

**Money Laundering
and Asset Recovery Section**



**Equitable Sharing
Program**

Quick Reference

Overview

The Department of Justice Equitable Sharing Program (Program) enhances cooperation amongst federal, state, local, and tribal law enforcement agencies by providing valuable additional resources to Program participants.

Equitable Sharing Program Quick Reference (Quick Reference) explains financial management and reporting requirements for agency and jurisdiction staff who administer Department of Justice (DOJ) equitable sharing funds awarded through the Program.

This *Quick Reference* supplements, and does not replace or amend, the policies set forth in the [*Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies July 2018*](#) (*Guide*) and other policy updates issued by the Money Laundering and Asset Recovery Section (MLARS).

The policies in the [*Guide*](#) and *Quick Reference* promote transparency, integrity, and accountability for Program participants receiving federally shared funds.

Table of Contents

Overview	2
Participating in the Equitable Sharing Program	2
Receiving Equitably Shared Funds	3
Permissible Uses of Funds	4
Impermissible Uses of Funds.....	5
Shared Funds are Federal Financial Assistance.....	6
Single Audit Requirement	8
Maintaining Equitable Sharing Funds	9
Inventory Tracking.....	12
eShare Portal	13
Program Reporting Requirements	14
ESAC Overview.....	14
ESAC Compliance: Timeline and Definitions.....	15
ESAC Completion.....	16
Failure to Comply with Program Policies	18
Changes to Participant or Jurisdiction Information	19
Contact the Program.....	20

Participating in the Equitable Sharing Program

Agencies that assist in an investigation that results in a federal forfeiture may request a share of the federally forfeited proceeds based on their contributions to the law enforcement effort leading to the forfeiture.

To qualify, an agency must be a state, local, or tribal government entity whose primary mission is law enforcement.

Receiving Equitably Shared Funds

A Program participant's awarded share is based on both quantitative and qualitative factors, as well as federal and other state, local, and tribal law enforcement agency involvement. Federal law provides that sharing is discretionary. The [Guide](#) details how shares are determined.

- Shared funds shall not be used to replace or supplant the appropriated resources of the recipient.
- Anticipated shared funds or property should not be budgeted.

Permissible Uses of Funds

Equitable sharing funds may be used for expenditures deemed permissible in the [*Guide*](#) and used by both sworn and non-sworn law enforcement personnel.

Examples of permissible expenditures include:

- Law enforcement equipment
- Law enforcement training
- Lease and utility payments for law enforcement facilities
- Drug, gang, and other prevention or awareness programs

Impermissible Uses of Funds

- Purchases for other law enforcement agencies
- Personal or political use of shared assets
- Purchase of food and beverages
- Entertainment costs
- Extravagant or wasteful expenditures
- Cash on hand, secondary accounts, and stored value cards
- Transfers to other law enforcement agencies

The [Guide](#) provides additional details, examples, and requirements for permissible and impermissible expenditures.

Agencies that misuse funds may be required to return funds either to their equitable sharing account or back to DOJ.

Shared Funds are Federal Financial Assistance

As Federal Financial Assistance, DOJ equitably shared funds are categorized as a direct payment for specified use and are subject to annual federal reporting requirements both to DOJ and in accordance with the Single Audit requirements as outlined in the [Guide](#).

Funds are also subject to federal guidelines regarding the use and maintenance of funds in accordance with the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* issued by the Office of Management and Budget (OMB's *Uniform Requirements*) and codified in the Code of Federal Regulations (CFR).

- Expenditures of equitable sharing funds must be included on the jurisdiction's Schedule of Expenditures of Federal Awards (SEFA) under Assistance Listing # 16.922
- Certain expenditures such as donations to community organizations are subject to sub-recipient monitoring requirements

Shared Funds are Federal Financial Assistance

The applicable subparts of 2 CFR Part 200 — Grants and Agreements are:

- **Subpart A:** Acronyms and Definitions
- **Subpart B:** General Provisions (excluding Sections 200.111–200.113)
- **Subpart D:** Post Federal Award Requirements (Sections 200.303 — Internal Controls, and 200.331–333 — Sub-recipient Monitoring)
- **Subpart F:** Audit Requirements

Single Audit Requirement

Jurisdictions that expend more than the applicable threshold in federal financial assistance in a fiscal year are required to perform an independent audit in accordance with OMB's *Uniform Requirements*. Federal financial assistance includes all federal grant funds including equitable sharing funds expended by the jurisdiction.

The Equitable Sharing Agreement and Certification (ESAC) filer must include the independent auditor's information on the ESAC's Single Audit tab.

Completed audits are uploaded to the [Federal Audit Clearinghouse](#) website and assigned a file number. The audit's file number must be included in the ESAC's Single Audit tab.

If the jurisdiction does not expend more than the applicable threshold in federal funds and therefore was not required to complete a Single Audit, the ESAC filer must indicate on the ESAC's Single Audit tab that the jurisdiction did not meet the threshold. Participants must maintain evidence that Program expenditures were considered for inclusion in a jurisdiction's annual audit.

Maintaining Equitable Sharing Funds

- Agencies may not maintain or have direct access to their equitable sharing funds. The jurisdiction, not the agency, must maintain equitable sharing funds.
- The jurisdiction (e.g., the city or county finance department, county treasurer or county auditor, or state comptroller) must maintain the agency's equitable sharing funds in a separate account or accounting code within the jurisdiction's financial management system.
- If the jurisdiction maintains funds in a pooled account using a unique accounting code, the system must track all revenues, expenditures, and interest for the funds.
- Expenditures must follow all jurisdiction procurement and approval policies, including approval from the governing body, when required.

Maintaining Equitable Sharing Funds

- Interest earned on equitable sharing funds must be deposited into the agency's equitable sharing account or accounting code and is subject to the policies set forth in the [Guide](#).
- Agencies must maintain and follow written policies for accounting, book-keeping, inventory control, and procurement that comply with the applicable provisions of OMB's *Uniform Requirements* or any subsequent updates and jurisdiction policies. Ensure distribution of relevant policies to all appropriate personnel.

Maintaining Equitable Sharing Funds

- Vendors for qualifying purchases made with equitable sharing funds must be registered in the [System for Award Management](#) (SAM). (See 2 CFR 180.)
 - Qualifying purchases are those purchases of \$25,000 or more as well as incremental purchases made from vendors that total more than \$25,000 in equitable sharing funds in a single fiscal year.
 - Program participants or their jurisdictions must search [SAM](#) to ensure the vendor is not suspended or debarred.
- Proceeds from the sale of tangible items purchased with equitable sharing funds or obtained for official use must, to the extent practicable, be deposited back into the equitable sharing account and reported as Other Income—Sales Proceeds on the annual ESAC.

Additional details on completing the ESAC are on [page 14](#).

Inventory Tracking

Agencies or their jurisdictions must maintain an inventory log of all tangible items purchased with equitable sharing funds or obtained for official use. At a minimum, inventory logs must track:

- Date of acquisition
- Purchase amount
- Source of funds used to purchase the asset
- Location, unit, or individual assigned
- Serial, VIN, or other tracking number
- Disposal date
- Amount recovered at time of disposal

Agencies must follow their jurisdiction's policies and procedures for disposing items purchased with equitable sharing funds. Items with de minimis value may be donated if permitted under the agency's policies. Weapons must be destroyed and not sold or donated.

eShare Portal

The eShare Portal is DOJ's online portal for Program participants. In the eShare Portal, agencies submit equitable sharing requests and track the asset's status through its entire forfeiture life cycle, run distribution reports, and submit the required annual ESAC to maintain compliance. The eShare Portal has a library of tutorials available to users in Resources link.

Program Reporting Requirements

ESAC Overview

The ESAC captures data for the Program, including:

- Funds received
- Funds expended
- Interest earned
- Jurisdiction Single Audit information

Program participants must submit annually an ESAC within two months of the end of the agency's fiscal year to maintain compliance. Compliance is required for agencies to receive funds.

The ESAC homepage displays the agency's compliance status, agency contact information, and MLARS contact information.

Agencies should direct questions regarding the information reported on the ESAC to the state representative listed in the eShare Portal.

Program Reporting Requirements

ESAC Compliance: Timeline and Definitions

Timeline

Agencies remain compliant for two months past their fiscal year end. If an agency fails to file its ESAC within two months, the agency becomes non-compliant. If an agency remains non-compliant for more than 12 months, the agency becomes ineligible. Agencies with balances more than \$500,000 will become ineligible after six months.

Definitions

Compliant: Agency can submit DAG-71 Sharing Requests and receive equitable sharing payments.

Non-Compliant: Agency can submit DAG-71 Sharing Requests, but will not receive equitable sharing payments until the agency becomes compliant.

Ineligible: Agency cannot submit DAG-71 Sharing Requests or receive equitable sharing payments. All sharing requests pending disbursement may be extinguished and extinguishments are not reversible.

Program Reporting Requirements

ESAC Completion

- The Funds Received line should include only funds received directly from the DOJ Program. The Department of the Treasury funds and activity are reported under the Treasury column.
- Federal funds reimbursed through Joint Law Enforcement Operations (JLEO) that include overtime and other investigative costs are not equitable sharing funds and do not get deposited into the equitable sharing account or reported on the ESAC.
- Other income can be derived from several sources including sales proceeds, reimbursements for impermissible expenditures, or adjustments due to audit or previous compliance reviews.
- Expenditure categories generally align with the permissible uses outlined in the [*Guide*](#).

Program Reporting Requirements

ESAC Completion

- Details of the jurisdiction's Single Audit performed by its independent auditor are required. In many instances, the law enforcement agency may not know this information and it must be obtained from the jurisdiction's finance department.
- The Single Audit file number is the number assigned to the audit uploaded into the [Federal Audit Clearinghouse](#) website.
- The Single Audit file number is for the audit performed on the prior fiscal year.

Failure to Comply with Program Policies

Agencies that fail to comply with Program policies may be subject to one or more sanctions, including:

- Temporary or permanent exclusion from the Program,
- Denial or extinguishment of sharing requests,
- Prohibition from spending awarded funds, or
- Requirement to return funds.

Changes to Participant or Jurisdiction Information

The eShare Portal maintains contact information for the agency and jurisdiction finance contact, ESAC preparer, agency head and governing body head. When contact information changes the agency's administrator must make updates to the eShare Portal.

If the agency's administrator will be leaving, the agency must appoint a new administrator in the eShare Portal's User Management Center. If the agency's administrator is no longer with the agency, the agency's finance contact must contact their [state representative](#) for assistance appointing a new administrator.

If the jurisdiction's banking information changes, an updated [ACH Vendor Form](#) must be submitted to the U.S. Marshals Service to prevent any disruptions or delays in processing payments. The [ACH Vendor Form](#) is available on the [Equitable Sharing Program](#) page.

Contact the Program

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