

Policy: 1629.6, Law Enforcement/Federal Asset Sharing Trust Funds

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Chief of Police: Eric D. Smith

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I. PURPOSE

This directive sets forth guidelines for obtaining LETF and FAST funds and detailing the duties of each role responsible for ensuring the department's compliance.

II. 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.

III. DEFINITIONS

None

IV. PROCEDURES

1. FUNDS REQUEST

Any Police Department employee may request the use of trust fund monies by submitting a memorandum to the employee's Bureau Commander, through the chain of command, with an endorsement sheet, 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 Checklist (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:
<https://home.treasury.gov/policy-issues/terrorism-and-illicit-finance/asset-forfeiture/equitable-sharing>
- b. U.S. Department of Justice:
<https://www.justice.gov/criminal/criminal-mlars/equitable-sharing-program>
- c. State guidelines are set forth in section 932.7055, Florida Statutes:
http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0900-0999/0932/Sections/0932.7055.html

After reviewing the memorandum and supporting documentation, the Bureau Commander may approve or disapprove the request. If the Bureau Commander disapproves the request, no further review is necessary. If the Bureau Commander approves the request, it will be sent to the Police Planning Administrator, as described in section 4 of this policy. Any request initiated by a Bureau Commander or by the Chief of Police will still be sent to the Police Planning Administrator, as described in section 4 of this policy.

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. 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 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.

2.1.3 DRUG AWARENESS AND EDUCATION PROGRAMS

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

2.1.4 FACILITY LEASES AND IMPROVEMENT

Expenses to lease a substation, safe-house or other law enforcement facility and 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. Funds may NOT be used for the physical construction of a facility.

2.1.5 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.

2.1.6 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, except for overtime or as otherwise explicitly authorized with pre-approval from MLARS.
- b. Uses of property by non-law enforcement personnel.
- c. Payment of non-law enforcement expenses.
- d. Creation of endowments, scholarships, or grants.
- e. 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).

- f. Illegal purposes.
- g. Non-official government use of shared assets.
- h. Extravagant expenditures, such as social events.
- i. 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).
- j. Donations to community-based organizations.
- k. Use of funds for “buy” or “flash” money.
- l. Construction projects.

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. To be considered for LETF, an external nonprofit organization must submit a written application, in a form acceptable to the Police Legal Advisor, that complies with Florida Statute 932.7055(5)(c).

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 ADMINISTRATOR REVIEW

The Police Planning Administrator will review to determine if there are 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 REVIEW

The Police Legal Advisor will ascertain the legality of the expenditure and so indicate on the request, including whether further approval from City Council is required. If the expenditure is legally permissible and does not require further approval from City Council, the Police Legal Advisor will determine the most appropriate fund for the expenditure and so indicate on the request. The Police Legal Advisor will then sign and date the request and forward to the Police Fiscal Manager.

If the expenditure is legally permissible but requires further approval from City Council, the Police Legal Advisor will consult with the Chief of Police. If the Chief of Police determines that an agenda item should be submitted to council, the Police Legal Advisor will prepare the item on behalf of the Police Department.

If the expenditure is not authorized under FAST or LETf, the Police Legal Advisor will disapprove the expenditure.

Regardless of the Police Legal Advisor's recommendation, the request will be forwarded to the Fiscal Manager for further review, as described in section 6 of this policy.

6. FISCAL MANAGER REVIEW

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 APPROVAL OR DISAPPROVAL

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 final 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. PROCESSING OF EXPENDITURE

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, and a copy will be sent to the Grants & Management Analyst for inventory tracking purposes. 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 ASSET MANAGEMENT AND INVENTORY CONTROL

9.1 INVENTORY TRACKING AND ASSET MANAGEMENT

All items purchased with equitable sharing funds will be inventoried and tracked. All items with serial numbers must be tracked, regardless of jurisdiction value thresholds for inventory tracking. Property purchased by fiduciary agencies for a task force remains the purchasing agency's equipment and must be tracked in the purchasing agency's inventory management system.

The FAST/LETF requestor or designee is solely responsible for receiving equitable sharing funds purchased equipment. It is the responsibility of the requestor or designee to ensure that an asset tag is assigned to the equitable sharing funds purchased equipment. The requestor or designee must maintain an equipment inventory of all equitable sharing funds purchased equipment. Once the items are purchased, the requestor or designee must provide the OPD Grants and Management Analyst with a copy of the inventory.

The FAST/LETF requestor or designee is responsible for providing any newly assigned personnel with a copy of their assigned FAST/LETF inventory. Prior to any FAST/LETF property or equipment being transferred, disposed of, donated, or moved, the requestor or designee must notify the Police Grants & Management Analyst.

On an annual basis the Police Planning Administrator, Police Grants & Management Analyst, and/or the OPD Fiscal Manager or designee will inventory FAST/LETF purchased property and/or equipment. The FAST/LETF Requestor or designee will receive a list of property and/or equipment to be inventoried. The FAST/LETF Requestor or designee will be responsible for providing access to all grant-related property and/or equipment for the inventory.

This inventory will not replace any inventory conducted under City Policy, Property Control.

9.1.1 DISPOSAL AND SALE PROCEEDS

All items purchased with shared funds will be disposed of in accordance with the city's disposal policies. To the extent practicable and if consistent with the city's procurement and disposal policies, deposit proceeds or insurance reimbursements from the sale or disposal of such property into the agency's sharing account or accounting code.

10. FEDERAL ASSET EQUITABLE SHARING AGREEMENTS COMPLIANCE AND REPORTING

10.1 REPORTING REQUIREMENTS

The Equitable Sharing Agreement and Certification (ESAC) is submitted annually by the Police Fiscal Manager and is due within two months after the end of the agency's fiscal year. 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.

10.1.1 MAINTAINING AND ADMINISTERING FUNDS

Equitable sharing funds will be maintained and administered in the same manner as the city's appropriated funds. Funds must follow all city policies and procedures regarding procurement and approvals. The City/Department will administer and maintain bank accounts, accounting codes, and other financial documents in the same manner as appropriated funds. The City/Department is prohibited from maintaining or having direct access to federally shared funds.

10.1.2 ACCOUNTS AND ACCOUNTING CODES

Separate Justice and Treasury accounts or accounting codes within the financial management system must be established to track both revenues and expenditures, and interest if interest-bearing, for each respective Program. No other funds may be commingled in these accounts or with these accounting codes.

10.1.3 PROCUREMENT

All expenditures and payments must be processed in the same manner as appropriated funds, including procurement and payment transactions. All procurement activity associated with FAST/LETF funds shall follow all city procurement policies and procedures and must be allowable under the Equitable Sharing Program.

10.1.4 INTEREST INCOME

All interest earned on equitable sharing funds will be deposited into the respective account or accounting code. All interest is subject to the same use restrictions as equitable sharing funds. Losses to funds maintained in investment accounts in accordance with the agency's policies may not be allocated to or deducted from the equitable sharing account.

10.1.5 STANDARD OPERATING PROCEDURES

Written policies for accounting, bookkeeping, inventory control, and procurement that comply with the applicable provisions of the OMB Uniform Administrative Requirements, Costs, Principles, and Audit Requirements for Federal Awards or any subsequent updates and city policies will be maintained and followed. All relevant policies will be distributed to appropriate personnel.

10.1.6 RECORDS

Records of all revenue and expenditures posted to the account or accounting code, including bank and ledger statements, invoices, receipts, required city approvals, or any other documents used or created during the procurement process, will be maintained.

10.1.7 JURISDICTION APPROVALS

The City/Department will obtain approval for expenditures from the governing body, such as the board of commissioners or city council, in accordance with city policy.

All Law Enforcement Trust Fund (LETF) requests require City Council approval.

10.1.8 VENDOR REGISTRATION

The City/Department will ensure vendors for all qualified purchases are registered in SAM.gov and are not suspended or debarred. SAM registration will be checked by the Police Fiscal Manager or procurement officer.

10.1.9 AGENCY REGISTRATION

The City will maintain an active registration in SAM.gov. The City Grant Manager maintains the SAM/gov database for the City of Orlando.

10.1.10 BANKING INFORMATION

The City will ensure bank account information on file with USMS and TEOAF remains current.

10.1.11 AUDIT REQUIREMENTS

The City will comply with the applicable Single Audit Act Amendments of 1996 and OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, any subsequent updates to this guidance, and other applicable regulations. Per those guidelines, state, local, or tribal governments that expend more

than the applicable threshold in federal funds (e.g., Justice or Treasury equitable sharing funds, grants, cooperative agreements) per fiscal year are required to conduct an independent audit. Justice and Treasury equitable sharing funds are direct payments for specified use.

10.1.12 RECORDS RETENTION

All documents and records pertaining to the participation in the Program will be retained by the Department for a period of at least five years. This includes receipts and procurement documentation for all expenditures of shared funds, bank statements, Forms DAG-71 and TD F, ESACs, accounting and bookkeeping documents, logs and records, bank records and statements, and audit reports. All records may be subject to release under applicable federal, state, and local Freedom of Information Act laws and regulations.

V. FORMS AND APPENDICES

ATTACHMENT A-LE-FAST Funds Endorsement Checklist

VI. REFERENCES

This policy rescinds Policy and Procedure 1629.5

Related Policies: Not Applicable

Related Laws: Florida Statute [932.7055](#)