

Department of the Treasury
Executive Office for Asset Forfeiture

Directive Number: **32**
(Revised February 18, 1999)

DATE: MAY 20, 1998

SUBJECT: **Use of Special Warranty Deed and Indemnification Agreement for the Sale of Real Property**

I. BACKGROUND

It is the policy of the Department of the Treasury to sell forfeited real properties with title insurance to maximize the revenue from the sale. On occasion, some real properties have not been offered for sale for long periods of time while the seizing agency and the national seized property contractor endeavor to clear a "clouded" titled to the property as interpreted by the Title Company. This results in increased property management costs and the inherent liabilities of maintaining vacant real properties in inventory for long periods of time.

Real property forfeited to the government in a judicial proceeding vests title in the United States. On occasion, Title Companies challenge the government's title for title insurance purposes because of perceived defects in notice, in the satisfaction of lienholder interests, or in the forfeiture process. As a result, these companies will not issue title insurance for the property.

In order to expedite the disposition of properties with "clouded" titles, it is the policy of the Department of the Treasury to dispose of the property utilizing a *Special Warranty Deed* and, if necessary, an *Indemnification Agreement* as prescribed below. This procedure should expedite the sale of such properties, but may not encourage a Title Company to issue title insurance.

II. PROCEDURES

- A. Upon receipt of disposition instructions to sell real property, the national seized property contractor shall make all reasonable good faith efforts to secure a clear title and title insurance for real property, as prescribed by the contract.

Directive No. 32
Pg.1/2 - 1999

B. When it becomes evident that the Title Company *will not* issue a policy for an identified property, the seizing agency and the national seized property contractor will take the following steps to expedite the sale of the property.

1. The seizing agency and the national seized property contractor will submit a recommendation to the Counsel for the Executive Office for Asset Forfeiture (EOAF) to sell a particular real property using the *Special Warranty Deed* (See Attachment A) and the *Indemnification Agreement-Buyer Only* (See Attachment B) and/or the *Indemnification Agreement-Buyer and Title Company* (See Attachment C). This recommendation shall include detail as to the reason for the reluctance of the Title Company to issue a policy and what efforts have been taken to date by the national seized property contractor to obtain title insurance. The use of the *Indemnification Agreement-Buyer and Title Company* (Attachment C) should be used only as a last resort and upon a written refusal from the Title Company to write title insurance unless they are indemnified along with the buyer.
2. The EOAF Director will notify in writing the concerned agency office and the national seized property contractor of the decision on the recommendation within thirty (30) days. If approved, the national seized property contractor will coordinate necessary action with the seizing agency.
3. The *Special Warranty Deed and Indemnification Agreement* will be prepared by the national seized property contractor after receipt of the approval by the EOAF Director to dispose of the property in this manner.

III. COMMENT

This policy is provided to address situations that may have resulted in the holding of real properties in the seized property inventory for long periods of time.

While these procedures should expedite the disposal of real property, they do not take the place of conscientious handling of real property seizure cases, including appropriate pre-seizure planning, by all involved. Every effort should be made to ensure that pre-seizure analysis, case processing as well as seizure and forfeiture processing are accomplished in the most responsible manner to avoid incidents that may give rise to "clouded" titles.