



Instruction Sheet

Asset Forfeiture Oversight Advisory Committee

Form 3 / Local Government Use of Proceeds Annual Report – Form AF304

Oregon law requires that political subdivisions of the state that receive civil or criminal forfeiture proceeds submit a report to the Asset Forfeiture Oversight Advisory Committee for any year in which those proceeds are received. Oregon laws prohibit certain uses of forfeiture proceeds. The restrictions depend on whether the proceeds are from civil or criminal forfeiture cases, or whether proceeds from civil forfeiture cases are subject to Article XV, Section 10 of the Oregon Constitution (2000 Ballot Measure 3). This instruction sheet is designed to help in completing the form. If you have any questions that these instructions do not answer contact Mike Stafford at 503-378-4845 or e-mail mike.stafford@state.or.us

This form is to be completed by the local government personnel who are responsible for the tracking and distribution of proceeds. Completed forms are to be submitted annually to the address provided on the forms. They are **due by December 15** for the last ending fiscal year.

1. **Political Subdivision Reporting:** Circle whether the reporting agency is a city, county or interagency task force and provide the name of the reporting entity. For example, if the Marion County Sheriff's Office received proceeds from a forfeiture resulting from their seizure, the reporting entity would be Marion County. If proceeds were shared with the City of Salem, then, they too would need to file the annual report.
2. **For fiscal year ending:** Indicate the ending date of the fiscal year being reported on this form.
3. **Person Completing Form:** Provide the name and title of the person completing this form and the phone number at which they may be reached. This person will serve as a contact if there are any questions from Committee staff regarding information provided.

Line 1: Provide the fiscal year's beginning balance of forfeiture proceeds. (This line should be the same as line 9 of the previous fiscal year report.)

Line 2: Provide the total amount of post judgment forfeiture proceeds deposited to the forfeiture account (civil forfeiture) or other general fund account (criminal forfeiture) during this fiscal year. (Do not include the amount from line 1.)

Line 3: Provide the amount spent by the political subdivision for costs related to the forfeiture proceeding. For civil forfeiture cases subject to the restrictions of Measure 3, costs may not exceed 25% of the proceeds and no proceeds may be used for law enforcement purposes. These costs are not to include expenditures made in connection with ordinary maintenance and operation of the seizing or forfeiting agency. ORS 475A.120 (1) (a) or ORS 475A.075 (3).

Publication / Notice: These are costs associated with service or publication of seizure notices pursuant to ORS 475A.055 (1), (8).

Attorney Fees: These are the litigation expenses associated with the processing of a specific civil forfeiture proceeding. Prosecutorial expenses in criminal forfeiture cases are not allowed as a case expense. Criminal forfeiture proceeds in the jurisdiction's

general fund can pay for prosecution activities (see line 10).

Towing / Storage: these costs may include the costs of towing and storing a vehicle seized for forfeiture.

Service / Maintenance: includes the costs of maintaining property pending judgment or preparing forfeited property for sale. ORS 475A.110(3) (c) (d)

Victim Restitution: under criminal forfeiture, the court may order victim restitution to be paid from forfeiture proceeds arising from the case, and the cumulative total of these amounts should be deducted as a cost.

Other: include any other allowed expenses and specify their nature.

Total Costs is the sum of all items included on line 3.

Line 4: Provide the net amount of proceeds available for distribution after costs. Line 2 minus line 3 (Total Costs)

Line 5: Provide the amount contributed to the DEQ Illegal Drug Cleanup Fund as provided in ORS 475A.120 (5) and 2001 Oregon Laws Chapt. 666: 5% of the amount on line 4 is to be contributed from civil forfeitures where the prohibited conduct is a violation of ORS Chapter 475 (illegal drugs) and 7% from all criminal forfeitures.

Line 6: Provide the amount contributed to the Asset Forfeiture Oversight Account as provided in ORS 475A.120(4) and 2001 Oregon Laws Chapt. 666: 2.5% **of the amount on line 4** is to be contributed from all civil forfeitures and 3% from all criminal forfeitures.

Line 7: Provide the amount contributed to the Oregon Criminal Justice Commission Drug Court fund. 20% of the amount on line 4 is to be contributed on all *civil forfeitures* only.

Line 8: Provide the amount contributed to the Oregon Commission on Children and Families Relief Nurseries fund. 10% of the amount on line 4 is to be contributed on all *civil forfeitures* only.

Line 9: Specify the amount contributed to the State General Fund from criminal forfeiture proceeds as provided by ORL 2001 Chapt. 666: 10% of the amount on Line 4.

Line 10: Indicate the proceeds resulting from civil and criminal forfeitures. This is the amount of proceeds credited to the general fund of the political subdivision after costs, (Line 4 minus (Line 5+Line 6+Line 7+Line 8+ Line 9)).

Line 11: Add Lines 1 and 8. This amount should be the total amount of post judgment forfeiture proceeds available for distribution during this fiscal year.

Line 12: Indicate the amount of monies spent for each of the allowable expenses listed. These values **should not** have been included as costs on Line 3. This line item should include **all** expenses. Oregon Constitution, Art. XV §10 and ORL 2001 Chapt 780 §25 specify that proceeds of civil asset forfeiture may not be spent for law enforcement but must be spent for drug treatment “unless otherwise specified by law.” If your jurisdiction has adopted an ordinance to redirect the proceeds of civil asset forfeiture, please indicate by checking the box and providing a reference to the adopted code or

ordinance number.

Law Enforcement: These are any official law enforcement use (ORL 2001 Chapt. 666(16)). No civil forfeiture proceeds subject to Measure 3 may be used for this purpose (Oregon Constitution, Art. XV §10).

Prosecution: While prosecution is a law enforcement expense, please list that amount separately. These are usually funds paid to the district attorney's office by political subdivisions other than a county pursuant to an intergovernmental agreement.

Forfeiture Expenses Paid/Reimbursed: These are expenses incurred post judgment such as preparing personal property for auction and auction costs. These expenses also include monies paid back to the general fund for forfeiture related expenses. For example a car to be auctioned needed to be detailed prior to sale. There were no forfeiture proceeds available prior to auction to pay for this detailing so the agency paid for this out of the general fund. After the auction, the monies from the sale of the vehicle may be used to reimburse the general fund for the detailing expense. This is an expense allowable under criminal forfeiture only.

Removal of toxic substances: These are monies paid for drug lab cleanup expenses beyond the contributions to the Illegal Drug Cleanup Fund.

Drug Treatment, Education, and Prevention: These expenses could include costs associated with DARE officers if not prohibited by the restrictions of Measure 3. Under criminal forfeiture, these funds must have been expended in compliance with a plan developed under 2001 Oregon Laws Chapter 834 (SB 914).

Other: These are any expenses not previously provided for in the items above that are allowable under ORL 2001 Chapt. 666 (criminal forfeiture), or ORL 2001 Chapt. 780 §25 (HB 2429, civil forfeiture).

If you wish to provide more detail as to how the monies were expended than provided for on this form, please feel free to submit this information with the form. For example, your agency spent \$800.00 on law enforcement and you want the committee to know how that \$800.00 was spent. You may provide the line item expenses with this form however, this information is not required.

Line 13: Provide the amount of post judgment proceeds retained (Line 9 minus Line 10). This amount will be carried forward to Line 1 of the next fiscal year report.

Line 14: Provide the amount remaining at the end of the year of any civil forfeiture proceeds obtained from judgments before the effective date (12/7/00) of Measure 3 (Oregon Constitution Article XV, §10). This amount would have been included in the civil forfeiture section of Line 11.