

U.S. DEPARTMENT OF JUSTICE
U.S. DEPARTMENT OF THE TREASURY

GUIDE TO EQUITABLE SHARING FOR STATE, LOCAL, AND TRIBAL LAW ENFORCEMENT AGENCIES



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Foreword

This *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies (Guide)* applies to equitable sharing through both the Department of Justice and the Department of the Treasury's Asset Forfeiture Programs (collectively, the Equitable Sharing Program).

This *Guide* replaces and supersedes all previous versions of the *Guide* and other previously issued guidance.

The Department of Justice and the Department of the Treasury may make further decisions and issue guidance independent of this *Guide* to ensure the integrity of the Program. In addition to the *Guide* and other guidance issued by the Department of Justice and Department of the Treasury, the Equitable Sharing Program is subject to other applicable federal laws, rules, regulations, and Executive Orders.

The *Guide* sets forth the Department of Justice and Department of the Treasury policies applicable to the Equitable Sharing Program. It does not, however, create or confer any legal rights, privileges, or benefits that may be enforced in any way by private parties. See *United States v. Caceres*, 440 U.S. 741 (1979).

I. Asset Forfeiture Programs and Equitable Sharing Overview

Asset forfeiture is the taking of property by the government without compensation because of the property's connection to criminal activity. It is a legal tool that enables the federal government to recover property that can be used to compensate victims of the crime underlying the forfeiture, among other important law enforcement interests.

A. Department of Justice Asset Forfeiture Program

The Department of Justice's (Justice) Asset Forfeiture Program encompasses the seizure, forfeiture, and disposition of assets that represent the proceeds of, or were used to facilitate, federal crimes. The Attorney General exercises statutory authority to manage the Program. See 28 U.S.C. § 524(c)(1) (establishing the Justice Assets Forfeiture Fund (AFF), managed by the Attorney General).

The Asset Forfeiture Program has four primary goals:

1. To punish and deter criminal activity by depriving criminals of property used in or acquired through illegal activities.
2. To promote and enhance cooperation among federal, state, local, tribal, and foreign law enforcement agencies.
3. To recover assets that may be used to compensate victims when authorized under federal law.
4. To ensure the Program is administered professionally, lawfully, and in a manner consistent with sound public policy.

See Department of Justice, [*The Attorney General's Guidelines on the Asset Forfeiture Program*](#) (July 2018) (*Attorney General's Guidelines*)

The AFF receives the proceeds of forfeiture made pursuant to laws enforced or administered by members of Justice's Asset Forfeiture Program. Thirteen agencies, including Justice agencies and components as well as non-Justice agencies, comprise the Asset Forfeiture Program's membership:

- Asset Forfeiture Management Staff, Justice Management Division
- Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Drug Enforcement Administration (DEA)
- Federal Bureau of Investigation (FBI)
- Money Laundering and Asset Recovery Section (MLARS), Criminal Division
- Organized Crime Drug Enforcement Task Forces (OCDETF)
- U.S. Attorney's Offices (USAO)
- U.S. Marshals Service (USMS)
- U.S. Department of Agriculture – Office of Inspector General (USDA-OIG)
- U.S. Department of Defense – Defense Criminal Investigative Service (DCIS)

- U.S. Department of State – Bureau of Diplomatic Security (DSS)
- U.S. Food and Drug Administration – Office of Criminal Investigations (FDA-OCI)
- U.S. Postal Inspection Service (USPIS)¹

B. Department of the Treasury Asset Forfeiture Program

By separate statutory authority, the Department of the Treasury (Treasury) manages the Treasury Asset Forfeiture Program. *See* 31 U.S.C. § 9705(a) (establishing the Treasury Forfeiture Fund (TFF), managed by the Secretary of the Treasury). Like Justice’s Asset Forfeiture Program, the Treasury Asset Forfeiture Program also has four priorities:

1. To administer and manage the Treasury Forfeiture Fund (TFF) program in a fiscally responsible manner that seeks to minimize administrative costs and maximize the benefits for law enforcement and the compensation of eligible victims;
2. To ensure program policies protect due process rights of individuals;
3. To focus resources on strategic cases and investigations that result in actions against high profile criminals and criminal enterprises to affect the greatest financial damage to criminal organizations; and
4. To foster a strong working relationship between federal and state or local law enforcement agencies.

See [Department of the Treasury, Treasury Executive Office for Asset Forfeiture](#) (TEOAF).

The TFF receives the proceeds of forfeitures made pursuant to laws enforced or administered by Treasury and Department of Homeland Security law enforcement agencies. TFF member agencies are:

- U.S. Immigration and Customs Enforcement – Homeland Security Investigations (HSI)
- Internal Revenue Service – Criminal Investigation (IRS-CI)
- U.S. Secret Service (USSS)
- U.S. Customs and Border Protection (CBP)
- U.S. Coast Guard (USCG)
- Other agencies as defined by statute. *See* 31 U.S.C. § 9705(o)

¹ Participation in an investigation led by the U.S. Postal Inspection Service may result in equitable sharing that is paid from the U.S. Postal Inspection Service Forfeiture Fund. These payments are considered Justice equitable sharing funds for the purpose of this *Guide*.

C. Equitable Sharing Program

One of the ancillary benefits of asset forfeiture is the potential to share federal forfeiture proceeds in appropriate cases with cooperating state, local, and tribal law enforcement agencies through equitable sharing. Through equitable sharing, any state, local, or tribal law enforcement agency that directly participates in a law enforcement effort that results in a federal forfeiture may request an equitable share of the net proceeds of the forfeiture.²

The Equitable Sharing Program (Program)³ is an important aspect of the Justice and Treasury Asset Forfeiture Programs. Federal law authorizes the Attorney General and the Secretary of the Treasury to share federally forfeited assets with participating law enforcement agencies.⁴ The exercise of this authority is discretionary and limited by statute. The Attorney General and the Secretary of the Treasury are not required to share assets in any case. Participation in an investigation with a member of the Justice Asset Forfeiture Program may result in equitable sharing paid from Justice's AFF, while participation in an investigation with a Treasury Asset Forfeiture Program member agency may result in equitable sharing paid from Treasury's TFF.

The Program enhances cooperation among federal, state, local, and tribal law enforcement by providing valuable additional resources to state, local, and tribal law enforcement agencies assisting with investigations into violations of federal laws. However, the Program is designed to supplement and enhance, not supplant, appropriated agency resources.

In addition, by statute, the Attorney General and the Secretary of the Treasury must also ensure that any asset transferred to a participating agency through the Program:

- (A) has a value that bears a reasonable relationship to the degree of direct participation of the state or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort as a whole; and with respect to the violation of law on which the forfeiture is based; and
- (B) will serve to encourage further cooperation between the recipient state or local agency and federal law enforcement agencies.⁵

² By policy change in early 2023, both the Justice and Treasury Programs no longer allow tangible or real property to be directly shared with or transferred to a state or local law enforcement agency. This includes but is not limited to vehicles, vessels, computers, electronic equipment, and real property.

³ In this *Guide*, "Program" refers to both the Department of Justice and the Department of the Treasury Equitable Sharing Programs collectively, unless otherwise noted.

⁴ [21 U.S.C. § 881\(e\)\(1\)\(A\) & \(3\)](#), [18 U.S.C. § 981\(e\)\(2\)](#), and [19 U.S.C. § 1616a](#); [31 U.S.C. § 9705\(b\)\(4\)\(A\)](#) and [\(b\)\(4\)\(B\)](#). See also [Attorney General's Guidelines](#), Sec. V.G. (authorizing equitable sharing with state, local, and tribal law enforcement agencies).

⁵ [21 U.S.C. § 881\(e\)\(3\)](#).

Not all law enforcement efforts will result in equitable sharing. Distributions to owners, lienholders, federal financial institution regulatory agencies, and victims, and federal retention, take precedence over equitable sharing. See [*Attorney General's Guidelines*](#), Sec. V.G. and [*Guidelines for TFF Agencies on Processing Refunds*](#), Sec. V.A. at 6. In addition, domestic equitable sharing can occur only after victims have been compensated in full, and after any international sharing is completed. See Justice, [*Asset Forfeiture Policy Manual*](#) (2023) (*Policy Manual*), Chap. 8, Sec. X, and [*Guidelines for TFF Agencies on Processing Refunds*](#), Sec. II at 2.

II. Which Agencies May Participate in the Equitable Sharing Program?

A. Eligible Agencies

Determinations of agency eligibility to participate in the Program lie solely within the discretion of Justice and Treasury.

1. State, Local, or Tribal Law Enforcement Agencies

Only state, local, or tribal law enforcement agencies may participate in the Program. For purposes of the Program:

- A *law enforcement agency* means a state, local, or tribal government agency authorized to engage as its primary function in the investigation, apprehension, or prosecution of individuals suspected or convicted of offenses against the criminal laws of the United States or of any state, county, municipality, or territory of the United States.⁶
- A *primary function* means one that: (1) occupies a clear majority of the agency's working time over a typical work cycle; and (2) is performed on a regular and recurring basis by the agency and a majority of its officers, employees, and agents. Functions that are of an emergency, incidental, or temporary nature are not considered primary even if they amount to a majority of an agency's working time.

Furthermore, a law enforcement agency is primarily composed of, or employs, individuals designated or qualified under state statutes as peace officers tasked with the prevention, investigation, or prosecution of criminal violations and the apprehension of suspects. These officers exercise full police powers and perform full police duties, such as investigating and making arrests for all types of criminal activity, seizing property, executing warrants and court orders, serving subpoenas, and carrying firearms. Traditional law enforcement agencies generally include city, district, local, county, state, or tribal police, sheriff, or highway patrol departments, and state or local prosecutors' offices.

Agencies that have limited or specialized law enforcement duties generally do not qualify. For example, an agency such as a comptroller's office, fire marshal, or regulatory or licensing agency whose primary mission is not law enforcement but has a unit that primarily investigates specific types of criminal activities does not qualify as a law enforcement agency for purposes of the Program. Likewise, governmental entities that do not employ their own police departments, such as those that obtain police services through a contract with another agency, do not meet the definition of a law enforcement agency.

2. State and Local Prosecutorial Agencies

State and local prosecutorial agencies are eligible to receive equitable sharing for assistance they provide in federal forfeiture cases based on the level of contribution to the total law enforcement effort. In addition, an agency may be eligible for sharing if it cross-designated a state or local attorney as a Special Assistant U.S. Attorney (SAUSA) to handle the federal forfeiture or related criminal cases in federal court.

⁶ For the purposes of this provision, prosecutors and members of the National Guard are considered sworn law enforcement personnel.

3. State National Guard Counterdrug Unit

A state National Guard generally does not meet the criteria for participation in the Program as a law enforcement agency because its primary mission serves a military or other non-law enforcement purpose. An individual National Guard Counterdrug Unit, however, may be eligible to participate in the Program if it is a distinct unit of a state National Guard that has counterdrug activities as its primary mission and it receives funding solely for this purpose. To be eligible, the unit must report to a State's or Territory's jurisdiction when not federalized.

Justice and Treasury determine whether individual National Guard units are eligible to participate in the Program on a case-by-case basis. Once Justice or Treasury determines that a state National Guard unit is eligible, the state National Guard unit participates in the Program in the same manner as any other state, local, or tribal law enforcement agency.

B. Ineligible Agencies

1. Task Forces

Task forces are not eligible to participate as Program members because they are not separate law enforcement agencies. However, equitable sharing based on a task force's participation in an investigation that resulted in a forfeiture may be awarded in one of two ways:

- a. ***Payment to a Fiduciary Agency:*** Agencies participating in task forces may designate one task force member agency to serve as the fiduciary agency for the task force. The fiduciary agency must be a Program participant, must be compliant with the Program guidelines and reporting requirements, and must be an active participating member of the task force. Funds awarded directly to the fiduciary agency constitute the fiduciary agency's funds and must be maintained by the fiduciary agency's jurisdiction. The fiduciary agency may earmark funds for use in support of the task force's operations, but may not distribute equitably shared funds to individual task force member agencies, including upon dissolution of the task force.
- b. ***Payment to Individual Task Force Agencies:*** Compliant state, local, and tribal law enforcement agencies participating in task forces may request and receive equitable sharing payments under their individual NCIC codes by filing an individual Justice DAG-71 or Treasury TD F form.

The task force fiduciary agencies or any task force member agencies may purchase or lease equipment and other tangible items as well as pay direct operational expenses such as leases, utilities, and cell phones for the benefit of the task force. However, agencies may not transfer shared funds to task forces or pay for unspecified or impermissible operational expenses such as overtime or travel and per diem for personnel from other agencies on the task force. All limitations in [Section V.B.2.](#) apply. The agency expending funds must report the expenditure and maintain ownership and control of any tangible items. Should the task force dissolve or the fiduciary withdraw, all equipment must be returned to the purchasing agency. This ensures that audit and regulatory requirements are met under the Single Audit Act Amendments of 1996 and Office of Management and Budget (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

2. Federal Agencies

Federal agencies are not eligible to receive equitable sharing funds. However, federal agencies that (1) are participating members of the Justice or Treasury Asset Forfeiture Programs and (2) contribute with state, local, or tribal law enforcement agencies to a federal forfeiture action may be eligible to seek a “federal contribution” to the agency’s forfeiture fund. The federal contribution is a percentage of the total forfeiture representative of the federal agency’s contribution to the law enforcement action.

Federal agency participants in the Justice or Treasury Asset Forfeiture Programs must seek a federal contribution via submission of the Federal Contribution Form (FCF), and must follow their agency policy regarding that submission. The percentage awarded will be based on work hours and qualitative contributions for efforts leading to the forfeiture. Any award will be made to the participating agency’s forfeiture fund (*i.e.*, the AFF or the TFF), and not the agency directly. See [Policy Manual](#), Chap. 15.

In no instance will any persons from a federal agency maintain control of shared funds, direct or approve the use of shared funds, sign as the Agency Head or the Governing Body Head on an Equitable Sharing Agreement and Certification (ESAC), or certify a DAG-71 or TD F.

3. Non-Governmental Entities

Non-governmental entities, including non-profit organizations and public or private corporations or institutions, are not eligible to participate in the Program.

III. How Do Agencies Participate in the Equitable Sharing Program?

A. Joining the Equitable Sharing Program

To become a Program participant, agencies must submit an ESAC and affidavit to the Money Laundering and Asset Recovery Section (MLARS). Agencies must also ensure individuals involved in the administration of Program funds complete training. Once agencies have attended training and MLARS reviews and accepts the ESAC, the agency is placed into compliance.

All participating agencies must submit an Automated Clearing House (ACH) Vendor form to Justice and to Treasury per instructions on each Program's ACH form. Separate accounts or account codes must be established for Justice and Treasury funds; therefore, agencies must send a separate ACH form to Justice and to Treasury. ACH forms are available on Justice's and Treasury's respective websites. If an agency's banking information changes, it must submit an updated ACH form to Justice and to Treasury. Agencies may only include account and routing information for accounts assigned to their agency. Agencies must also be registered in the federal government's System for Award Management ([SAM.gov](https://sam.gov)). [SAM.gov](https://sam.gov) assigns the agency a Unique Entity Identification (UEI) number that must be included on the ACH forms. Equitable sharing distributions cannot be processed without a correct SAM UEI on file with Justice or Treasury.

Agencies with law enforcement functions but not typically identified as traditional law enforcement agencies are subject to a separate review to determine their eligibility to participate in the Program. These agencies must demonstrate that they fall within the definition of a law enforcement agency, as defined in [Section II.A.1](#).

B. Compliance

Compliance with state, local, or tribal legislation addressing federal equitable sharing is the responsibility of the Program participant. Justice and Treasury may suspend agencies where compliance with state, local, and tribal laws and Program guidelines is not possible.

1. ESAC Compliance

To participate in the Program, eligible agencies must first submit, and annually resubmit, an ESAC signed by both the head of the law enforcement agency and the head of the governing body with budgetary authority over the law enforcement agency. By signing the ESAC, the signatories agree to be bound by, and comply with, the federal statutes and Justice and Treasury policies—including policies on the appropriate law enforcement purposes and functions of forfeiture—governing the Program. See [Section VII.A](#).

Any breach of the ESAC agreement by a state, local, or tribal law enforcement agency may render it non-compliant or ineligible to receive equitable sharing payments. Participation may be barred on either a temporary or permanent basis, and in some cases, an agency's pending equitable sharing distributions may be permanently extinguished where a requesting agency has failed timely to submit an ESAC or ACH form or has failed to meet any other requirements as set forth in this *Guide*. See [Section VII](#). While federal investigative agencies and U.S. Attorney's Offices have no affirmative obligation to monitor an agency's eligibility, they are obliged promptly to report to MLARS any information that might affect an agency's eligibility to participate in the Program.

To remain compliant, agencies must file the ESAC annually, even if agencies do not receive sharing during that particular reporting period.

2. Civil Rights Compliance

Agencies must comply with the applicable nondiscrimination requirements of the following laws and their implementing regulations: Title VI of the Civil Rights Act of 1964 ([42 U.S.C. § 2000d et seq.](#)), Title IX of the Education Amendments of 1972 ([20 U.S.C. § 1681 et seq.](#)), Section 504 of the Rehabilitation Act of 1973 ([29 U.S.C. § 794](#)), and the Age Discrimination Act of 1975 ([42 U.S.C. § 6101 et seq.](#)). These prohibit discrimination on the basis of race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity. Agencies must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency, consistent with Justice and Treasury requirements. Agencies also must agree to comply with all federal statutes and regulations permitting federal investigators access to records and any other sources of information as may be necessary to determine compliance with civil rights and other applicable statutes and regulations. Further, agencies are required to collect race and ethnicity data as required by 28 C.F.R. § 42.106(b) and 31 C.F.R. § 22.6(b).

C. Participating in a Federal Forfeiture

To receive an equitable share, an agency must assist in the law enforcement effort resulting in federal forfeiture. Generally, if a criminal prosecution and forfeiture is legally possible in the jurisdiction processing the prosecution, the forfeiture action should follow the criminal prosecution, whether state or federal. See [Policy Manual](#), Chap. 3; Chap. 5. The federal government should pursue federal administrative or judicial forfeiture where there is a pending federal criminal investigation or prosecution.

Under certain circumstances, however, a state, local, or tribal law enforcement agency may seize property under state law, without federal oversight or involvement, and a federal agency later takes the seized property into its custody and uses a federal forfeiture proceeding to forfeit the property. This is known as an “adopted” forfeiture, or an adoption. See [Policy Manual](#), Chap. 3, for a discussion of the policies governing adoptions. A state or local law enforcement agency transferring property to the federal government for forfeiture must comply with all applicable state laws and regulations pertaining to the turnover of assets for adoption or the release of assets from state jurisdiction.

Net equity and value thresholds apply to assets seized for federal forfeiture. See [Policy Manual](#), Chap. 1. State, local, or tribal law enforcement agencies should consult the federal seizing agency for any agency-specific minimum monetary or equity thresholds and seizure planning requirements.

IV. What Is the Process to Apply for and Receive a Share?

A. Requesting an Equitable Share

1. Department of Justice-Led Investigations

If state law permits, a participating state, local, or tribal law enforcement agency may request a share of federally forfeited assets by electronically submitting a DAG-71 to the federal seizing agency through Justice's eShare Portal. The requesting agency must complete a separate DAG-71 for each asset for which it requests sharing. An agency may not file a DAG-71 on behalf of another agency.

Agencies may submit sharing requests at any time following the seizure, but no later than 45 days after forfeiture. Agencies must include a waiver request with any sharing requests submitted after 45 days following the forfeiture. The lead agency for forfeiture determines whether to grant the waiver.

The agency must include in its DAG-71 both work hours contributed and a detailed narrative of the agency's contribution to the law enforcement effort resulting in federal forfeiture of the asset. The agency is responsible for providing the decision maker enough information to adequately evaluate the qualitative and quantitative contributions. The decision maker may request additional information or clarification from the requesting agency. Without adequate information to describe the requesting agency's contribution to the forfeiture, the decision maker may not award a share that fully captures the requesting agency's contributions, or may deny the request.

A task force fiduciary agency may submit one DAG-71 under its NCIC code on behalf of a task force that participated in a seizure resulting in federal forfeiture of the asset. The fiduciary agency's DAG-71 must include the total work-hour and qualitative contributions of all task force member agencies in the investigation. The fiduciary must also submit any memorandum of understanding (MOU) or task force agreement governing task force members' pre-arranged sharing agreements. See [Section II.B.1](#).

Agencies must certify that the information they provide on the DAG-71 is true and accurate. Providing falsified information on the DAG-71 could, among other things, result in the agency's suspension or expulsion from the Program.

No sharing decisions will be made until after the forfeiture is complete. No sharing request will be accepted and processed after a sharing decision has been made by the decision maker.

2. Department of the Treasury-Led Investigations

If state law permits, a participating state, local, or tribal law enforcement agency may request a share of federally forfeited assets by submitting a TD F form to the federal agency processing the forfeiture. An agency may not file a TD F on behalf of another agency.

If multiple assets are seized in a single investigation, a requesting agency may file one TD F with an attached listing of all the assets for which the agency requests a share.

Agencies may submit sharing requests at any time following the seizure, but no later than 45 days after forfeiture. Agencies must include a waiver request with any sharing requests submitted after 45 days following the forfeiture. The lead agency for forfeiture determines whether to grant the waiver.

The agency must include in its TD F both work hours contributed and a detailed narrative of the agency's contribution to the law enforcement effort resulting in federal forfeiture of the asset. The agency is

responsible for providing the decision maker enough information to adequately evaluate the qualitative and quantitative contributions. The decision maker may request additional information or clarification from the requesting agency. Without adequate information to describe the requesting agency's contribution to the forfeiture, the decision maker may not award a share that fully captures the requesting agency's contributions, or may deny the request.

A fiduciary agency may submit one TD F under its NCIC code on behalf of a task force that participated in a seizure resulting in federal forfeiture of the asset. The TD F must include the total workhour and qualitative contributions of all task force member agencies in the investigation. The fiduciary must also submit any memorandum of understanding (MOU) or task force agreement governing task force members' pre-arranged sharing agreements. Shared funds will be awarded to the fiduciary agency. Funds awarded directly to the fiduciary agency constitute the fiduciary agency's funds and must be maintained by the fiduciary agency's jurisdiction. The fiduciary agency may earmark funds for use in support of the task force's operations but may not distribute equitably shared funds to individual task force member agencies. If a fiduciary agency submits a TD F on behalf of a task force, task force member agencies may not submit individual sharing requests.

Agencies must certify that the information they provide on the TD F is a true and accurate statement of the agency's activities. Providing falsified information on the TD F could, among other things, result in the agency's suspension or expulsion from the Program.

No sharing decisions will be made until after the forfeiture is complete. No sharing request will be accepted and processed after a sharing decision has been made by the decision maker.

B. Calculating Shares

Percentages allocated to a law enforcement agency must bear a reasonable relationship to the agency's direct participation in the law enforcement effort resulting in the federal forfeiture. The decision maker ordinarily determines percentages by comparing the number of work hours expended by each agency participating in the federal forfeiture, including all federal, state, local, and tribal agency contributions.

Where the work hours alone do not reflect the contribution of a law enforcement agency, the decision maker considers qualitative factors in making adjustments to the sharing percentage. The decision maker may consider:

- the inherent importance of the contributing activity;
- whether the agency otherwise entitled to an adjustment would already receive a comparatively large share based on reported work hours;
- whether the agency originated the investigation or information leading to the seizure;
- whether the agency provided and articulated specific unique or indispensable assistance; or
- whether the agency seized one or more assets that were forfeited in non-federal proceedings during the same investigation.

Any of these qualitative factors may warrant an increase or decrease in the percentage awarded to an agency. The decision maker has discretion to determine on a case-by-case basis whether and how much to adjust the sharing allocation.

No sharing request or recommendation, including shares negotiated in a task force MOU or other agreement, is final until the federal decision maker approves it. The decision maker may consider an agency's contribution in comparison to hours expended by all investigative agencies, regardless of their Program participation. Sharing for non-participating agencies is retained in Justice's AFF or Treasury's TFF.

1. Federal Contribution

All forfeitures that result in proceeds available for equitable sharing have federal involvement. The decision maker must obtain and review the work hours and qualitative contributions of all federal agency participants when determining the appropriate amount to retain in the AFF or TFF for equitable sharing. The decision maker will evaluate federal participation in the same manner as state, local, and tribal participation, using work hours and qualitative contributions to determine the appropriate federal share. The decision maker may also consider federal prosecutorial contributions when evaluating the federal share.

The *minimum* federal share is 20 percent. In most cases, particularly in federally led investigations, the federal share will exceed 20 percent. The decision maker or federal agency leading the investigation may have more restrictive internal guidelines on the minimum federal share.

2. State, Local, and Tribal Contribution

The decision maker must review the reported work hours and qualitative contributions of all participating state, local, and tribal agencies and determine the appropriate share to award to each agency after considering all federal, state, local, and tribal agency contributions to the law enforcement effort resulting in federal forfeiture.

3. Task Force Contribution

Many task forces involving federal, state, local, and tribal law enforcement agencies have pre-arranged, written equitable sharing MOUs or agreements based upon relative numbers of personnel and other contributions to the task force operation.

Justice and Treasury will generally honor written sharing MOUs or agreements that were in place *prior* to the onset of the law enforcement effort resulting in federal forfeiture. The agreement must be current, in writing, and signed by the head of each agency that participates in the task force, and must contain the pre-arranged sharing percentages that reflect overall agency investigative, financial, or administrative contributions to the task force. The decision maker will not honor any verbal sharing agreements. If an agency requests sharing pursuant to a task force agreement or MOU, the agreement must be submitted to the decision maker along with the DAG-71 or TD F. Approved sharing will be disbursed directly to the member agencies unless the task force has appointed a fiduciary agency. If the task force has appointed a fiduciary agency, approved sharing will be disbursed directly to the fiduciary agency.

Funds awarded directly to the fiduciary agency constitute the fiduciary agency's funds and must be maintained by the fiduciary agency's jurisdiction. The fiduciary agency may earmark funds for use in support of the task force's operations but may not distribute equitably shared funds to individual task force member agencies. If a fiduciary agency submits a DAG-71 on behalf of a task force, task force member agencies may not submit individual sharing requests.

The decision maker may allocate percentages to the individual member agencies based on the agencies' participation in the task force rather than any specific officer's participation in the law enforcement effort leading to forfeiture. Funds awarded to each individual agency will be the individual agency's funds and must be maintained by the individual agency's jurisdictions.

If a federal law enforcement agency is a member of a task force, and the task force chooses to include the federal agency in its pre-arranged sharing percentages, the MOU must reflect the work hours and contributions of the federal agency and the federal share. Regardless of whether any federal agency is included in pre-arranged sharing percentages, the minimum federal share is 20 percent.

4. Spin-off Investigations

Agencies may share intelligence information that leads to spin-off investigations and additional federal forfeitures. In limited instances, on a case-by-case basis, the decision maker may approve sharing to an agency that provided critical intelligence information essential to that forfeiture but did not actively participate in the subsequent law enforcement effort resulting in federal forfeiture.

5. Distribution Cap

An agency may receive up to \$10 million in Justice funds and \$10 million in Treasury funds each federal government fiscal year. Calculated sharing in excess of this cap will remain in the appropriate federal forfeiture fund to support nationwide law enforcement efforts.

C. Department of Justice Equitable Sharing Deciding Authorities

All decision makers must exercise due diligence when reviewing and considering work hours and qualitative factors to ensure consistency and uniformity Program-wide when determining shares.

1. Federal Investigative Agency

If the total appraised value of all the assets forfeited in a single administrative declaration of forfeiture is less than \$1 million, the investigative agency determines the appropriate equitable share for each asset and requesting agency.

2. United States Attorney

If the total appraised value of all the assets forfeited in a single judicial forfeiture order is less than \$1 million, the United States Attorney, or a designee, determines the appropriate equitable share for each asset and requesting agency.

3. Department of Justice, Criminal Division

In multi-district cases or cases where the total appraised value of all the assets forfeited in a single administrative or judicial forfeiture is equal to or greater than \$1 million, the Criminal Division determines the appropriate equitable share of each asset. Property forfeited under a single judicial order cannot be split up or separated for sharing decisions. This means, for example, it is not permissible that only those individual assets with values equal to or greater than \$1 million are sent to the Criminal Division for sharing decisions. See [Policy Manual](#), Chap. 15.

D. Department of the Treasury Equitable Sharing Deciding Authorities

1. Federal Investigative Agency

In all forfeiture cases, whether judicial or administrative, where the total appraised value of the assets in a single forfeiture order or declaration is less than \$1 million, the federal investigative agency exercises the authority to approve equitable sharing.

Forfeited assets valued at less than \$1 million that involve foreign sharing require approval from the Director of the Treasury Executive Office for Asset Forfeiture (TEOAF).

2. Department of the Treasury, Treasury Executive Office for Asset Forfeiture

Where the total appraised value of all assets contained in a single forfeiture order or declaration is equal to or greater than \$1 million, the Director of TEOAF must approve the amount of the equitable share.

In all judicial forfeitures, regardless of value, the United States Attorney's Office pursuing the forfeiture shall be given the opportunity to provide input on all recommendations for equitable sharing.

E. Common Causes of Sharing Payment Delay

Equitable sharing occurs only after the federal forfeiture has been completed, the United States has taken clear title to the property, the property has been sold or otherwise disposed of as provided by law, third parties and victims have been fully compensated, any international sharing has been approved, and a final sharing decision has been made by the appropriate decision maker. Certain factors may delay sharing:

1. If the agency submits an incomplete or deficient DAG-71 or TD F, the agency must provide the missing or additional information before the decision maker renders a decision on sharing. The decision maker cannot evaluate the sharing request without adequate information.
2. If the agency is not registered in [SAM.gov](https://www.sam.gov), or if the agency has incomplete or incorrect banking information on file with Justice or Treasury, Justice and Treasury cannot process sharing payments.
3. If the agency is required to certify it is eligible to receive a federal equitable sharing payment and fails to certify, Justice and Treasury cannot process the sharing payment.
4. Distribution in equitable sharing cases involving forfeited assets with a total value of \$1 million or more requires the approval of the Criminal Division for Justice forfeitures or TEOAF for Treasury forfeitures. These additional levels of approval extend the review time.

F. Sharing Is Always Based on Net Proceeds

Equitable sharing is always based on the net proceeds of the forfeiture. Certain amounts must be deducted from the gross receipts to calculate net proceeds:

Gross Receipts	From forfeiture or the sale of forfeited property
Less	Qualified third-party interests (<i>e.g.</i> , valid liens or mortgages) Payments to victims Federal case-related expenses (<i>e.g.</i> , advertising costs, out-of-pocket investigative or litigation expenses) Federal property management and disposition expenses (<i>e.g.</i> , appraisal, storage, security, sale) Awards paid to federal informants Payments for the services of experts and consultants hired to assist in asset identification, seizure, management, forfeiture, or disposition International sharing Reimbursements relating to the seizure from the Justice Assets Forfeiture Fund or the Treasury Forfeiture Fund to the requesting agency (<i>e.g.</i> , overtime, leased space)
Equals	Net proceeds of the forfeiture

Federal law provides that sharing is discretionary. Therefore, any equitable sharing payments to be disbursed to state, local, or tribal law enforcement agencies that would amount to less than \$500 will be extinguished and the funds will remain in the appropriate forfeiture fund.

In addition, federal budgetary constraints such as sequestration and rescissions may affect equitable sharing disbursements, regardless of any calculation of net proceeds or sharing percentages of a specific forfeiture.

V. What Are the Uses of Equitably Shared Funds?

Equitable sharing can provide valuable resources that may not have otherwise been available to state, local, and tribal law enforcement agencies. Equitably shared funds must be used in accordance with governing law and policy, this *Guide*, and all applicable federal laws, rules, regulations, and Executive Orders. Agencies may use equitably shared funds only for law enforcement purposes that directly supplement the agency's appropriated resources. State, local, or tribal law enforcement agencies will not receive equitable sharing if the governing body or state, local, or tribal law, regulation, or policy requires or directs (1) specific expenditures of shared funds, (2) the transfer of federal equitable sharing funds to non-participating law enforcement agencies, or (3) expenditures for non-law enforcement purposes.

Equitably shared funds constitute federal financial assistance and are subject to the provisions of the Code of Federal Regulations (CFR) applicable to a Direct Payment for Specified Use. Agencies must use equitable sharing funds in a reasonable and necessary manner, and must not create the appearance of or actual waste, extravagance, or impropriety.

To avoid a conflict of interest or the appearance of a conflict of interest, no jurisdiction or agency, or personnel of the jurisdiction or agency or immediate family members of such personnel, may purchase, either directly or indirectly, federally forfeited property if the jurisdiction, agency, or personnel were involved in a law enforcement effort that led to the forfeiture of the property.

A. General Guidance on Supplantation and Budgeting

1. Supplantation

Equitably shared funds must be used to increase or supplement the resources of the receiving state, local, or tribal law enforcement agency. Shared funds shall not be used to replace or supplant the agency's appropriated resources. The recipient agency must benefit directly from the sharing. In determining whether supplantation has occurred or could occur, Justice or Treasury will examine the law enforcement agency's budget as a whole and allow agencies to use equitable sharing funds for any permissible purpose as long as shared funds increase the entire law enforcement budget. Justice or Treasury may terminate sharing with law enforcement agencies that are not permitted by their governing body to benefit directly from equitable sharing.

Example of Improper Supplantation: A police department receives \$100,000 in federal equitable sharing only to have its budget cut \$100,000 by the city council. In this instance, the police department has received no direct benefit from equitable sharing whatsoever. Rather, the city as a whole has received the benefit of the sharing.

2. Anticipated equitably shared funds should not be budgeted

Agencies should not obligate or budget anticipated equitable sharing receipts. Agencies may not commit to spending shared funds in advance. For example, if a local law enforcement agency files a DAG-71 or TD F and anticipates a 50 percent share of \$100,000, the anticipated \$50,000 should not be obligated or budgeted. Reasons for this include litigation and policy uncertainties, such as: (1) whether the forfeiture will be perfected; (2) what amount of equitable sharing the decision maker will approve, if any; and (3) when the forfeiture, decision, and ultimate payment will occur. In contrast, agencies may earmark, create spending plans for, and budget equitable sharing funds already received.

B. Use of Shared Funds

Except as noted in this *Guide*, Program participants shall use equitably shared funds for law enforcement purposes only (“permissible uses”). If an agency is unsure whether a proposed expenditure is permissible, it should email mlars.ESProgram@usdoj.gov for Justice fund expenditures or treas.aca@treasury.gov for Treasury fund expenditures.

Agencies may use equitably shared funds for any permissible agency expenditure, and both sworn and non-sworn law enforcement personnel may use them. The fact that equitable sharing derives from property forfeited by a particular agency unit or as a result of a particular federal violation does not limit its use to purchases only for that unit or to further investigations only for that particular federal violation. If an agency wishes to support a multi-agency expenditure, such as a new payroll system or city municipal building, with a non-law enforcement agency, the law enforcement agency’s costs based on its use may be calculated on a *pro rata* basis.

1. Permissible Uses

- a. **Law enforcement administrative costs**—Administrative costs that further the agency’s law enforcement goals or missions. Examples include recruitment and advertisement costs, agency accreditation, banking and equitable sharing account maintenance fees, or agency membership dues. Memberships and dues for an individual are impermissible. See [Section V.B.2.d.](#)
- b. **Law enforcement training and education**—Training of agency personnel, including investigators, prosecutors, and sworn and non-sworn law enforcement personnel, in any area necessary to perform official law enforcement duties, provided that the employees’ regular duties require knowledge of these topics. Examples include training and conference registration fees, tuition, speaker fees, or costs to produce training curricula on topics such as serving as a canine handler, narcotics detection, defensive tactics, criminal justice, languages, constitutional law, accounting and finance, or forensics. Agencies may not pay for training expenses of non-agency personnel. See [Section V.B.2.i.](#)

Agencies may not donate or transfer funds to associations or organizations providing training.

- c. **Law enforcement, public safety, and detention facilities**—Purchase, lease, or operation of law enforcement, public safety, or detention facilities used or managed by the recipient agency. Examples include the costs of leasing, furnishing, and paying utilities for law enforcement facilities.

Treasury shared funds may also be used to pay costs associated with the construction, expansion, or improvement of law enforcement facilities, regardless of the size or scope of the project. Examples include new HVAC equipment, paving projects, security fencing, paint and carpeting, or construction materials related to construction projects.

Justice shared funds may **NOT** be used to pay costs associated with the construction, expansion, or improvement of law enforcement facilities, regardless of the size or scope of the project. See [Section V.B.2.m.](#)

- d. **Law enforcement equipment**—Costs associated with the purchase, lease, maintenance (including repairs or service agreements), or operation of law enforcement equipment for use by law enforcement personnel that supports law enforcement activities. Examples include furniture, audio-visual equipment, office supplies, telecommunications equipment, copiers, safes, fitness equipment, computers, computer accessories and software, body armor, body-worn cameras, cloud data storage, uniforms, firearms and related equipment, ammunition, radios, cellular telephones, electronic surveillance equipment, vehicles (*e.g.*, patrol and unmarked vehicles), and animals and animal-care-related expenses.
- e. **Joint law enforcement and public safety operations**—Costs associated with the purchase of multi-use equipment and operations used by both law enforcement and non-law enforcement personnel. Examples include 911 call center equipment, defibrillators, Naloxone, search and rescue boats, aircraft, and diving equipment. These expenditures are exempt from the pro-rata calculation of law-enforcement-related costs. There must be a law enforcement use; the equipment cannot be solely for non-law enforcement operations, such as fire and EMS vehicles.
- f. **Contracts for services**—Costs associated with a contract for a specific service that supports or enhances law enforcement. Examples include translation and language assistance services, outsourced laboratory testing, staffing and feasibility studies, auditing of equitable sharing funds, Employee Assistance Program services, subject matter expert consultations, grant writing, or software development.

Employment-related contracts or contracts involving inherently law enforcement functions are prohibited. Examples include hiring an attorney, investigator, or civilian personnel to perform tasks typically or previously performed by agency or jurisdiction personnel.

Under no circumstances should any agency enter a contract that bases payment on a percentage of the seizures and forfeitures of the law enforcement agency.

- g. **Law enforcement travel and per diem**—Costs associated with travel and transportation for law enforcement agency personnel to perform or support law enforcement duties and activities. Travel and per diem for personnel from other agencies is not permitted. All related costs must be in accordance with the jurisdiction's travel and per diem policies and must not create actual or the appearance of extravagance, waste, or impropriety.
- h. **Law enforcement awards and memorials**—Costs associated with the purchase of plaques, certificates, commemorative badges, and challenge coins in recognition of a law enforcement achievement, activity, or training. Shared funds may not be used to pay monetary awards in any form, including cash, cash equivalents, or stored value cards.

Shared funds may be used to pay the costs for commemorative plaques, displays, or memorials on law enforcement property to recognize or memorialize a law enforcement officer's contributions, such as a memorial plaque or stone in honor of an agency's officers killed in the line of duty. The plaque, display, or memorial must not create actual or the appearance of extravagance, waste, or impropriety. Justice shared funds may not be used for memorials involving construction. See [Section V.B.2.m.](#)

- i. **Drug, gang, and other prevention or awareness programs**—Costs associated with conducting law enforcement agency awareness programs. Examples include public service announcements, meeting costs, motivational speakers, and items used or distributed by the agency such as child identification kits and anti-crime items, literature, or software.
- j. **Law enforcement initiatives that further investigations**—Costs associated with furthering law enforcement investigations. Examples include reward money paid by the agency or a crime tip organization for information on a completed crime or annual dues paid to a crime tip organization (informant payments excluded, *see* [Section V.B.2.o.](#)), victim or witness expenses (travel or temporary housing), or reimbursement to the jurisdiction for buy-back programs. Agencies are prohibited from having direct access to funds. *See* [Section V.B.2.g.](#) Equitable sharing funds may not directly fund petty cash or secondary accounts, or any other financial instruments to which officers and employees have direct access.
- k. **Overtime**—Costs for overtime and related benefits of current sworn and non-sworn law enforcement agency personnel performing official law enforcement duties. Overtime for personnel from other agencies is not permitted.
- l. **Salaries**—Payment of salary and benefits of a new officer hired to replace an officer assigned to a federal task force or school resource or drug abuse resistance education officer with certain pre-approvals as detailed below. To protect the integrity of the Asset Forfeiture and Equitable Sharing Programs so that the prospect of receiving equitable sharing funds does not influence or appear to influence law enforcement decisions, equitable sharing funds may not be used to pay the salaries and benefits of sworn or non-sworn law enforcement personnel except in these limited situations:

Type	Justice Program Funds	Treasury Program Funds
Task Force Replacement Officer ⁷	Permissible, with annual pre-approval	Impermissible
School Resource Officer (SRO) or Drug Abuse Resistance Education (DARE) Officer ⁸	Permissible, with annual pre-approval	Permissible

To obtain approval to pay the salaries of task force replacement and SRO or DARE officers with Justice equitable sharing funds, agencies must obtain approval annually from MLARS prior to the commencement of the fiscal year in which the salary will be paid. To obtain approval, agencies must submit to MLARS:

⁷ The replacement officer cannot engage in any duties related to the seizure or forfeiture of assets.

⁸ DARE and SRO officer positions can only be funded for the time performing those duties. For example, if an SRO only performs those duties nine months of the year, only the time performing that function may be paid with shared funds.

- Description of position to be paid with Justice equitable sharing funds, estimated cost of position, and proof of staffing levels;
- Documentation demonstrating sufficient Justice equitable sharing funds on hand to pay the estimated annual costs;
- If task force replacement officer: Documentation demonstrating sufficient alternate funds to support the replacement position or a commitment to terminate the replacement position should the TFO leave the federal task force and return to his or her agency;
- If DARE or SRO officer: Documentation demonstrating sufficient alternate funds to support the SRO or DARE officer if the officer does not perform these specialized duties for all 12 months of the year;
- Certification that the agency agrees to abide by all Guide provisions and other applicable policies and guidance related to payment of salaries with shared funds.

Failure to receive approval as detailed above prior to the use of these salary provisions will result in the repayment of funds and denial of any future requests to pay salaries of a DARE, SRO, or task force replacement officer with Justice shared funds.

2. Impermissible Uses

- a. Use of forfeited property by non-law enforcement personnel**—Personnel from non-law enforcement agencies may not use items purchased with shared funds unless the property is purchased for joint law enforcement and public safety use. See Sections [V.B.1.c](#) and [V.B.1.e](#) for joint public safety facilities and equipment.
- b. Creation of endowments, scholarships, or grants**—Shared funds may not be used to create or establish endowments, scholarships, or grants.
- c. Uses contrary to state, local, or tribal laws**—Shared funds and property may not be used for any purpose that would constitute an illegal or improper use of state, local, or tribal law enforcement funds or property under the laws, rules, regulations, and orders of the state, local, or tribal jurisdiction of which the agency is a part. Statutes, policies, and regulations applicable to state forfeiture or sharing do not apply to federal forfeiture or sharing.
- d. Personal or political use of shared assets**—Shared funds may not be used for any purpose that creates the appearance that shared funds are being used for political gain or personal benefit. Examples include campaign advertisement or paraphernalia, gym memberships, personal professional liability insurance, commercial driver's licenses, passports, non-uniform clothing, and bar, union, or other individual dues or membership fees.
- e. Purchase of food and beverages**—Shared funds may not be used to pay for food and beverages (alcoholic and non-alcoholic) except for meals for officers engaged in local emergency operations such as during an earthquake or hurricane. This does not apply to food and beverage included in per diem for official travel. See [Section V.B.1.g](#).

- f. **Extravagant or wasteful expenditures and entertainment**—Shared funds must be used prudently and in a manner that avoids any actual or appearance of extravagance, waste, or impropriety. In addition, shared funds may not be used for entertainment expenditures. Examples include tickets to social events, hospitality suites at conferences, entertainers, or meals or travel in excess of per diem.
- g. **Cash on hand, secondary accounts, and stored value cards**—Agencies are prohibited from having access to funds or maintaining cash on-hand. Agencies may not maintain shared funds in multiple accounts, including separate investment or petty cash accounts; purchase prepaid credit cards, stored value cards, or other financial instruments; or engage in any transaction where expenditures are not managed or monitored by the jurisdiction and tracked to ensure permissibility in accordance with this *Guide*. See [Section VI.A.1](#).
- h. **Transfers to other agencies**—Shared funds may not be transferred to any another agency.
- i. **Purchase of items for other agencies**—Agencies may not use shared funds to purchase equipment or pay other permissible costs for other agencies. The purchasing agency must retain title to and maintain in its inventory any equipment purchased for use by officers assigned to a task force. See [Section II.B.1](#) for task force operations.
- j. **Payment of expenses for employees of other agencies**—Agencies may not use shared funds to pay expenses for permissible costs for employees of other agencies. Examples include overtime, travel and per diem, and other non-tangible expenses.
- k. **Costs related to lawsuits**—Shared funds may not be used to pay attorneys' fees, settlement payments, or any other related costs of lawsuits involving the agency, its governing body, or its employees.
- l. **Loans and reimbursements**—Shared funds may not be used as advance payment for expenditures being reimbursed or paid by other funds, or to reimburse the jurisdiction for expenses already purchased with general funds. Examples include task force overtime reimbursements or reimbursements for items purchased or paid for with appropriated funds before the agency received sharing funds. If an agency receives an unanticipated reimbursement, such as a rebate or unexpected grant, please consult MLARS or TEOAF for reporting guidance.
- m. **Construction projects**—Justice sharing funds may not be used to pay costs associated with the construction, expansion, or improvement of law enforcement facilities, regardless of the size or scope of the project. Examples include new HVAC equipment, paving projects, security fencing, paint and carpeting, firing ranges, or construction materials related to construction projects. See [Section V.B.1.c](#) for the use of Treasury funds for construction, expansion, or improvement of law enforcement facilities.
- n. **Donations to community-based organizations**—Shared funds may not be donated to or used to purchase items for community-based organizations.

- o. **Buy or flash money and informant payments**—Shared funds may not be used to pay informants or for flash or buy money. Reward money other than informant payments and payments to Crime Stoppers organizations are permitted. See [Section V.B.1.j](#).
- p. **Money laundering operations**—Shared funds may not be used to support state, local, or tribal undercover money laundering operations that are not part of an approved federal undercover money laundering investigation.
- q. **Salaries**—Shared funds may not be used to pay the salaries and benefits of sworn or non-sworn law enforcement personnel, except as noted in Sections [V.B.1.k](#), or [V.B.1.l](#).

C. Return of Equitably Shared Funds

On occasion, a criminal conviction or forfeiture order may be vacated, or victims and third parties—who must be paid in full prior to any equitable sharing—may be identified after equitable sharing payments have been disbursed. In those instances, MLARS and TEOAF require agencies to return previously disbursed equitable sharing. If the agency has approved sharing that has not yet been disbursed, MLARS or TEOAF may permit the agency to offset the amount due against future sharing.

D. Treasury Offset Program

The Treasury Offset Program (TOP) offsets and levies federal payments, including equitable sharing payments, to collect delinquent debts owed to the United States and to states as required by the Debt Collection Improvement Act of 1996 and other laws. On occasion, a Program participant may have one or more equitable sharing payments offset to satisfy a debt owed by them or by another entity within its jurisdiction sharing its Tax Identification Number (TIN). Agencies whose funds have been offset should first contact the USMS or Treasury to determine the TIN that was offset. Next, agencies should contact the TOP call center at 800-304-3107 to determine the amount of and reason for the debt. Agencies with offset funds should seek reimbursement from the delinquent entity within the jurisdiction responsible for the debt, not from the AFF or the TFF, to ensure that funds are used for law enforcement purposes in accordance with this *Guide*. Any unreimbursed offset funds must be reported on the ESAC as a non-categorized expenditure.

VI. What Are the Accounting Procedures and Requirements for Shared Proceeds?

All participating state, local, and tribal law enforcement agencies must implement standard accounting procedures and internal controls that are consistent with this *Guide* to track equitably shared funds and items purchased with shared funds. At any time, Justice or Treasury may request documents related to equitable sharing, conduct an audit or compliance review, or implement additional reporting requirements and spending plans. Agencies must track and maintain separately equitable sharing funds received from Justice and Treasury.

A. Bookkeeping Procedures and Internal Controls

A state, local, or tribal Program participant must:

1. **Maintaining and Administering Funds:** Maintain equitable sharing funds with the jurisdiction and administer funds in the same manner as the jurisdiction's appropriated funds. Funds must follow all jurisdiction policies and procedures regarding procurement and approvals. The jurisdiction must administer and maintain bank accounts, accounting codes, and other financial documents in the same manner as appropriated funds. Agencies are prohibited from maintaining or having direct access to federally shared funds.
2. **Accounts/Accounting Codes:** Establish separate Justice and Treasury accounts or accounting codes within the jurisdiction's financial management system 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.
3. **Procurement:** Process all expenditures and payments in the same manner as appropriated funds, including procurement and payment transactions.
4. **Interest Income:** Deposit all interest earned on equitable sharing funds 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 jurisdiction's policies may not be allocated to or deducted from the equitable sharing account.
5. **Standard Operating Procedures:** Maintain and follow 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 jurisdiction policies. Ensure distribution of relevant policies to all appropriate personnel.
6. **Inventory Tracking:** Inventory and track all items purchased with equitable sharing funds. 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.
7. **Records:** Maintain records of all revenue and expenditures posted to the account or accounting code, including bank and ledger statements, invoices, receipts, required jurisdiction approvals, or any other documents used or created during the procurement process.

8. **Agency Approvals:** Ensure the law enforcement agency head, or designee, authorizes all expenditures from the sharing accounts.
9. **Jurisdiction Approvals:** Obtain approval for expenditures from the governing body, such as the board of commissioners or city council, in accordance with jurisdiction policy.
10. **ESAC Reporting:** Record and report all transactions consistent with the jurisdiction's reporting methods, whether reporting as cash, accrual, or modified accrual-based accounting.
11. **Disposal and Sales Proceeds:** Dispose of items purchased with shared funds in accordance with the agency's disposal policies. To the extent practicable and if consistent with the agency'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.
12. **Vendor Registration:** Ensure vendors for all qualified purchases are registered in [SAM.gov](https://sam.gov) and are not suspended or debarred.
13. **Agency Registration:** Maintain an active registration in [SAM.gov](https://sam.gov).
14. **Banking Information:** Ensure bank account information on file with USMS and TEOAF remains current.

VII. What Are the Reporting and Audit Requirements?

To ensure effective management, promote public confidence in the integrity of the Program, and protect the Justice and Treasury Asset Forfeiture Programs against potential waste, fraud, and abuse, Justice and Treasury have established reporting requirements that include the annual submission of the ESAC. The ESAC includes the agency's annual affidavit and details an agency's receipts and expenditures of equitably shared funds for the Program. In addition to complying with other governing law, regulation, and policy, a state, local, or tribal law enforcement agency must be compliant with the use and reporting requirements set forth in this *Guide* to receive any distribution of funds. An agency is considered compliant once MLARS receives, reviews, and approves the ESAC. Because the ESAC captures both Justice and Treasury equitable sharing receipts and expenditures, submission of the ESAC to MLARS constitutes submission to both Justice and Treasury.

The eShare Portal is a Justice online tool that allows agencies to obtain information regarding equitable sharing requests and distributions made by Justice. This information assists with reconciling deposits to the agency's Justice equitable sharing account, as well as tracking and obtaining the status of pending Justice sharing requests. At this time, Treasury does not have a similar online tool; however, distribution reports are available by contacting TEOAF.

A. Agency Status

Agencies may be designated as compliant, non-compliant, or ineligible to participate in the Program. The determination of an agency's status is at the discretion of MLARS and TEOAF.

Compliant: Compliant agencies may receive shared funds and submit requests for future sharing.

Non-Compliant: Non-compliant agencies may not receive funds, but they may submit requests for future sharing. Shared funds pending distribution may be retained in the AFF or TFF until such time as the agency returns to compliance.

Ineligible: Ineligible agencies may not receive funds nor submit requests for future sharing. Shared funds pending distribution will be extinguished and not paid should the agency return to compliance.

B. Equitable Sharing Agreement and Certification (ESAC)

1. **When ESACs are Required:** Agencies receiving, expending, or maintaining shared funds during the fiscal year or with pending sharing must annually submit an ESAC in the eShare portal to remain compliant. If an agency did not receive, expend, or maintain funds in the prior fiscal year, an ESAC is not required to be submitted. However, if the agency does not have a current ESAC on file it will no longer be a compliant Program participant.
2. **Who Must Approve ESACs:** The head of the law enforcement agency and a designated official of the governing body must review and approve the ESAC prior to submission. For the purposes of the Program, the governing body is the governmental entity that allocates appropriated funding to the law enforcement agency. In no instance can any individual from the law enforcement agency sign as the governing body head. By approving the ESAC, the signatories agree to be bound by the statutes, regulations, policies, and guidelines that regulate the Program and certify that the law enforcement agency will comply with these guidelines and statutes.

3. **ESAC Submission Deadline:** Agencies must submit the ESAC within two months after the end of their fiscal year. No extensions to this deadline will be granted. MLARS reviews ESACs in the order received, and agencies will remain non-compliant until MLARS approves the ESAC. For example, if the agency's fiscal year ends September 30, the ESAC must be filed, reviewed, and accepted by November 30 for the agency to remain compliant.

Agencies should ensure all agency and jurisdiction finance personnel contact information remains current. If an agency's administrator to the eShare portal will no longer serve in that capacity, the administrator should appoint a new administrator prior to departure. Agency and jurisdiction finance contact information may be updated at any time in the eShare portal.

C. Extinguishment of Funds

An agency that remains non-compliant for more than one year, or for more than six months with a balance of \$500,000 or more, will be deemed ineligible and MLARS will extinguish all approved sharing pending disbursement. Extinguishments are final and the previously approved funds will remain in the AFF or TFF. Additionally, if an agency required to certify it can receive sharing payments fails to certify, the sharing payment will be extinguished.

D. Audit Requirements

State, local, and tribal law enforcement agencies that receive equitable sharing must 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. Auditors should consult the Assistance Listing number 16.922 for Justice equitable sharing funds and 21.016 for Treasury equitable sharing funds to determine applicable audit guidance. Expenditures of these funds must be included on the jurisdiction's Schedule of Expenditures of Federal Awards (SEFA) as federal financial assistance.

On occasion, agencies may be selected by the Justice or Treasury Office of Inspector General, MLARS, TEOAF, or other federal entities, to undergo an audit or other form of review. Agencies must comply with all requests for documents and information. Failure to comply with these requests or failure to implement corrective measures resulting from an audit or other review, may result in temporary or permanent exclusion from the Program.

E. Record Retention

State, local, and tribal law enforcement agencies must retain all documents and records pertaining to their participation in the Program 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.

F. Program and Policy Changes

When policies affecting the Program change, MLARS will notify each agency. TEOAF will post Program or policy changes on its [website](#).

VIII. How Does an Agency Terminate Program Participation?

When an agency decides to end its participation in the Program, it must notify MLARS and TEOAF of its decision. MLARS and TEOAF will coordinate with the agency on the disbursement of the agency's remaining funds, if any. The agency will be required to file a final ESAC showing a zero balance. Any pending sharing requests will be extinguished, and those funds will be retained by Justice or Treasury in the AFF or the TFF. If the agency chooses not to spend its remaining funds, the funds must be returned to the AFF or TFF. Funds shall not be transferred to any other entity or agency.

IX. What If Agencies Do Not Comply with Program Requirements?

In addition to laws, regulations, and other policies, this *Guide* is binding upon all state, local, or tribal agencies participating in the Program. No equitable sharing funds or property will be distributed to any state, local, or tribal law enforcement agency that is not a compliant Program participant.

Failure to comply with governing laws, regulations, and policies may subject recipient agencies to consequences such as:

1. Denial or extinguishment of sharing requests,
2. Temporary or permanent exclusion from the Program,
3. Freeze on receipt or expenditure of shared funds,
4. Return of shared funds,
5. Federal civil enforcement actions; or
6. Federal criminal prosecution for false statements under [18 U.S.C. § 1001](#), fraud involving theft of federal program funds under [18 U.S.C. § 666](#), or other federal criminal statutes, as applicable.

MLARS or TEOAF exercises discretion as to the appropriate consequences based on the violation and circumstances of the violation.

An agency or governing body head, or designee, is required to immediately notify MLARS and TEOAF of any allegations of theft, fraud, waste, or abuse involving the seizure or forfeiture of assets or federal equitable sharing funds.