELLIGENCE

EXECUTIVE OFFICE FOR ASSET FORFEITURE
1341 G ST., N.W., SUITE 900, WASHINGTON, D.C. 20005

TELEPHONE: (202) 622-9600
FAX: (202) 622-9610

March 20, 2014

David Maurer
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Re: DHS Participation in the Treasury Forfeiture Fund, GAO Engagement 441152

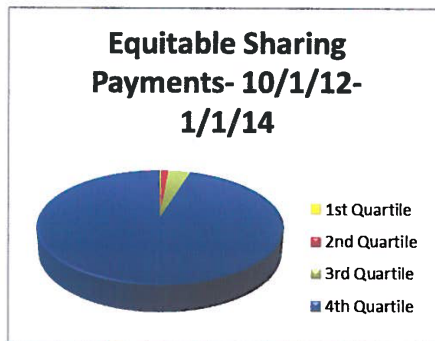
Dear Mr. Maurer:

Thank you for the meeting to discuss the potential findings from your review of the DHS participation in the Treasury Forfeiture Fund (TFF). Overall, I believe that as a result of your review both the Treasury Executive Office for Asset Forfeiture (TEOAF) and GAO generally agree that our program endeavors to engage in risk based oversight and a robust set of internal controls, especially in the area of equitable sharing. However, you note that our efforts are not perfect and the opportunity afforded by your review has allowed me to engage the staff in additional discussions concerning how we can make further strides in improving transparency, establish consistency and ensure that appropriate internal controls are established and maintained.

It is important to keep in mind that the size of our program has grown tremendously in recent years and the internal staffing has not increased commensurately. Additionally, the program consists of special agents and officers in four different agencies in two different Cabinet level Departments making seizures and forfeitures. TEOAF does not have direct line authority over any of them. Ensuring consistency and similar decision-making in such circumstances has always been a challenge. Finally, the workload associated with equitable sharing is extremely high. In FY 2013 and the first quarter of FY 2014 the TFF issued 5,160 equitable sharing payments totaling over \$322 million. Please see the chart below that breaks all equitable sharing payments into quartiles based on the size of the payment. Approximately 75% of all equitable sharing payments made in the most recent five quarters are under \$15,000. All of these payments together constitute less than 5% of total equitable sharing expenses in our program.

Appendix II: Comments from the Department of the Treasury

Analysis of Equitable Sharing Payments Made From Oct 1, 2012-January 1, 2014					
	1st Quartile	2nd Quartile	3rd Quartile	4th Quartile	Total
Values of Quartile	\$0-\$1,251	\$1,252-\$4,659	\$4,660-\$14,754	>\$14,754	
Total Amount of Payments	\$585,457.55	\$3,547,151.67	\$11,267,070.18	\$307,078,786.56	\$322,478,465.96
Percentage of Amount Received	0.18%	1.10%	3.49%	95.22%	100.00%



As a result of our discussions, TEOAF will implement changes in our equitable sharing forms, policy guidance and processes to address concerns in the equitable sharing program. First, TEOAF will require all equitable sharing packages to include the hours contributed by the federal agency and to explicitly state the hours worked by any other participating agency. Second, TEOAF will collect information on the various task forces whose participating agencies routinely receive equitable sharing payments. With appropriate documentation, TEOAF will honor the sharing percentages agreed upon and documented in the task force MOU. The existence of agreed-upon and previously determined percentages will be added as an acceptable reason for deviating from a percentage that strictly follows contributed hours. Third, TEOAF will emphasize that upward adjustments to a local law enforcement agency's percentage must include a coherent and compelling explanation of the unique or indispensable assistance provided. The Equitable Sharing Decision form will be redesigned to accommodate these changes. The amended form will reinforce and compliment other TEOAF action, improve the accuracy of the sharing decisions and, hopefully, ease the compliance burden.

Finally, TEOAF has revised the Guide to Equitable Sharing (colloquially known as the Green Book) and will publish it soon. The new Guide is intended to convey the main principles of the Equitable Sharing Program and to clarify and simplify the explanation of these principles, including permissible and impermissible uses of the funds. We consciously tried to avoid listing numerous rules applicable to narrow, specific situations along with multiple exceptions. As a result, we did not expand upon exactly how qualitative factors could be used to adjust percentages nor did we increase the number of examples of how deviations should be pursued. We plan to discuss our intentions and

the revised guidance with our agencies over the next six months and plan to fully implement the changes by FY 2015.

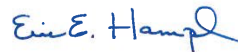
Dee Hock is the founder and former CEO of the Visa credit card association and a renowned theorist for new models of social and business organization. He has two quotes that served as inspiration for TEOAF staff while rewriting the Green Book.

“Simple, clear purpose and principles give rise to complex and intelligent behavior. Complex rules and regulations give rise to simple and stupid behavior.”

“Far better than a precise plan is a clear sense of direction and compelling beliefs.”

All of TEOAF’s actions are intended to meet the concerns expressed by GAO and facilitate good government by improving transparency and enhancing strategic, risk-based internal controls. I hope that you find these efforts by TEOAF favorably address GAO’s concerns and are in keeping with good government practices.

Sincerely,



Eric E. Hampl

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

David C. Maurer, (202) 512-9627 or maurerd@gao.gov

Staff Acknowledgments

In addition to the contact named above, Eric Erdman, Assistant Director; Sylvia Bascope; Kelly Krinn; and Johanna Wong made key contributions to this report. Also contributing to this report were Phyllis Anderson, Christine Broderick, Susan Hsu, Eric Hauswirth, Cynthia Saunders, and Janet Temko.

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