

**DEPARTMENT OF THE TREASURY  
EXECUTIVE OFFICE FOR ASSET FORFEITURE**

**DIRECTIVE NO. 34**

**DATE:** January 16, 2015

**SUBJECT:** Policy Limiting the Federal Adoption of Seizures by State and Local Law Enforcement Agencies

1. **PURPOSE.** This Department of the Treasury Executive Office for Asset Forfeiture (TEOAF) Directive No. 34 contains policies and procedures pertaining to the federal adoption of seizures made by State and Local law enforcement agencies. The purpose of this Directive is to provide the circumstances under which adoptions may be accepted and the procedures to be followed when an adoptive seizure is contemplated by a Treasury Forfeiture Fund (TFF) participating agency.

2. **SCOPE.** This Directive applies to all TFF participating agencies.

3. **BACKGROUND.** After a joint review, both the Department of Justice and Department of the Treasury forfeiture programs determined that modification of the adoption policy was appropriate, particularly since every state now has either criminal or civil forfeiture laws in place. On January 16, 2015, the Attorney General of the United States issued an order that significantly limits the situations in which participants in the Department of Justice Asset Forfeiture Program are authorized to adopt, for federal forfeiture, property seized by state or local law enforcement under state law ("federal adoptions"). The policy contained in this Directive is intended to be consistent with the DOJ policy.

4. **POLICY.** TFF participating agencies may adopt state and local seizures only in those rare instances where the seized property raises public safety concerns as explained in section 6.A. Any other property that a TFF participating agency believes might trigger the public safety exception may be adopted federally only with the express approval of the Director of TEOAF. The adoption of all other property, including vehicles, valuables, and cash,<sup>1</sup> is strictly prohibited. This policy will ensure that federal adoptions serve to protect public safety interests, and does not affect the ability of state and local agencies to pursue the forfeiture of assets pursuant to their respective state law. Equitable sharing is prohibited in any adoption.

5. **SEIZING AGENCY RESPONSIBILITIES.** All TFF participating agencies shall ensure that adoptive seizures are accepted only in the circumstances set forth in this Directive.

6. **GUIDANCE AND PROCEDURES.**

A. TFF participating agencies are permitted to adopt state and local law enforcement seizures only for property that implicates public safety concerns. For purposes of this Directive, such property is limited to firearms; ammunition; explosives; the instrumentalities of child pornography; and adulterated food products, counterfeit consumer goods and similar items that pose a public health and safety concern.

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<sup>1</sup> For purposes of this Directive, the term "cash" includes currency and currency equivalents, such as postal money orders, personal and cashier's checks, stored value cards, certificates of deposit, traveler's checks, and U.S. savings bonds.

B. The adoption of any property that does not meet the public safety exception described in 6.A. is prohibited. This includes, but is not limited to, vehicles, valuables, and cash.

C. A TFF participating agency that wishes to adopt a state or local seizure of property that it believes implicates public safety but is NOT listed in this Directive must prepare a memorandum for the Director of TEOAF which contains the following information:

- 1) The name and address of the seizing agency.
- 2) The date of the seizure.
- 3) The circumstances surrounding the seizure.
- 4) The state violation upon which the seizure was predicated.
- 5) An itemized list of the assets seized.
- 6) An itemized list of the assets that are being considered for adoption (if different from item #5).
- 7) The current location of the assets being considered for adoption.
- 8) The reason(s) why the adoption cannot/should not proceed under state law.
- 9) The facts that are believed to justify a "public safety" exception to the prohibition on adoptions.
- 10) Confirmation that a Turnover Order can and will be obtained prior to the adoption, if required under state law.

D. TEOAF will provide a written decision on the adoption request. The involved TFF participating agency may not adopt or take possession of the subject assets prior to receiving written approval from TEOAF.

E. For adoptions that are deemed permissible under this Directive, or approved by TEOAF pursuant to section 6.C above, notice to all interested parties will be executed by the adopting TFF participating agency pursuant to federal law and policy.

F. Equitable Sharing Prohibited. In no case will equitable sharing be permitted on assets accepted for adoption by a federal agency.

G. Joint Investigations Not Impacted. This policy does not apply to the following circumstances: (1) seizures by state and local authorities working together with federal authorities in a joint task force; (2) seizures by state and local authorities that are the result of joint federal-state investigations or that are coordinated with federal authorities as part of ongoing federal investigations; or (3) seizures pursuant to federal seizure warrants, obtained from federal courts to take custody of assets originally seized under state law. This policy also does not affect the ability of state and local agencies to pursue the forfeiture of assets pursuant to their respective state law.

7. **AUTHORITY**. 31 U.S.C. § 9703; Treasury Directive 27-03, "Organizations and Function of the Office of the Assistant Secretary (Enforcement)"; Delegation Memorandum dated May 19, 1995, "Technical Correction to EOAF Delegation of Authority"; and Treasury Order 102-14, March 24, 2007, "Delegation of Authority with Respect to the Department of the Treasury Forfeiture Fund."

8. **CANCELLATION**. TEOAF Directive No. 34, "Adoptive Seizure Policies and Procedures," January 17, 2000, is hereby superseded. Any other documents that reference adoptions (i.e., prior Treasury publications or policy documents) are hereby superseded to the extent they conflict with this Directive.

The Treasury Department form used by state and local agencies seeking federal adoption of seized assets, *Request for Adoption of State and Local Seizure*, will be reissued to reflect this new policy.

**9. INFORMATION CONTACT.** Any inquiries pertaining to this Directive should be directed to the TEOAF Equitable Sharing Team at (202) 622-9600.

**10. EFFECTIVE DATE.** January 16, 2015. For any asset that already has been seized and for which adoption already has been accepted as of the date of issuance of this policy, the adoption process may continue pursuant to the prior adoption policy, provided that it comports strictly with federal law and the requirements of the prior policy.

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TEOAF