



United States Marshals Service – POLICY DIRECTIVES

13.7

PERSONS PROHIBITED FROM PURCHASING FORFEITED PROPERTY

PROPONENT: Office of General Counsel (OGC) and Asset Forfeiture Division (AFD)

PURPOSE: This policy prohibits certain persons from purchasing forfeited property to protect the integrity and reputation of the Asset Forfeiture Program (AFP), the Department of Justice (DOJ), and the United States Marshals Service (USMS). This policy is intended to ensure that there is no actual or apparent use of inside information and/or conflict of interest by persons wishing to purchase forfeited property. See DOJ Asset Forfeiture Manual Chapter 10 IV.

AUTHORITY:

1. The Director's authority to direct and supervise all activities of the USMS to carry out its mission is set forth in 28 C.F.R. § 0.111 and 28 U.S.C. §§ 510, 524(c), and 561-569. The Director's authority to dispose of forfeited property pursuant to 28 C.F.R. § 0.111(i) inherently allows the restriction of those persons eligible to purchase forfeited assets, beyond those imposed by regulation or statute, to protect the integrity of the AFP and the reputation of the USMS.
2. Title 5 C.F.R. § 3801.104(a), prohibits DOJ employees from, directly or indirectly, purchasing any property if the property has been forfeited to the United States Government and the forfeited property is offered for sale by DOJ and/or its agents and which also prohibits DOJ employees from using such assets if the assets are purchased by their spouse or minor children.
3. Titles 18 U.S.C. § 1963(f) and 21 U.S.C. § 853(h) of the *Comprehensive Crime Control Act of 1984*, prohibits the United States Government from selling forfeited property to the criminal defendants from whom it was forfeited and any person acting in concert with him or on his behalf.

CANCELLATION: This policy directive supersedes USMS Policy Directive 13.7, *Persons Prohibited from Purchasing Forfeited Property*, dated April 23, 2012. This policy directive will remain in effect until updated, superseded, or cancelled.

ADMINISTRATION AND LOGISTICS:

1. Records Management: This administrative policy directive document is maintained in accordance with the approved Specific Records Schedule, DAA-0527-2013-0018-0002.

APPROVED BY:

_____/s/
David L. Harlow
Acting Director
U.S. Marshals Service

02/22/2017
Effective Date

Updated Date: 09/17/2021

A. Policy Statements:

1. **Prohibited Purchasers:** In the absence of prior approval pursuant to Section C.2., the following persons, their Immediate Family Members, as defined in Section D.1., and those acting in concert with them, on their behalf, or as their agent, are prohibited from purchasing, directly or indirectly, forfeited property offered for sale by the USMS or its agents and, therefore, are also barred from placing bids to buy such property:
 - a. **Defendants in Criminal Cases:** The defendant from whom the property to be sold was forfeited;
 - b. **DOJ Employees and USMS Contractors:** DOJ Employees who have not received a waiver from their agency pursuant to 5 C.F.R. § 3801.104(a) and USMS contractors who have not received a waiver pursuant to this policy;
 - c. **Civil Forfeiture Actions/Administrative Forfeiture:** Any person whose conduct gave rise to a civil or administrative forfeiture of the property to be sold;
 - d. **Insider Knowledge:** Any person who, by virtue of their association with the DOJ AFP, has acquired material, non-public, information about the property to be sold.
 - e. **Law Enforcement:** Federal, state, and local law enforcement officers who perform duties associated with the seizure and forfeiture of property in conjunction with DOJ.
 - f. **DOJ AFP Contractors:** Contractors and subcontractors hired by or working with DOJ in the DOJ AFP or its agencies and their employees involved in the DOJ AFP; and
 - g. **Other Third Parties:** Any person, in the reasonable judgment of the USMS, in consultation with the United States Attorney's Office or the Money Laundering and Asset Recovery Section, as appropriate, who may have received, from a prohibited purchaser, material, non-public, information, about the property to be sold, or whose purchase may give rise to the appearance of impropriety.

B. Roles and Responsibilities:

1. **Districts and AFD:** As appropriate, shall ensure that an Acknowledgement and Disclosure, pursuant to the Authority Section of this policy directive, is obtained from the purchaser of forfeited property. The determination that a person is a prohibited purchaser is initially the responsibility of the USMS employee supervising the disposition of the asset in question. In making this determination, the USMS employee may rely upon the contents of the Acknowledgement and Disclosure form and he or she may also consult with the relevant AFD unit.
2. **AFD:** Forwards all requests for reconsideration or waiver pursuant to Section C.1., along with its recommendation, to the Ethics Team, OGC.
3. **Ethics Team, OGC:** Is responsible for reconsideration of prohibited purchaser decisions and case specific determinations of whether to grant a waiver to a prohibited purchaser.

C. Procedures:

1. **Acknowledgement and Disclosure:** When property forfeited under the AFP is offered for sale by the USMS it is the duty of the districts and/or AFD to ensure that potential purchasers are advised of the restrictions on who may bid and purchase. Districts and/or AFD must also ensure that the successful bidder certifies in writing that this policy is not

being violated and discloses the name of any principal, if they are acting as an agent for another.

2. **Prohibition Reconsideration and Waiver:** If a determination has been made that a person is a prohibited purchaser, the district making the determination and/or AFD must notify the prohibited purchaser of the decision and of their opportunity to request reconsideration of the determination or a waiver of the prohibition. Requests for reconsideration or waiver will be referred to AFD, who will then forward the request to the Ethics Team, OGC, pursuant to Section B.
3. Any request for reconsideration of a determination that a person is a prohibited purchaser or for a waiver of the prohibition must be made prior to bidding. Waivers will not be granted to persons prohibited from purchasing by Section A.1.a. and DOJ employees under Section A.1.b., however, the Ethics Team, OGC, will consider evidence that a person is not a member of the class of prohibited purchasers under those, or any other, sections. For requests under Section A.1.c., the Ethics Team, OGC, will make the final determination in consultation with AFD, the United States Attorney's Office and/or the Money Laundering and Asset Recovery Section, as appropriate. For requests of USMS Contractors under Section A.1.b. and all other requests under Sections A.1.c-g, the Ethics Team, OGC, will make the final determination.
4. **Standard:** A waiver may be granted only by the Ethics Team, OGC, and it must be in writing and must state the basis for the determination. In making a waiver determination, Ethics Team, OGC, will consider whether the interest of the requesting party to purchase the asset outweighs the concern that a reasonable person, with knowledge of the circumstances, may question the integrity of the AFP and that purchase of the asset will not:
 - a. Raise a question as to whether the person has used his position or relationship with a prohibited purchaser, to obtain an advantage or assist in a purchase;
 - b. Call into question whether material non-public information was used to obtain an advantage or assist in a purchase; and/or
 - c. Create an appearance of partiality or bias.

The Ethics Team, OGC, may consider the nature, extent, and degree of the relationship of the requesting party to the person whose conduct caused the asset to be forfeited; the DOJ and its agencies; the AFP; and/or the asset to be sold.

D. Definitions:

1. **Immediate Family Members:** Are any of the following relatives (whether related by blood, law, or marriage) of the prohibited purchaser: their spouse, grandparent, parent, aunt, uncle, sibling, cousin, niece, nephew, child, or grandchild. Any person residing in the same household as or financially supported by, the prohibited purchaser from the date of forfeiture, whether or not related by blood, law, or marriage, shall be treated as an immediate family member for purposes of this policy.
2. **DOJ Employee:** For purposes of this policy, Special Deputy United States Marshals shall be treated as DOJ employees only if they are assigned to a task force (on a full or part time basis) which includes DOJ or any DOJ agency or are actively working with DOJ or any DOJ agency.
3. **USMS Contractor:** For purposes of this policy, the term USMS contractor shall include all contractor employees providing regular on-site services, including persons performing duties under a personal services contract.

E. References:

1. 18 U.S.C. § 1963, [*Criminal Penalties*](#)
2. 21 U.S.C. § 853(h), [*Disposition of Property*](#)
3. 28 U.S.C. § 510, [*Delegation of Authority*](#)
4. 28 U.S.C. § 524, [*Availability of Appropriations*](#)
5. 28 U.S.C. § 561, [*United States Marshals Service*](#)
6. 28 U.S.C. § 562, [*Vacancies*](#)
7. 28 U.S.C. § 563, [*Oath of Office*](#)
8. 28 U.S.C. § 564, [*Powers as Sheriff*](#)
9. 28 U.S.C. § 565, [*Expenses of the Service*](#)
10. 28 U.S.C. § 566, [*Powers and Duties*](#)
11. 28 U.S.C. § 567, [*Collection of Fees; Accounting*](#)
12. 28 U.S.C. § 568, [*Practice of Law Prohibited*](#)
13. 28 U.S.C. § 569, [*Reemployment Rights*](#)
14. 5 C.F.R. § 3801.104, [*Purchase or Use of Certain Forfeited and Other Property*](#)
15. 28 C.F.R. § 0.111, [*General Functions*](#)
16. DOJ Asset Forfeiture Manual Chapter 10 IV, [*Firearms Forfeiture Policy*](#)