



Treasury Financial Manual

Chapter 5100

RECOVERING UNCLAIMED FEDERAL FINANCIAL ASSETS (T/L 690)

This chapter provides guidance to federal agencies regarding their obligation to locate, recover, and account for unclaimed Federal financial assets (“unclaimed assets”). The information provided includes the following:

- Guidance on developing procedures for locating, recovering, and accounting for unclaimed assets;
- The role of the Department of the Treasury’s (Treasury’s) Bureau of the Fiscal Service (Fiscal Service) in locating and recovering unclaimed assets on behalf of Federal agencies; and
- Guidelines on the use of private sector professionals known as “finders” to locate and recover unclaimed assets.

Section 5110—Background and Introduction

Fiscal Service is responsible for the efficient collection of government receipts. In carrying out this responsibility, Fiscal Service establishes governmentwide policies and guidelines regarding the efforts of federal agencies to locate, recover, and account for unclaimed federal financial assets (“unclaimed assets”). Fiscal Service also administers a program to recover unclaimed assets on behalf of federal agencies.

Unclaimed assets, also known as “abandoned property,” refer to many types of federally owned monetary assets held by state or local governments, financial institutions, corporations, and other entities that have had no recorded activity or contact from the owner for one year or longer. Unclaimed assets may be recovered by federal agencies from various sources, including states that have enacted unclaimed property laws for the protection of these assets until they are claimed. These laws generally require persons to surrender unclaimed assets to the custody of the state when the rightful owner of the property cannot be located.

Section 5115—Authority

Authorities for the procedures set forth in this chapter are found in:

- 31 U.S.C. § 321 (describing that the role of the Secretary of the Treasury includes “improving and managing receipts of the United States Government”);

- 31 U.S.C. § 3301 (describing that the role of the Secretary of the Treasury is, among other things, “to receive and keep public money”); and
- 31 U.S.C. § 3718 (authorizing agencies, among other things, “to enter into a contract with a person...to locate or recover assets of, the United States Government”).

Section 5120—Definitions

The following terms are defined for the purposes of this TFM chapter:

Agency or Federal Agency—A department, agency or subagency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the federal government, including government corporations.

Finder—A person who, for a fee, attempts to locate and recover unclaimed assets on behalf of others. A finder also may be referred to as an “heir finder,” “heir searcher,” “researcher,” “asset recovery contractor,” or “asset investigative agency.”

Holder—A person or an agency that holds assets for the account of, or delivers or pays assets to, the owner of an unclaimed asset.

Owner—The agency or person entitled to receive or having a legal or equitable interest in an unclaimed asset, or the agency’s or the person’s legal representative.

Person—An individual, organization, corporation, company, or other entity, other than an agency.

States—The 50 United States, the District of Columbia, the Territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

Superior Claim—A legitimate claim submitted to the holder by the owner (or an additional owner) of an asset claimed by the agency that has priority over the claim of the agency to the asset.

Unclaimed Assets—Federally owned or partially federally owned monetary assets held by holders that have had no recorded activity or contact from the owner for a certain period of time. When a holder determines an asset is unclaimed, the holder is generally required to report and surrender the unclaimed asset to the appropriate State. This process is governed by state law and may differ from state to state. Unclaimed assets also may be referred to as “unclaimed federal financial assets” or “abandoned property.”

Unclaimed Asset Recovery Official—The agency official who is responsible for the recovery of the agency’s unclaimed assets.

Section 5125—Location and Recovery of Unclaimed Assets

Agencies must designate an unclaimed asset recovery official and must establish internal procedures for the recovery of unclaimed assets.

5125.10a—Designating an Unclaimed Asset Recovery Official

Federal agencies must designate at least one unclaimed asset recovery official. The unclaimed asset

recovery official must ensure that the agency establishes and follows procedures per the guidelines in this chapter.

Each agency must send the name, mailing and email addresses, telephone number, and fax number of its unclaimed asset recovery official to Fiscal Service (see the Contacts page).

5125.10b—Establishing Agency Procedures

A Federal agency must establish and implement procedures to locate and recover its unclaimed assets. The agency's procedures must indicate which of the following methods it will use to locate and recover its unclaimed assets:

- Use internal agency efforts to locate and recover unclaimed assets;
- Ask Fiscal Service to locate and recover unclaimed assets on the agency's behalf; or
- Enter into contracts with finders, after obtaining Fiscal Service's approval of the agency's asset recovery procedures.

The agency's procedures also must include how the agency:

- Responds to superior claim requests;
- Deposits recovered assets into the appropriate Treasury account; and
- Maintains records related to unclaimed asset location and recovery activities.

Except as otherwise agreed upon by Fiscal Service and an agency, Fiscal Service, as it deems feasible and appropriate, locates and recovers unclaimed assets on behalf of all Federal agencies per the guidelines in this chapter.

Section 5130—Guidelines on Procedures for Federal Agency Management of Unclaimed Assets

This section applies to federal agencies that recover their unclaimed assets by using internal agency efforts.

5130.10—Locating Unclaimed Assets

Federal agencies must review the records of relevant holders to locate possible unclaimed assets belonging to the agency.

Each state has a process for researching unclaimed assets. Many states use the same general approach and allow searches of their databases at no cost. The website at <http://www.unclaimed.org> contains direct links to unclaimed asset websites for all participating states. In addition to reviewing the information available on states' public websites, agencies, when feasible and cost effective, should conduct further research to determine whether the states' records include relevant information not available on the public websites.

5130.20—Preparing Necessary Documents to Claim and Recover Unclaimed Assets

When an agency locates an unclaimed asset belonging to the agency, it should submit a claim to the holder for the unclaimed asset. When an agency locates multiple unclaimed assets belonging to the agency from a single state or other holder, the agency generally should combine its claims for all the unclaimed assets into a single claim form rather than submitting separate claim forms for each separate claim. Federal agencies generally should not submit a claim for an asset if the cost of recovering the asset is expected to exceed the amount of the asset.

Each state has a process for claiming assets. Many states use the same forms and procedures. Agencies can research those procedures by accessing state websites at <http://www.unclaimed.org>. These state websites provide addresses, telephone numbers, points of contact, and other helpful information for completing forms and submitting claims. Some state websites allow a federal agency to complete the claim process online or provide a claim form that the agency can download, complete, print, and mail to the state. Other state websites contain instructions for requesting claim forms. To the extent permissible under federal law, federal agencies should follow a state's procedures.

As a condition for the return of an unclaimed asset, most states ask the person making the claim, including federal agency personnel, to indemnify the state against any and all liabilities that the state may incur as a result of returning the asset to that person. States may request this indemnification either on the claim form itself or in a separate document. Many states will request this indemnification to protect themselves against superior claims. Federal agencies, however, generally lack authority to provide the requested indemnification.

Instead of indemnification, most states accept a notarized affidavit in which the agency states that, if a superior claim for the asset is received and properly honored by the state, then the agency will return the payment received as authorized under federal law. See, for example, 31 U.S.C. § 1322(b)(2). A federal agency should consult with its counsel to ensure compliance with all applicable legal requirements.

When appropriate, an agency should include with its claim and associated documentation a cover letter signed by the unclaimed asset recovery official. Fiscal Service provides sample cover letters, affidavits, and other types of documentation upon request (see the Contacts page). A federal agency should consult with its counsel to ensure compliance with all applicable legal requirements before signing claim forms and other documents required to recover an unclaimed asset.

5130.30—Depositing Assets and Acknowledging Receipt of the Claim Payment

Unless authorized by law to deposit proceeds from the recovery of unclaimed assets into specific trust funds or other accounts, upon receipt of such proceeds, Federal agencies must immediately deposit proceeds into the agency's account 1060, "Forfeitures of Unclaimed Money and Property," [see the Federal Account Symbols and Titles (FAST) Book at http://www.fiscal.treasury.gov/fsreports/ref/fastbook/fastbook_home.htm].

5130.40—Returning Assets Erroneously Received and Deposited

If a holder receives a claim for an asset previously claimed and received by an agency, the holder may ask the agency to return the asset. The agency must review the claim, and if the agency determines that the claim is a superior claim, then the agency should return the asset to the holder or other appropriate person. The return of these assets generally may be paid from Treasury account 1807, "Refund of Moneys Erroneously Received and Covered," pursuant to 31 U.S.C. § 1322(b)(2). See the FAST Book and Treasury Financial Manual, (TFM) Volume I, Part 6, Chapter 3000. An agency should consult with its

counsel to ensure compliance with all legal requirements.

Section 5135—Unclaimed Asset Recovery by Fiscal Service on Behalf of Federal Agencies

This section describes the circumstances under which Fiscal Service recovers unclaimed assets on behalf of a federal agency.

Except as otherwise agreed upon by Fiscal Service and an agency, Fiscal Service, as it deems feasible and appropriate, locates and recovers unclaimed assets. Generally, the circumstances under which Fiscal Service locates and recovers unclaimed assets on behalf of a federal agency are:

- Upon receiving a written request by the agency asking Fiscal Service to locate and recover unclaimed assets on the agency's behalf.
- When the agency has not informed Fiscal Service that it will recover unclaimed assets through either internal agency efforts or through a finder.
- When Fiscal Service discovers that the agency has not made a timely recovery effort to recover unclaimed assets, despite having informed Fiscal Service that the agency will recover unclaimed assets through either internal agency efforts or through a finder. A "timely recovery effort" is evidenced by the federal agency's submission of a claim package to the appropriate holders within two years of when the unclaimed asset was reported to the state or, in the case of assets that are exempt from the requirement that they be remitted to the appropriate state, within two years of the property becoming unclaimed or abandoned.

When recovering unclaimed assets on behalf of a federal agency, Fiscal Service generally follows the guidelines in Section 5130.

If applicable, an agency must explain to Fiscal Service, in writing, why Fiscal Service should not locate and recover unclaimed assets on its behalf pursuant to the guidelines in Section 5130.

Section 5140—Using Finders To Recover Unclaimed Federal Financial Assets

This section applies when a federal agency uses a finder to locate and recover unclaimed assets on its behalf.

5140.10—Approval Process for Using Finders

Federal agencies are authorized to enter into contracts with persons to locate or recover assets of the United States and to pay fees from amounts recovered pursuant to 31 U.S.C. § 3718(a) and (d). Before entering into such a contract, the federal agency must have established procedures, approved by Fiscal Service, for the location and recovery of unclaimed assets. Fiscal Service's approval of an agency's procedures is not necessary if an agency searches for unclaimed assets with its own personnel and does not engage finders.

To obtain approval of its unclaimed asset procedures from Fiscal Service, the federal agency submits a written request for approval to Fiscal Service (see the Contacts page).

5140.20—Contracting With Finders

An agency may enter into contracts with finders after Fiscal Service has approved its unclaimed asset recovery procedures. Such contracts must comply with all applicable laws, including laws related to government contracts. Many states require that finders be licensed to locate unclaimed assets on behalf of owners. Before entering into contracts with a finder, a federal agency should consult with its procurement office and counsel to ensure compliance with all relevant requirements.

The federal agency should consider the following when entering into contracts with finders:

- Finders should conduct ongoing searches of state records, as well as non-state records (including those of federal, state, and local courts; local governments; and private entities that may hold assets belonging to the United States).
- Finders should provide any assistance to the federal agency needed to recover any unclaimed assets the finder locates. State law may limit the information that the state will make available to a person other than the owner of the unclaimed asset. Federal agencies should contact each state's unclaimed assets office for specific information.
- All assets must be recovered in the name of the agency. All claim documents, letters, or claim requests generally must be signed by the federal agency's official who is authorized to claim the unclaimed assets on behalf of the agency. It is generally inappropriate for a finder to sign documents on behalf of the federal government or for a federal agency to provide a finder with a power of attorney. An agency should consult with its counsel to determine the extent to which finders can assist the agency with the recovery process.
- When a finder locates an unclaimed asset, the finder must have the holder deliver the asset directly to the agency so that the agency can promptly deposit the funds into its 1060 account, "Forfeitures of Unclaimed Money and Property." If unclaimed assets are delivered to the finder, then the finder must deliver the asset to the agency within one business day of receipt.
- Finders should provide the agency with any and all information obtained in the performance of services regarding the unclaimed assets. An agency should maintain detailed records of all recovered unclaimed assets, per the agency's record retention rules, for the purpose of evaluating a potential superior claim.
- If the agency agrees, a finder, as part of its services, may from time to time employ in-house or outside legal representation when, in the judgment of the finder, it is necessary to expedite the process of recovering an unclaimed asset. This legal service must be at the sole expense of the finder. A finder should not be authorized to enter into any agreement or retainer relationship with any outside legal firm without the prior written consent of the agency. Legal counsel hired by finders represents the finders only. Neither finders nor their legal counsel may present themselves as legal representatives of the United States, unless the agency has specific authority to retain private counsel for such purposes and the agency specifically authorizes such representation.
- If an agency must return an asset because it was received in error or because an owner asserted a superior claim for the asset, the finder must not earn, and must return, any fee paid by the agency for locating and recovering the asset. In such instances, the finder must refund any payment it has received from the agency with respect to the asset within two business days of the agency making demand for such refund.

A federal agency may compensate finders from amounts recovered. See 31 U.S.C. § 3718(d). Fees are deemed earned and payable only after the agency receives the unclaimed asset. Finders receive no fees unless an unclaimed asset is actually recovered and deposited into the agency's account 1060 or other appropriate Treasury account.

The total proceeds of an unclaimed asset located by the finder must be paid directly to the agency. The finder is not authorized to deduct fees or any other amounts from the proceeds of the unclaimed asset. The agency generally deposits the total amount of the recovered unclaimed asset into the appropriate agency account. Payment to the finder can be made from an appropriate account per the agency's procedures for paying contractors. The agency must pay the finder's fee by electronic funds transfer payable to an account designated in the contract (see 31 U.S.C. § 3332).

CONTACTS

Direct inquiries concerning this chapter to:

Unclaimed Federal Financial Assets Program
Bureau of the Fiscal Service
Department of the Treasury
PO Box 149058
Austin, TX 78714
Fax: 512-342-7230
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Transmittal Letter No. 690

Volume I

To: Heads of Government Departments, Agencies, and Others Concerned

1. Purpose

This transmittal letter releases revised TFM Volume I, Part 6, Chapter 5100: Recovering Unclaimed Federal Financial Assets. This chapter provides guidance to Federal agencies regarding their obligation to locate, recover, and account for unclaimed Federal financial assets ("unclaimed assets"). It also:

- Provides guidance on developing procedures for locating, recovering, and accounting for unclaimed assets;
- Describes the role of the Department of the Treasury's Bureau of the Fiscal Service in locating and recovering unclaimed assets on behalf of Federal agencies; and
- Provides guidelines on the use of private sector professionals known as "finders" to locate and recover unclaimed assets.

2. Page Changes

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Table of Contents for Part 6 (T/L 686)
I TFM 6-5100 (T/L 581)

Insert

Table of Contents for Part 6
I TFM 6-5100

3. Effective Date

This transmittal letter is effective immediately.

4. Inquiries

Direct any questions concerning this transmittal letter to:

Unclaimed Federal Financial Assets Program
Bureau of the Fiscal Service
Department of the Treasury
PO Box 149058
Austin, TX 78714
Fax: 512-342-7230
Email: Unclaimed.Assets@fms.treas.gov



David A. Lebryk
Commissioner
Date: February 21, 2013