

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

DIRECTIVE NO. 8

DATE: January 7, 2016

SUBJECT: Use of Property Under Seizure

1. **PURPOSE.** This Department of the Treasury Executive Office for Asset Forfeiture (TEOAF) Directive No. 8 establishes Treasury policy for the use of property under seizure.
2. **SCOPE.** This Directive applies to all seizing agencies participating in the Treasury Forfeiture Fund (TFF) and TEOAF.
3. **POLICY.** Absent the final decree or court order of forfeiture of property under seizure, the United States does not have title to the property.
4. **RESPONSIBILITIES.** TFF participating agencies shall ensure that seized assets are secured in a manner consistent with the fact that they are not property of the United States Government until forfeited.
5. **BACKGROUND.** Federal law generally requires a declaration or order of forfeiture before the Government may assert ownership rights with respect to seized property. Accordingly, any use of property under seizure and pending forfeiture raises issues of liability, impropriety, and denial of due process.
6. **PROCEDURES.**
 - A. **Use of Seized Property**
 - (1) Property under seizure shall not be utilized for any reason, until such time as the final decree or court order of forfeiture is issued. This prohibition applies to all Federal, State, and local government employees and to any private individual acting, under contract, as an authorized custodian.
 - (2) Seized property shall not be made available for use by any individual for any purpose prior to completion of the forfeiture.
 - (3) Exceptions may be granted by the Executive Office for Asset Forfeiture in unique situations where use of a seized asset is necessary to preserve the value or integrity of other related seized property; such as the seizure of a ranch or business where use of equipment under seizure is necessary to maintain the ranch or business.
 - (4) This prohibition may also be waived in situations involving national security.

B. Property Retained by State or Local Law Enforcement Agencies

- (1) In order to minimize storage and management costs incurred by the Department of Treasury, State and local law enforcement agencies that participate in the seizure of a vehicle may be asked to serve as substitute custodians of the property pending forfeiture.
- (2) Any use of such vehicles is prohibited by Department of Treasury policy until such time as the forfeiture is completed and the equitable transfer is approved.
- (3) State and local law enforcement agencies shall not be utilized as substitute custodians for any asset other than a motor vehicle.
- (4) TFF participating agencies should ensure that any State or local law enforcement agency that serves as the substitute custodian of a seized asset understands the policy contained in this directive.

C. Use of Seized Real Property by Occupants

Treasury policy states that as a general rule, occupants of real property seized for forfeiture should be permitted to remain in the property pursuant to an occupancy agreement pending the forfeiture. (See TEOAF Directive No. 3, "Seizure of Occupied Real Property," October 1, 1993 (revised May 30, 2014).)

6. **AUTHORITY.** 18 U.S.C. § 985; 31 U.S.C. § 9705; 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."

7. **INFORMATION CONTACT.** Any inquiries pertaining to this Directive should be directed to TEOAF's Seized Property Team at (202) 622-9600.

8. **CANCELLATION.** TEOAF Directive No. 8, "Use of Property under Seizure," October 1, 1993, is hereby superseded.

9. **EFFECTIVE DATE.** January 7, 2016.

/S/

John Farley
Acting Director
TEOAF