June 5, 2013

Department of Justice

Equitable Sharing Wire

Contingency Fee-Based Services Prohibited

Payments paid to any recipient based on a percentage of seizures and forfeitures are a violation of the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies (Guide)* (*2009*) and any payments made under those provisions constitute an impermissible expenditure of Federal equitably shared funds.

The *Guide*, Section VIII.A.1.b., allows Program participants to use federally-shared monies to pay for the training costs of officers, investigators, prosecutors, and law enforcement support personnel in any area that is necessary to perform official law enforcement duties. Allowable training costs include reasonable per participant enrollments fees, materials, and travel related costs and applicable *per diem* rates if travel is necessary to attend the training. The *Guide,* however, does not permit the payment of training costs or any other services based on a percentage of seizures and forfeitures. Contracted fee arrangements based on a percentage of seizures and forfeitures are inconsistent with the statutory intent and discretionary authority governing the sharing of federally forfeited property with Program participants. Moreover, contract fee arrangements are at odds with the *Guide* and may create a real or perceived conflict of interest and have the potential to erode public confidence in the fair and impartial administration of justice.

Finally, the *Guide*, Section VIII.A.3.c. prohibits agencies from committing to the spending of sharing monies in advance. Agencies should not obligate, spend or commit to spend equitably shared funds until the funds have been received by the agency.

Maintaining Your Equitably Shared Funds

The *Guide*, Section IX.A requires Department of Justice equitable sharing funds to be kept in a separate revenue account not commingled with any other funds, including appropriated funds, Treasury sharing funds, state forfeiture funds, Organized Crime Drug Enforcement Task Force (OCDETF) overtime, or any other joint law enforcement operation funding. In addition to this requirement, DOJ equitably shared funds can not be pledged, loaned, or used to cover fund deficits. Shared funds must only be deposited into an interest or non-interest bearing federally insured depository account. Other investment accounts that have a market risk including money market or uninsured accounts are unacceptable depositories for equitably shared funds.

Questions regarding the permissibility of equitable sharing funds may be forwarded to Afmls.aca@usdoj.gov.

Key Contacts

Website for forms and publications
www.justice.gov/criminal/afmls

Permissible Use of Funds
Afmls.aca@usdoj.gov

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Treasury Executive Office for Asset Forfeiture
(202) 622-9600
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