



Board Agenda Item 23

DATE: August 18, 2020

TO: Board of Supervisors

SUBMITTED BY: Margaret Mims, Sheriff-Coroner-Public Administrator

SUBJECT: Agreement and Annual Certification Report with Federal Government for the Sheriff's Office to participate in the Federal Equitable Sharing Program

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman and the Sheriff to execute an Equitable Sharing Agreement with the Federal Government authorizing the Sheriff's Office to participate in the Federal Equitable Sharing Program from September 1, 2020 through August 31, 2021 and certifying as to funds received and expended during FY 2019-20; and**
- 2. Authorize the Sheriff to submit Equitable Sharing Agreement and Certification and any and all "Applications for Transfer of Federally Forfeited Property (DAG-71)" as appropriate and authorize the Sheriff to designate a Sheriff employee to accept forfeited property, transfer documents, and/or receive money.**

There is no increase in Net County Cost associated with the recommended actions, which will allow the Sheriff's Office to participate in Federal asset forfeiture cases. The certification annual report is a requirement of this agreement and is recommended to be filed within 60 days after the end of the fiscal year. This item is countywide.

ALTERNATIVE ACTION(S):

There are no alternative actions. If the recommended actions are not approved, the Sheriff's Office will lose any Federal asset forfeiture funds which they would have been eligible for if the agreement was in place.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The agreement allows the Sheriff's Office to participate in Federal asset forfeiture cases and the certification is an accounting of federal monies received and expended during FY 2019-20. The beginning FY 2019-20 balance for Federal asset forfeiture totals \$2,960,541.41. The Sheriff's Office participated in multiple narcotic investigations which resulted in the receipt of \$32,297.13 in asset forfeiture funds from the U.S. Department of Justice and \$575,914.89 in asset forfeiture funds from the U.S. Department of Treasury during FY 2019-20. As of June 30, 2020, \$78,459.48 in interest was earned for a total of \$686,671.50 received in FY 2019-20 in the Federal Asset Forfeiture Special Revenue Fund(s). Federal asset forfeiture funds of \$1,767, 105.07 were expended in FY 2019-20, bringing the current balance to \$1,880,107.84.

DISCUSSION:

In order for the County of Fresno to receive a share of asset forfeitures, as a result of the Sheriff Office's involvement in the arrest and confiscation of property/cash in accordance with asset forfeiture laws, an

executed Federal Equitable Sharing Agreement and Certification must be on file with the Federal Government. The existing Equitable Sharing Agreement and Certification, approved by your Board on August 20, 2019 will expire on August 31, 2020.

The Federal Equitable Sharing Agreement sets forth the requirements for participation in the federal equitable sharing program and the restriction upon the use of federally forfeited cash, property, proceeds, and any interest earned thereon, which are equitably shared with the participating law enforcement agencies.

Shared funds must be used to increase or supplement the resources of the receiving state or local law enforcement agency. Shared resources shall not be used to replace or supplant the resources of the state or local law enforcement agency.

Additionally the Department of Justice requires that state and local law enforcement agencies requesting an equitable share of proceeds, complete and electronically submit an Application for Transfer of Federally Forfeited Property (Form DAG-71) within 45 days of seizure. The field office will make a recommendation on the agency's sharing percentage based upon the information reported on this form. These percentages are ultimately approved by either the seizing agency headquarters, U.S. Attorney's Office, or the Criminal Division.

During FY 2019-20, the Sheriff's Office participated in narcotic operations that resulted in asset forfeiture. As a result, the U.S. Department of Justice transferred \$32,297.13 and the U.S. Department of Treasury transferred \$575,914.89 to the Sheriff's Office and this is reported as required in the Annual Certification Report section of the form. The Affidavit certifies that the Agency (i.e., the Sheriff's Office) head, (i.e., the Sheriff) and the Governing Body Head (i.e., the Chairman of the Board of Supervisors) have read and understand their obligations under the Equitable Sharing Agreement, the Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies and any updates related thereto, and that the information submitted in conjunction with the document is an accurate accounting of funds received/spent by the Sheriff's Office in compliance with the National Code of Professional Conduct for Asset Forfeiture. This includes certifying the Sheriff's Office is in compliance with the nondiscrimination requirements of the laws cited therein, which 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. It also certifies that the Sheriff's Office has not suffered an adverse finding on claims that it has violated the discrimination statutes or entered into a settlement of such claims.

Approval of the recommended actions will allow the Sheriff's Office to continue to participate in Federal asset forfeiture cases and submit the required forms in the event of an asset seizure.

REFERENCE MATERIAL:

BAI #23, August 20, 2019

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Equitable Sharing Agreement and Certification

CAO ANALYST:

Yussel Zalapa