



Board Agenda Item 23

DATE: August 21, 2018

TO: Board of Supervisors

SUBMITTED BY: Lisa A. Smittcamp, District Attorney-Public Administrator

SUBJECT: Federal Asset Forfeiture Equitable Sharing Agreement and Certification FY 2017-18

RECOMMENDED ACTION(S):

- 1. Approve and authorize Chairman to execute an Equitable Sharing Agreement with the Federal Government authorizing the District Attorney-Public Administrator's Office to participate in the Federal Equitable Sharing Program from September 1, 2018 through August 31, 2019 and certifying as to funds received and expended during FY 2017-18.**
- 2. Authorize the District Attorney-Public Administrator to submit the Equitable Sharing Agreement and Certification and any and all "Applications for Transfer of Federally Forfeited Property (Form DAG-71)" as appropriate and designate a department employee to accept forfeited property, transfer documents, and/or receive money.**

This program allows the District Attorney-Public Administrator (DA-PA) to receive a share of federally forfeited assets to be used according to the guidelines, which restricts the use of this property. The certification annual report is a requirement of this agreement and must be filed within 60 days after the end of the fiscal year. This item is countywide.

ALTERNATIVE ACTION(S):

If the agreement and certification is not executed, the Department would not receive a share of federally forfeited assets.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The agreement allows the DA-PA to participate in the program and the certification is an accounting of federal monies received and expended during FY 2017-18. In FY 2017-18, the DA-PA received \$0 in Federal Sharing funds and \$7,085.12 in accrued interest income. Although no Federal Sharing funds were received during FY 2017-18, \$50,000 was expended from the existing Federal Asset Forfeiture trust fund balance for law enforcement training costs.

DISCUSSION:

The Comprehensive Crime Control Act of 1984 provided federal investigators and prosecutors with the ability to conduct a national asset forfeiture program, and authorized the sharing of federal forfeiture proceeds with cooperating state and local law enforcement agencies.

One requirement of this agreement is the electronic submission of an annual certification report for an

accounting of funds received and expended during the fiscal year. The DA-PA and Governing Body Head certify they have read and understand their obligations under the Equitable Sharing Agreement, that the information submitted in conjunction with the document is an accurate accounting of funds received/spent by the DA-PA under the Justice and/or Treasury Guidelines during the reporting period and that the recipient Agency is in compliance with the National Code of Professional Conduct for Asset Forfeiture. This includes certifying the DA-PA 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 the DA-PA has not suffered an adverse finding on any claims the DA-PA violated the discrimination statutes, nor has the DA-PA entered into a settlement of any such claims.

Additionally, the Department of Justice (DOJ) 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 the seizure. The field office will make a recommendation on the DA-PA'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.

When Federal Asset Forfeiture funds are received by the DA-PA, they are deposited into a trust fund from which permissible expenditures will be made. The DA-PA will return to your Board with budget resolutions to increase appropriations and provide estimated revenues for any future utilization of these funds.

Recently, the DOJ issued legal guidance that helped to clarify their policy on the adoption of seized assets and also provided additional limits to the amount and types of seizures that are allowed under the equitable sharing program. As a result of these changes, the DA-PA has seen an increasingly lower amount of equitable sharing funds over the past few years.

REFERENCE MATERIAL:

BAI #20, August 22, 2017

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Equitable Sharing Agreement and Certification

CAO ANALYST:

Jeannie Z. Figueroa