

DEPARTMENT OF JUSTICE  
Criminal Division, Asset Forfeiture and Money Laundering Section

Supporting Statement – Information Collection Request  
Equitable Sharing Agreement and Certification  
OMB # 1123-0011

A. Justification

1. The Attorney General is required by statute to “assure that any property transferred to a State or local law enforcement agency . . . will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.” 21 U.S.C. § 881(e)(3). The Asset Forfeiture and Money Laundering Section (AFMLS) ensures such cooperation by requiring that all such “equitably shared” funds be used only for law enforcement purposes and not be distributed to other governmental agencies by the recipient law enforcement agencies. By requiring that law enforcement agencies that participate in the Equitable Sharing Program (Program) file an Equitable Sharing Agreement and Certification (ESAC), AFMLS can readily ensure compliance with its statutory obligations. The ESAC also contains information regarding Department of the Treasury (Treasury) equitable sharing funds. Data collected on the ESAC is shared with Treasury to ensure Treasury is compliant with its statutory obligations.
2. AFMLS uses the records to track compliance with the requirements of the Program. Periodically, the DOJ Office of Inspector General will request copies of submissions to assist in the completion of its duties as well.
3. The current data collection is a PDF fillable file. Once completed, the users e-mail the ESAC to AFMLS in XML format. The e-mail submission is automatically added to the AFMLS internal database. The form has been revised to permit the submitter to verify he/she is the authorized submitter and the governing body head (generally a governor or mayor) and law enforcement head (generally a chief of police or sheriff) he/she enters on the affidavit section have reviewed the form and all governing policies and have agreed to abide by all Program requirements. A new compliance database is currently under development. The database will permit agencies to login and submit the ESAC form and attest to the required certifications directly in the system. The agency will no longer be required to send an XML file to AFMLS. It is anticipated that the new system will be functional within 12 months.

4. The ESAC requires information regarding the receipt and expenditure of Program funds from the participating agency. Accordingly, it seeks information that is exclusively in the hands of the participating agency and no similar information is available.
5. This collection of information will have an insignificant impact on a large number of small municipal law enforcement agencies. The burden on any participating agency is in direct proportion to the amount of equitable sharing funds it receives or expends in a given year. Those agencies which neither receive nor expend Program funds during any year will have a *de minimis* burden. Equitable sharing funds may be expended on software and hardware used to comply with the filing requirements of the Program.
6. Less frequent collection of this information would make identifying misuse of Program funds more difficult and would make correction of such errors more expensive.
7. There are no special circumstances associated with this collection.
8. 60 day notice was published in the Federal Register on July 3, 2014, page 38070, and the 30 day notice was published on September 8, 2014, page 53214. Two comments were received. AFMLS discussed the first comment with the submitter and explained that this data collection is not the appropriate venue to collect the data being sought. No modifications were made to the form as a result of the comment. AFMLS discussed the comment from Treasury with the Treasury Executive Office for Asset Forfeiture (TEOAF). In light of policy changes TEOAF agreed to adopt, joint data collection was once again feasible. The ESAC form was modified to collect data on both DOJ and Treasury equitable sharing funds.

AFMLS routinely attends law enforcement conferences and regularly gives presentations about equitable sharing. These conferences present an opportunity to discuss, both formally and informally, the collection of this information.

9. No payment or gift is associated with this information collection.
10. No assurance of confidentiality is provided to the respondents. These records are available to the public in response to a FOIA request, however to protect PII, we redact the name and contact information for the Agency Contact, the person who filled out the form, and the civil rights cases. We also redact the non-cash assets to protect operational security.
11. No records of a sensitive nature are maintained.

12. There are 7,600 respondents for this information collection. The respondent will respond one time annually. The total number of responses is 7,600. It is estimated that it take 30 minutes per year to enter the information. The total burden associated with this collection is 3,800 hours.
13. There is no new cost or annual cost associated with this collection. It is anticipated that each respondent already has the necessary equipment and personnel to respond.
14. There is no cost to the Federal Government.
15. Not applicable.
16. The result of this information collection will not be published.
17. AFMLS does not request approval to not display the expiration date of OMB approval for this collection.
18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

This collection of information employs no statistical methods.