

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. Executive Order 13688 (January 2015) requires that any federal agency which provides controlled equipment or funds to purchase controlled equipment, as that term is defined in the Executive Order, to track information about controlled equipment purchased or acquired through federal program. 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). By using the ESAC form to track the purchase of controlled equipment, AFMLS can readily ensure compliance with its statutory obligations and Executive Order 13688. 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 collect controlled equipment purchased, in whole or in part, using equitable sharing funds. 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 small 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 for controlled equipment. 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 80 FR, page 42546, on July 17, 2015, and the 30 day notice was published 80 FR, page 57021, on September 21, 2015. No comments were received.
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 an unknown number of respondents for this controlled equipment information collection. The number of respondents is in direct proportion to the number of state or local law enforcement agencies who use equitable sharing funds to purchase controlled equipment. In other words, a state or local law enforcement agency will only have to report a purchase of controlled equipment on the ESAC form if it actually purchases a piece of controlled equipment during that reporting fiscal year. Currently, there are approximately 7,600 state or local law enforcement agencies participating in the Equitable Sharing Program.

Even assuming each participating agency purchases controlled equipment during the requisite one time annual ESAC reporting requirement, the total number of responses is 7,600. It is estimated that it takes 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.