

DEPARTMENT OF THE TREASURY
EXECUTIVE OFFICE FOR ASSET FORFEITURE

DIRECTIVE NO. 20

DATE: July 9, 2015

SUBJECT: Net Equity Requirements for Seized Property

1. **PURPOSE.** This Department of the Treasury Executive Office for Asset Forfeiture (TEOAF) Directive No. 20 establishes Treasury policy for the net equity requirements of seized property.

2. **SCOPE.** This Directive applies to seizures initiated by seizing agencies participating in the Treasury Forfeiture Fund (TFF) as well as state and local seizures adopted by these agencies.

3. **POLICY.** The minimum net equity levels established in this Directive generally shall be met before property is seized unless it would compromise a law enforcement investigation, in which case it shall be established as soon as practicable after seizure. The net equity values are intended to decrease the number of federal seizures, thereby enhancing case quality and expediting processing of the cases initiated. The thresholds are also intended to encourage state and local law enforcement agencies to use state forfeiture laws for their seizures.

4. **SEIZING AGENCY RESPONSIBILITIES.** The seizing agency is responsible for ensuring that the net equity requirements are met as established in this Directive. The seizing agency is also responsible for ensuring that current and accurate information on the ownership of, and any encumbrances against, property targeted for forfeiture is compiled prior to seizure whenever practicable, or as soon as possible following the seizure.

In deciding whether to proceed with the seizure or forfeiture of property that is near the minimum equity threshold, the seizing agency must evaluate and consider the forfeitable net equity and the law enforcement purposes to be served in light of the potential liability issues and estimated costs of post-seizure management and disposition. Depending on the circumstances, this evaluation may require consultation with the national seized property contractor and the U.S. Attorney.

5. **PROCEDURES.**

A. **Asset-specific Net Equity Thresholds**

In general, the minimum net equity requirements are:

(1) Residential/Commercial real property and vacant land—minimum net equity must be at least 20 percent of the appraised value or \$30,000, whichever is greater.¹ No property with a net equity of less than \$30,000 should be federally forfeited.

¹ As a general rule, the TFF law enforcement agencies do not seize or adopt contaminated real property. See TEOAF Directive 7, Seizure and Forfeiture of Real Property That Is Potentially Contaminated or Is Contaminated with Hazardous Substances.

(2) Vehicles—minimum net equity must be at least \$5,000 (based on National Automobile Dealers Association (NADA) "Trade-In Value"). The value of multiple vehicles seized at the same time cannot be aggregated for the purpose of meeting this minimum.

(3) Currency, financial accounts, and financial instruments—minimum amount must be at least \$5,000, unless the person from whom the item was seized either was, or is, being criminally prosecuted by state or federal authorities for criminal activities related to the property, in which case the amount must be at least \$1,000.

(4) Aircraft—minimum net equity must be at least \$30,000. Note that failure to obtain the log books for the aircraft will reduce the aircraft's value significantly.

(5) Vessels—minimum net equity must be at least \$15,000.

(6) All other personal property—minimum net equity must be at least \$1,000, or \$5,000 in the aggregate.

A United States Attorney may institute higher district-wide thresholds for judicial forfeiture cases. Investigative personnel at the seizing agency should be familiar with their judicial district's thresholds.

B. Deviation from Net Equity Requirements

(1) While deviation from the net equity requirements is generally prohibited, in some circumstances law, regulation, or an overriding law enforcement interest may require or compel the seizure/forfeiture of an asset that does not meet these criteria (e.g., instrumentalities of the crime, forfeiture of a "crack house," a conveyance with hidden compartments, a computer or Internet domain name seized to disrupt a major fraud scheme, assets connected to a child pornography ring or a terrorist organization, or real property used to harbor illegal aliens). Treasury policy does not preclude seizure in such circumstances.

(2) Deviation may also be acceptable in circumstances where the collective value of a group of related assets meets the threshold and seizure of the group does not materially increase the Government's costs, risk, or property management burden (e.g. 20 items of jewelry, each valued at \$500, might be seized, as the total value of the items is \$10,000 and the cost, risk, and property management burden of storing 20 small items of jewelry is not materially higher than for a single piece of jewelry. However the seizure of two \$4,000 vehicles cannot be justified solely by their collective value, because the Government's risk, cost, and property management burden increases materially with each additional vehicle seized).

(3) All deviations from the net equity requirements must be approved by the seizing agency's supervisory-level official. Both the name of the approving official and the reason for the deviation must be noted in the case file.

C. Ownership and Encumbrances

The identification of owners and those with a financial interest in property is a critical component of the agency's and the U.S. Attorney's decision to seize property.

(1) The investigative agency is responsible for ensuring that current and accurate information on the ownership of, and any encumbrances against, personal property and conveyances targeted for forfeiture is compiled prior to seizure whenever practicable.

(2) In cases where information relating to titles and liens cannot be acquired without compromising an investigation, the investigating agency shall obtain the data as soon as possible following the seizure.

These post-seizure inquiries shall also apply to seizures of personal/general property and conveyances at border situations as appropriate.

(3) In instances where real property and businesses are targeted for seizure, the investigating agency will have primary responsibility for ensuring that a title search, a fair market appraisal, and an environmental study are performed prior to seizure, as appropriate in individual cases.

See TEOAF Directive No. 29, "Seizure and Disposition of Properties Subject to Title Restrictions," for additional details on ownership and encumbrances.

6. **AUTHORITY.** 31 U.S.C. § 9703; 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. 20, "Net Equity Requirements for Seized Property," September 23, 1994 (revised 3/21/1997, and 6/3/2014), is hereby superseded. This Directive also supersedes our previous guidance on Minimum Monetary Thresholds for Adoptive Cases specified on page 8 of The Department of the Treasury Guide to Equitable Sharing for Foreign Countries and Federal, State, Local Law Enforcement Agencies, April 2004.

9. **EFFECTIVE DATE.**, August 1, 2015.

/s/
John Farley
Acting Director
TEOAF