

**AGREEMENT BETWEEN TREASURY LAW ENFORCEMENT AGENCIES
and
LOCAL, COUNTY AND STATE LAW ENFORCEMENT AGENCIES
FOR THE REIMBURSEMENT OF EXPENSES**

This agreement is entered into by the Portland Police Bureau and Internal Revenue Service, Criminal Investigation, for the purpose of receiving reimbursable costs incurred by the Portland Police Bureau in providing resources to joint operations/task forces.

Payments may be made to the extent they are included in the Treasury law enforcement agency's Fiscal Year Plan, and the monies are available within the Treasury Forfeiture Fund to satisfy the request(s) for reimbursable overtime expenses.

I. LIFE OF THIS AGREEMENT

This agreement is effective on the date it is signed by both parties and terminates on the last day of the current Fiscal Year. Agreements are required on a Fiscal Year basis and must be renewed, if appropriate, by September 30th of each Fiscal Year for the following Fiscal Year.

II. AUTHORITY

This agreement is established pursuant to the provisions of 31 U.S.C. 9703, the Treasury Forfeiture Fund Act of 1992, which provides for the reimbursement of certain expenses of local, county, and state law enforcement agencies incurred as participants in joint operations/task forces with a Department of the Treasury law enforcement agency.

III. PURPOSE OF THIS AGREEMENT

This agreement establishes the procedures and responsibilities of both the Portland Police Bureau and the Criminal Investigation, Internal Revenue Service, for the reimbursement of certain overtime and other expenses pursuant to 31 U.S.C. 9703.

IV. NAME OF TASK FORCE/JOINT OPERATION (If Applicable)

The Name of this Task Force is Oregon and Southwest Washington Financial Crimes Task Force

Projected Dates of Remaining Operation: 10/01/2010 to 09/30/2011.

V. CONDITIONS AND PROCEDURES**A. Assignment of Portland Police Bureau Officers**

To the maximum extent possible, Portland Police Bureau shall assign dedicated officer(s) to the Task Force/Joint Operations.

The Portland Police Bureau shall provide the Criminal Investigation, Internal Revenue Service, with the names, titles, badge or ID numbers of the officer(s) assigned to the Task Force/joint Operation in an attachment to this agreement.

B. Requests for Reimbursement of Overtime Expenses

1. The Portland Police Bureau may request reimbursement for payment of overtime expenses directly related to work performed by its officer(s) assigned as members of a Joint Task Force/Operation with the Criminal Investigation, Internal Revenue Service, for the purpose of conducting official Treasury investigations.
2. The Portland Police Bureau shall provide the Criminal Investigation, Internal Revenue Service, within 10 days of the signing of this agreement, a mandatory ACH Vendor Payment Enrollment Form for Electronic Funds Transfer.
3. Invoices submitted for the payment of overtime to Portland Police Bureau officer(s) shall be submitted on the agency's letterhead. The invoice shall be signed by an authorized representative of that agency.
4. The Portland Police Bureau will submit all requests for reimbursable payments together with appropriate documentation to the Criminal Investigation, Internal Revenue Service, , ATTN: (Tim Sweitz, Investigative Analyst, 100 SW Main Street, Suite 1200, Portland, Oregon 97204 503-415-7299).

The Portland Police Bureau shall certify that the request is for overtime expenses incurred by the Portland Police Bureau for Participation with a joint operation conducted with the Criminal Investigation, Internal Revenue Service. The Portland Police Bureau shall also certify that requests for reimbursement of overtime expenses have not been made to other Federal law enforcement agencies who may also be participating with the task force/joint operation.

The Portland Police Bureau acknowledges that they remain fully responsible for their obligations as the employer of the officer(s) assigned to the task force/joint operation and are responsible for the payment of overtime earnings, withholdings, insurance coverage and all other requirements by law, regulation, ordinance or contract regardless of the reimbursable overtime charges incurred.

5. All requests for reimbursement of costs incurred by the Portland Police Bureau must be approved and certified by the Criminal Investigation, Internal Revenue Service. The Treasury law enforcement agency shall countersign the invoices for payment.
6. All requests for reimbursement of costs are to be received by Criminal Investigation, Internal revenue Service no later than 15 days after the previous month end. These requests for reimbursement are to be for a full month time period, from the first day to the last day of the month. *There should not be invoices covering only part of the month, as in 1/10/04 – 1/25/04.*
7. The Portland Police Bureau is limited to a maximum reimbursement for all overtime expenses in connection with this operation of (\$15,000) per year under this agreement. By statute, no single officer may earn more than \$15,000.00 per fiscal year in overtime regardless of the number of agreements he/she is authorized on. Travel and related expenses should not exceed a maximum of (\$10,000) for this task force/joint operation for the Fiscal Year period.
8. The total dollar value of this agreement may be adjusted at anytime by Criminal Investigation, Internal Revenue Service based upon the following:
 - A) The Criminal Investigation, Internal Revenue Service may modify the total dollar obligation, resulting in an increase or decrease, if they determine that the original obligated amount is not commensurate with the rate of reimbursable requests, based on their analysis of submitted reimbursement requests.
 - B) The adjustments to the total dollar value of this agreement may result in a partial and/or total reduction of reimbursement funds requested. Any modification made to an authorized agreement will be documented in writing and immediately provided to the impacted state and local agency.

C. PROGRAM AUDIT

This agreement and its procedures are subject to audit by the Criminal Investigation, Internal Revenue Service, Department of the Treasury, Office of Inspector General, the General Accounting Office, and other government designated auditors. The Portland Police Bureau agrees to permit such audits and agrees to maintain all records relating to these transactions for a period of not less than three years; and in the event of an on-going audit, until the audit is completed.

These audits may include reviews of any and all records, documents, reports, accounts, invoices, receipts or expenditures relating to this agreement; as well as the interview of any and all personnel involved in these transactions.

D. REVISIONS

The terms of this agreement may be amended upon the written approval of both the Portland Police Bureau and the Criminal Investigation, Internal Revenue Service. The revision becomes effective upon the date of approval.

E. NO PRIVATE RIGHT CREATED

This is an internal government agreement between a Treasury Law Enforcement Agency and the Portland Police Bureau, a Local/County/State Law Enforcement Agency, and is not intended to confer any right or benefit to any private person or party.

Sam Adams, Mayor
City of Portland

Date

Michael Reese 8/11/11

Signature Date:

Michael Reese Chief of Police

Printed Name Title
Portland Police Bureau

Mark Williams

03/10/2011

E

Signature Date:

Special Agent In
Charge

Printed Name Title
Criminal Investigation
Seattle Field Office
Internal Revenue Service

Catherine A. Reiland 8-11-11

Signature Date:

Catherine A. Reiland CFO
Printed Name Title
Chief Financial Officer
Portland Police Bureau

Signature Date:

Printed Name Title
Criminal Investigation
Internal Revenue Service
Washington, DC

APPROVED AS TO FORM

Paula Drury
CITY ATTORNEY

OREGON AND SOUTHWEST WASHINGTON FINANCIAL CRIMES TASK FORCE
MEMORANDUM OF UNDERSTANDING

PURPOSE

This Memorandum of Understanding (MOU) is executed to memorialize the terms and conditions of the agreement between the Internal Revenue Service, Criminal Investigation (CI) and the City of Portland, by and through the Portland Police Bureau ("Portland Police Bureau").

MISSION OF THE TASK FORCE

The mission of the task force is to develop criminal investigations and forfeit assets with ties to illegal activities in Oregon and Southwest Washington. The emphasis of the task force is to pursue investigation of the individuals and organizations that will result in criminal prosecutions and large asset forfeitures.

PERSONNEL

- 1) During the period of the assignment, the representatives remain under the supervision of their respective departments.
- 2) CI will assign one Senior Special Agent/Task Force Coordinator ("Coordinator") and one additional Special Agent. CI will be responsible for the management, supervision and coordination of all investigative and operational activities.
- 3) Task Force personnel shall adhere to all Department of Treasury and CI policies and procedures. If Treasury and/or CI policies conflict with the policies and procedures of the member's parent agency, the parent agency will request, in writing, that the Task Force Coordinator permit its employee to follow the policies and procedures of the parent agency. If the Task Force Coordinator does not assent to the request, the Coordinator and Chief Law Enforcement Officer of the respective agencies will resolve the matter. Failure to adhere to the established policies and procedures may be grounds for immediate removal of the officers from the task force.
- 4) Personnel assigned to the task force shall be designated as full time in accordance with the agreement of their respective agencies. It is understood that personnel assigned to the task force may continue to have duties (training, administrative duties, etc.) that are linked to their respective agency. Additional personnel may be allowed to participate on a case by case basis.
- 5) It is agreed that the task force coordinator will contact the immediate supervisor (or other agency designee) of any personnel assigned whose performance or

conduct is questioned. Any related matters will be coordinated with the supervisor/designee.

- 6) During the period of assignment, each agency representative will report to his/her respective agency for personnel administrative matters. Each agency shall be responsible for pay, overtime, annual leave, and performance evaluations, etc. of its own employees. All payments made under this agreement by Portland police Bureau must come from current revenues available to the paying party. Agencies will be reimbursed for overtime and related travel from the Treasury Forfeiture Fund, upon submission of Department of Treasury Form 9972, Request for Reimbursement of Joint Operation Expenses. This form, with necessary documentation, will be submitted monthly to the IRS task force coordinator.

ADMINISTRATIVE DUTIES

- 7) All computer and related equipment assigned to the task force personnel will be used for official purposes only, and remains the property of the task force.
- 8) The IRS coordinator will be responsible for the oversight and administration of all equitable sharing distributions.
- 9) The task force will be located at the Portland United State Attorney's Office (USA office), 1000 SW Third Avenue, Portland, Oregon, 97204. CI will provide all necessary secretarial, clerical, automation and technical support for the task force.
- 10) In no event will the member agencies charge the IRS for administration or implementation of the memorandum of understanding.
- 11) All members of the task force agree not to knowingly act unilaterally on any matter affecting the task force without first coordinating with the IRS coordinator.

DEPUTATION

- 12) Personnel from state and local law enforcement agencies assigned full time to the task force shall be cross-designated as IRS Task Force Officers and/or Deputy United States Marshals.
- 13) No action will be taken by any task force officer, utilizing their federal authority, without approval of the IRS coordinator.

INVESTIGATIVE MATTERS

- 14) The IRS will provide the necessary funds for the operational expenses, and for the purchase of evidence and information that relates to investigations and intelligence gathering.

- 15) The task force investigative procedure will conform to the requirements for Federal prosecution. A determination will be made on a case by case basis whether the prosecution of cases will be at the State or Federal level. The criteria for the decision will be which level of prosecution would better advance the interests of justice.
- 16) Access to and use of task force records will be in accordance with Federal Law and Department of Treasury and IRS regulations and policy, including but not limited to the Freedom of Information and Privacy Acts.
- 17) The IRS is responsible for tax administration and the investigation of criminal violation of the Internal Revenue Code, (Title 26, United States Code). Internal Revenue Code, Section 6103, restricts the disclosure of tax or tax return information except as provided by Section 6103. Reports recommending the prosecution of persons for criminal tax violations are subject to review by IRS counsel. Prosecution reports must also be referred to Department of Justice (Tax Division) for their review and approval prior to prosecution.

INFORMANTS

- 18) All confidential and cooperating witnesses exclusively developed through the task force will be opened as IRS informants, sources, assets or cooperating witnesses, and handled in accordance with IRS guidelines, policy and procedures.
- 19) IRS, as permitted by Federal law, agrees to pay reasonable and necessary informant expenses incurred by the task force. The IRS must approve all informant related expenses before they are incurred.

FORFEITURE

- 20) Assets seized in connection with the task force will be forfeited under Federal and/or State laws. The IRS coordinator will recommend the equitable sharing percentage for participating agencies for all assets seized during the course of task force investigations. The Agreement between Treasury Law Enforcement Agencies and Local, County, and State Law Enforcement Agencies for the Reimbursement of Expenses (Form 9975) is attached as "Exhibit A", which establishes the procedures and responsibilities of both City of Portland and CI for the reimbursement of certain overtime and other expenses.
- 21) All sharing is within the discretionary authority of the Department of Treasury, as provided by 18 U.S.C. 981 (e)(2), and the Secretary of the Treasury's Guidelines on Seized and Forfeited Property.

MEDIA

- 22) All media issues will be coordinated with the Coordinator and Public Information Officer of the IRS. All press releases and/or contacts will be pursuant to U.S. Attorney Guidelines.

TRAVEL

- 23) All task force related travel shall require the approval of the agency employing the individual. All individuals will be responsible for securing his/her own agency's approval for all travel.
- 24) For international travel CI will obtain country clearances for all task force members. For domestic travel, each agency member will be responsible for appropriate notifications within their own agency.
- 25) Reimbursement for case related and training travel will be requested from the Treasury Asset Forfeiture Fund. Each participating agency will submit required documentation to the IRS coordinator monthly for travel reimbursement.

LIABILITY

- 26) Unless specifically addressed by the terms of this MOU, the parties agree to be responsible for the negligent or wrongful acts or omissions of their respective employees. Legal representation by the U.S. is determined by the Department of Justice (DOJ) on a case-by-case basis. The IRS cannot guarantee the U.S. will provide legal representation to any Federal or State law enforcement officer or employee.
- 27) Congress has provided that the exclusive remedy for the negligent or wrongful act or omission of an employee of the U.S. government, acting within the scope of his/her employment, shall be an action against the U.S. under the Federal Tort Claims Act (FTCA), 28 U.S.C., Section 1346(b), and Sections 2671 – 2680.
- 28) For the limited purpose of defending claims arising out of Task Force activity, State officers who have been specifically deputized, and who are acting within the course and scope of their official duties and assignments, pursuant to this MOU, may be considered an "employee" of the U.S. Government, as defined in 28 U.S.C. Section 2671. See 5 U.S.C., Section 3374(c)(2).
- 29) Under Federal Employees Liability Reform and Tort Compensation Act of 1998 (commonly known as the Westfall Act), 28 U.S.C., Section 2679(b)(1), the Attorney General or his/her designee may certify that an individual defendant acted within the scope of his/her employment at the time of the incident giving rise to the suit. ID., 28 U.S.C. Section, 29. If the U.S. is substituted as defendant, the individual employee is thereby protected from suits in his/her official capacity.

- 30) If the Attorney General declines to certify that an employee was acting within the scope of employment, "the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment." 28 U.S.C., Section 2679(d)(3).
- 31) Liability for any negligent or willful acts of task force members, undertaken outside the terms of this MOU will be the sole responsibility of the respective employee and agency involved.
- 32) Liability for violations of Federal constitutional law rest with the individual Federal Agent or Officer pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), or pursuant to 42 U.S.C., Section 1983 for state officers or cross-deputized federal officers acting under color of state law.
- 33) Both State and Federal officers enjoy qualified immunity from suit for constitutional torts, "insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." Harlow v. Fitzgerald, 457 U.S. 800 (1982).
- 34) Task force officers may request representation by the U.S. Department of Justice for civil suits against them in their individual capacities for actions taken within the scope of employment. 28 C.F.R., Sections 50.15, 50.16.
- 35) An employee may be represented "when the actions for which representation is requested reasonably appear to have been performed within the scope of the employee's employment, and the Attorney General, or his/her designee, determines that providing representation would otherwise be in the interest of the U.S. 28 C.F.R., Section 50.15(a).
- 36) If a task force officer is found to be liable for a constitutional tort, he/she may request indemnification from IRS to satisfy an adverse judgment rendered against the employee in his/her individual capacity. 26 U.S.C., Section 7423(2). Such payments are allowed if the employee was acting in the performance of his or her duties under the internal Revenue Code.

DURATION

- 37) This MOU shall be in effect for as long as Portland Police Bureau is a member of the task force. Upon termination of the task force, or withdrawal by an agency, all equipment will be returned to the IRS.
- 38) The provisions of the LIABILITY section will continue until all potential liabilities have lapsed.

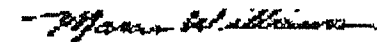
OTHER

- 39) To the extent there is any conflict between Federal law and the law of the State of Oregon, Federal law controls. While Oregon law may be used to aid in the interpretation of provisions of the MOU which are not specifically covered by Federal law, it cannot be used to the extent it is inconsistent with any Federal law.
- 40) The terms of this Agreement are not intended to alter, amend, or rescind any current agreement or provision of Federal law now in effect. Any provision of this MOU which conflicts with Federal law will be null and void.
- 41) This MOU does not confer any rights or benefits on any third party.
- 42) This Agreement may be amended at any time by mutual written consent of all Parties.
- 43) When the statutory, constitutional or decisional law of Oregon restricts investigative methods more than federal law, the investigative methods employed by Portland police officers working with the IRS shall conform to the requirements of Oregon law. Portland officers may not take action or exercise authority under this agreement if the action or exercise of authority is prohibited by Oregon law or if the authority is not available to Oregon peace officers under Oregon law.

PPB personnel assigned to work with the IRS under this agreement shall not be assigned work or be engaged in any law enforcement activity that would cause them to violate the following Oregon statutes:

- a. ORS 181.575 – Restrictions on information gathering by Oregon peace officers, and;
- b. ORS 181.850 – Restrictions on enforcement of federal immigration law by Oregon peace officers.

The undersigned agree that their agency will participate in the Oregon and Southwest Washington Financial Crimes Task Force, and agrees that their agency will abide by the policies set forth herein this agreement.



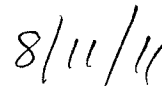
Marcus Williams
Special Agent in Charge
Seattle Field Office
Criminal Investigation

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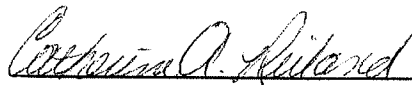
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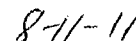
Michael Reese
Chief of Police
Portland Police Bureau



Date



Catherine Reiland
Chief Financial Officer
Portland Police Bureau
Criminal Investigation



Date

APPROVED AS TO FORM AND LEGALITY:

Criminal investigation
Internal Revenue Service
Washington, D.C.

Date

Sam Adams
Mayor
City of Portland

Date

APPROVED AS TO FORM


CITY ATTORNEY