

DEPARTMENT OF THE TREASURY
EXECUTIVE OFFICE FOR ASSET FORFEITURE

DIRECTIVE NO. 27

DATE: February 18, 2015

SUBJECT: Processing Interlocutory Sales

1. **PURPOSE.** This Department of the Treasury Executive Office for Asset Forfeiture (TEOAF) Directive No. 27 provides policy and procedures for processing interlocutory sales (I-sales) by seizing agencies. The administrators of the Treasury Forfeiture Fund (TFF) are responsible for the disposition of seized and forfeited property. The national seized property contractor routinely sells properties that have been forfeited. In some instances, the court orders seized property to be sold prior to forfeiture and the net monies received from that sale to be considered substitute res for the seized property. This is accomplished by an I-sale order from the court.

2. **SCOPE.** This Directive applies to both personal and real property seizures and to all TFF participating agencies.

3. **POLICY.** An I-sale is useful for avoiding waste or a decline in property value, and reduces TFF costs associated with storing and maintaining seized property. Agencies should recommend this option to the Assistant United States Attorney (AUSA) when appropriate. This method of reducing seizure costs makes more funds available for other forfeiture programs and forfeiture expenses, while preserving the value of the property until the court has resolved the forfeiture action.

4. **RESPONSIBILITIES AND PROCEDURES.**

A. **Seizing Agencies**

(1) When an I-sale is contemplated for seized property, the seizing agency shall ensure that all lien, mortgage, and third party claims are presented to the AUSA.

(2) Agencies shall coordinate with the AUSA to ensure that distribution(s) which are lawfully due from, or as a result of, the sale of the property are clearly spelled out in the I-sale order. In each case involving an I-sale, agencies shall coordinate with the AUSA to ensure the AUSA includes terms in the I-sale order indicating that the lienholder will accept the net proceeds as full satisfaction of the lien or mortgage.

(3) As with all sales, a minimum bid may be set. However, regardless of whether a minimum bid is set, the Government always reserves the right to reject any bid that does not cover the related expenses. Agencies shall monitor all aspects of the I-sale process to ensure that they interests of the government are protected and that the sale does not result in a shortfall. Agencies and the AUSA shall coordinate and evaluate whether the I-sale should be cancelled or the order amended at appropriate points.

(4) Upon receipt of an I-sale order from the AUSA, the seizing agency's representative shall promptly process a disposition order for the sale of the subject property. The disposition order shall include a copy of the I-sale order, and shall be provided to the national seized property contractor. A copy of the I-sale order and the disposition order shall also be sent to TEOAF by the seizing agency.

(5) After the completion of the I-sale, the seizing agency shall update its internal property tracking system to reflect the amount of the substitute res as the amount representing the seized and/or forfeitable value of the seizure.

B. National Seized Property Contractor

(1) The national seized property contractor shall arrange for the sale of the property in accordance with the federal contract's statement of work and the I-sale order.

(2) If there is a deposit posted for the subject property, the national seized property contractor shall deposit and maintain such deposit in its custody until closing.

(3) For real property, the contractor shall use the held deposit funds to satisfy payment of any valid lien for which adequate sales proceeds do not exist. Under no circumstances shall liens be paid from the TFF without prior approval by TEOAF counsel. In rare instances, on a case by case basis, such approval may be granted.

(4) At the closing of the sale, the closing agent shall accept full payment for the property, deducting any payments for approved liens, taxes, mortgages, costs and legal fees associated with the closing, in accordance with the I-sale order, and provide the national seized property contractor with the net balance to be forwarded to the National Finance Center (NFC).

(5) The net amount derived from the sale becomes the substitute res for the subject seizure and is identified as such.

(6) The national seized property contractor shall transmit the net amount derived from the sale to the NFC with instructions to deposit it in the suspense account.

(7) The national seized property contractor, upon receipt of the total net balance of the sale, is required to notify the appropriate seizing agency of the sale price, all related expenses and the total net amount, now identified as the substitute res, in order that the seizing agency can update its internal seized property tracking system.

5. **AUTHORITY.** 31 U.S.C. § 9703; 28 U.S.C. §§ 2001, 2002, 2004; Supplemental Rule G(7), Federal Rules of Civil Procedure; Federal Rule of Criminal Procedure 32.2(b)(7).

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

7. **CANCELLATION.** TEOAF Directive No. 27, "Processing Interlocutory Sales," October 1, 1995, is hereby superseded.

8. **EFFECTIVE DATE.** February 18, 2015.

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Acting Director
TEOAF