

ORLANDO POLICE DEPARTMENT POLICY AND PROCEDURE
1629.4, LAW ENFORCEMENT/FEDERAL ASSET SHARING TRUST FUNDS

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POLICY:

To establish guidelines for the procurement and use of Law Enforcement Trust Funds (LETF) and Federal Asset Sharing Trust (FAST) funds by employees of the Orlando Police Department.

1. PROCEDURES

Any Police Department employee may request the use of trust fund monies by submitting a memorandum to the Chief of Police via the chain of command, stating the dollar amount requested and the specific use for which the funds will be expended. Each request must be accompanied by a completed Law Enforcement/Federal Asset Sharing Trust Funds Endorsement Check List (Attachment A). The requested use must be in accordance with state and federal asset sharing guidelines. Federal Guides to Equitable Sharing are available online at the following sites:

- a. U.S. Department of Treasury:
<http://www.treasury.gov/resource-center/terrorist-illicit-finance/Asset-Forfeiture/Documents/redbook.pdf>
- b. U.S. Department of Justice:
<http://www.justice.gov/usao/ri/projects/esguidelines.pdf>
- c. State guidelines are set forth in section 932.7055, Florida Statutes:
<http://www.flsenate.gov/Laws/Statutes/2012/932.7055>

2. FEDERAL ASSET SHARING TRUST

Assets seized by federal agencies are subject to forfeiture proceedings in federal court. The proceeds from such actions, whether by settlement or court action, are divided proportionately among participating agencies. The amount received in each case depends on a variety of factors, including whether the case originated from OPD, the number of OPD personnel who worked on the case, to what extent, etc. It may take months or years for a federal asset forfeiture case to result in final judgment and award of assets. When funds are disbursed, the City's proportionate share is deposited into the Federal Asset Sharing Trust fund.

2.1 PERMISSIBLE USES OF FEDERAL ASSET SHARING TRUST FUNDS

A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies, by the Executive Office for Asset Forfeiture, Office of the Deputy Attorney General, is the primary source for information relating to use of federal asset sharing monies.

The parameters for FAST fund expenditure are very similar to the restrictions established for state LETF expenditures. Generally, asset-sharing monies must be used to supplement or increase the agency's existing resources, not supplant them. Priority is to be given to community policing activities, law enforcement training, and law enforcement operations. The possibility of receiving federal asset funds is not to influence law enforcement agencies' priorities. An agency is not permitted to base its budget on anticipated future asset receipt.

2.1.1 AUTHORITY OF GOVERNING BODY

The governing body may not utilize FAST funds as the basis of any decision to offset general fund budgeting items. Violation may result in termination of the agency's participation in federal asset sharing programs. The law enforcement agency must receive the direct benefit of this supplemental resource. By way of example, if a governing body reduces a law enforcement agency's budget in proportion to actual or anticipated FAST funds receipts, then the federal auditors will determine that the governing body impermissibly derived the benefit of the FAST funds, rather than the law enforcement agency.

2.1.2 PERSONNEL COSTS

FAST monies may be used to pay overtime and match federal salary grants for sworn and non-sworn personnel.

2.1.3 TRAINING EXPENSES

Law enforcement training is an authorized use. Priority is to be afforded to training in the areas of asset forfeiture, search and seizure, due process rights, ethics, and protecting innocent third parties. The list is not exclusive; however, all training is considered to supplement agency resources.

2.1.4 COMMUNITY-BASED PROGRAMS

FAST funds may be used for qualifying community-based programs, but there are restrictions. *Agencies may use up to a total of \$25,000 annually to support community-based programs whose missions are consistent with and supportive of law enforcement efforts.*

2.1.5 DRUG AWARENESS AND EDUCATION PROGRAMS

FAST funds may be used to pay for drug programs that are *conducted* by the agency and its personnel.

2.1.6 FACILITY CONSTRUCTION

Expenses for basic facility needs, furniture, communications equipment, etc., may be met with FAST funds. These expenses must be necessary to perform official law enforcement duties.

2.1.7 EQUIPMENT AND OPERATIONS

FAST funds may be used to pay for all manner of equipment, from uniforms to radios and communications systems. The agency must remain mindful of the admonition to *supplement*, and not supplant, existing resources.

2.1.8 PRO-RATA FUNDING

The agency may pay for its proportionate use or benefit of a system or facility that is shared with other governmental entities.

2.2 IMPERMISSIBLE USES

- a. Payment of salaries for existing positions.
- b. Uses of property by non-law enforcement personnel.
- c. Payment of non-law enforcement expenses.
- d. Uses not specified in the DAG-71 (federal form used to apply for agency share of funds; anticipated use must be specified on this form).
- e. Illegal purposes.
- f. Non-official government use of shared assets.
- g. Extravagant expenditures.

- h. Purchase of food (except as part of a conference package; for a banquet to recognize law enforcement achievements; during official travel or training conference; or for disaster operations).

3. STATE LAW ENFORCEMENT TRUST FUND

The Law Enforcement Trust Fund (LETF) is established pursuant to the Florida Contraband Forfeiture Act, 932.701-932.707, Florida Statutes. The proceeds from forfeiture cases initiated under state law, whether by OPD or in partnership with another agency, are to be deposited into this fund. The guidelines for use of the LETF are grounded in state law. The State takes its lead from the federal authorities in this area, but state and federal trust funds are distinct from one another.

3.1 PERMISSIBLE AND IMPERMISSIBLE USES OF STATE LAW ENFORCEMENT TRUST FUND MONIES

Funds from state forfeiture actions may be used only as provided in Section 932.7055, Florida Statutes, which dedicates those monies to: school resource officers; crime prevention; safe neighborhood; drug abuse education, or drug prevention programs; or such other law enforcement purposes as the governing body of the municipality deems appropriate. Those funds are not to be used as a source of revenue to meet normal operating needs of the law enforcement agency.

The law enforcement agency and the entity having budgetary control over the law enforcement agency are prohibited from anticipating future forfeitures or proceeds thereof in the adoption and approval of the budget for the law enforcement agency.

3.1.1 AUTHORITY OF GOVERNING BODY

LETF may not be used to reimburse a loan to the asset sharing account from the general fund. AGO 2001-68

The governing body has no independent authority to expend LETF in the absence of a specific request from the law enforcement agency head. AGO 1991-69.

3.1.2 PERSONNEL COSTS

LETF monies may not be used for salaries of tenured officers engaged in customary duties, even if those duties include drug prevention or enforcement. LETF monies may be used to reimburse overtime expenses for officers assigned to a task force created to augment regular forces and which has a specific crime prevention or detection purpose. AGO 95-29; AGO 93-18

3.1.3 TRAINING EXPENSES

LETF monies may be used for training and education expenses of employees that are related to developing additional expertise in a specific area relating to the job duties, but it may not be used to train employees for their current positions (which would fall under usual, regular, normal expenses and, therefore, must come from general revenues). LETF monies may be used to pay expenses to host a training conference at which qualified training is conducted. AGO 98-32, AGO 2003-39

3.1.4 COMMUNITY-BASED PROGRAMS

LETF monies may be used to fund programs with the primary purpose of crime prevention, safe neighborhood, drug abuse education and prevention programs, or for other law enforcement purposes. LETF monies may not be used for neighborhood programs that are outside the purview of the Police Department, even if those programs are created and designed for the express purpose of crime prevention (e.g., Safe Neighborhoods Trust Fund activities). AGO 91-84

3.1.5 FACILITY CONSTRUCTION

LETF monies may not be used for construction projects even if those projects are specifically dedicated to programs whose funding would otherwise be a permissible use. This prohibition also extends to any proportionate share of a facility to house or support permissible programs. AGO 86-48, AGO 87-31

3.1.6 COMMUNICATIONS SYSTEMS

LETF funds may not be used to supplement the agency's communications systems. AGO 97-46

4. POLICE PLANNING MANAGER

The Police Planning Manager will review to determine if there is grant funds available for the request. If no funding is available, sign and date the request and forward to the Police Department Legal Advisor.

5. POLICE DEPARTMENT LEGAL ADVISOR

The Police Legal Advisor will review all requests for trust funds expenditure as follows:

- a. Ascertain the legality of the expenditure and so indicate on the request;
- b. Determine the appropriate fund for the expenditure and so indicate on the request;
- c. Sign and date the request and forward to the Police Fiscal Manager.

6. FINANCIAL STATEMENT FOR TRUST FUNDS

The Police Fiscal Manager will complete a financial statement for the trust funds containing the following information:

- a. Central bank account balance;
- b. Current fiscal year operating budget;
- c. Project budgets;
- d. Encumbered funds;
- e. Approved expenditures yet to be appropriated;
- f. Uncommitted funds available;
- g. Total dollar amount of 15% obligation;
- h. Dollars/percentage expended toward 15% obligation;
- i. Dollars/percentage required to meet 15% obligation.

The Police Fiscal Manager will date, sign, and forward the request to the Chief of Police.

7. CHIEF OF POLICE

The Chief of Police will review the request, the completed financial statement, and the Police Legal Advisor's recommendations. After completing this review, the Chief of Police will make the determination to approve/disapprove the request and indicate from which fund the appropriation is to be made. If approved, the request will be forwarded to the Police Fiscal Manager to take the necessary steps to secure funding.

8. POLICE FISCAL MANAGER

The Police Fiscal Manager will review the request and determine the accounts from which to appropriate funding. The Police Fiscal Manager will verify that budget funding is available within the Law Enforcement Trust Fund or the U.S. Department of Justice/U.S. Department of Treasury – Federal Equitable Sharing Agreement Fund. If additional budget funding is needed, a Budget Review Committee Request form will be prepared. The request will be forwarded to the Budget Review Committee (BRC) for final approval. The Police Fiscal Manager will notify the appropriate program manager after obtaining the BRC's approval.

The original request, with back-up documents, will be retained in Fiscal. The complete transaction will be retained in the City's accounting system. This includes budgeting for the items, the expense, and the receipt of the item. All will be traceable and all procedures meet the City's requirements for financial reporting because the expense, purchasing of items, and accounting for the transaction is performed utilizing the City's internal controls.

9. FEDERAL ASSET EQUITABLE SHARING AGREEMENTS AND REPORTING

The Equitable Sharing Agreement and Certification is filed annually and is due within 60 days after the agency's fiscal year closes. This report accounts for both the Justice Funds and the Treasury Funds for the year. The Chief of Police and the Mayor must sign this report.

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ATTACHMENT A

**LAW ENFORCEMENT/FEDERAL ASSET SHARING TRUST FUNDS
ENDORSEMENT CHECKLIST**

SUBJECT:

Bureau Making Request Date Recommended Not Recommended

Police Planning Manager Date

As counsel for OPD, I certify this request for LETF complies with §932.7055, Fla. Stat., and/or this FAST request complies with the USDOJ Guide to Equitable Sharing for Law Enforcement Agencies.

Police Legal Advisor Date Approved LETF Approved FAST Disapproved

Police Fiscal Manager Date Financial Statement Attached

I certify this LETF request complies with §932.7055, Fla. Stat., and/or this FAST request complies with the USDOJ Guide to Equitable Sharing for Law Enforcement Agencies.

Chief of Police Date Approved Disapproved