



**District Attorney
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

ALLEN ISHIDA
District One

PETE VANDER POEL
District Two

PHILLIP A. COX
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: August 12, 2014

Public Hearing Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Published Notice Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Advertised Published Notice	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Meet & Confer Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Personnel Resolution attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>

CONTACT PERSON: Dan Underwood PHONE: 636-5494

SUBJECT: Approve an agreement with the United States Department of Justice.

REQUEST(S):

That the Board of Supervisors:

1. Approve an agreement with the United States Department of Justice to participate in the Federal Equitable Sharing program retroactive to July 1, 2013 through June 30, 2014. This agreement is retroactive due to the United States Department of Justice's procedures in collecting this information at the end of each fiscal year.
2. Find that the Board had authority to enter into the proposed agreement as of July 1, 2013, and that it was in the County's best interest to enter into the agreement on that date.
3. Authorize the District Attorney, or his designee, to sign the agreement as the Agency Head.
4. Authorize the Chairman to sign the agreement.

SUMMARY:

The Comprehensive Crime Control Act of 1984 authorized the sharing of federal forfeiture proceeds with state and local law enforcement agencies which work with federal agencies to enforce federal criminal laws. To obtain such proceeds, the state or local agency must sign an Equitable Sharing Agreement and certify that the

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forfeited proceeds received are allocated as required by federal statutes and regulations established by the U.S. Department of the Treasury and the U.S. Department of Justice (DOJ).

The Office of the District Attorney does not receive funds directly from the DOJ, rather the DOJ sends the funds to the Tulare County Sheriff's Office, who in turn transfers the appropriate share to our office. Funds received are contingent upon involvement in Federal cases.

A prior agreement, identical except for the time period and dollar value, was approved as to form by County Counsel on August 17, 2011, and was approved by the Board of Supervisors on August 30, 2011. The Department would like to note that this agreement contains federal boilerplate language which deviates from the County's standard contract terms, but is identical to the prior agreement. The proposed renewal agreement does not include any additional deviations from the County contract protocol. The only changes from the prior agreement are to the time period of the agreement, from fiscal year end June 2013 to fiscal year end June 2014, and the dollar amount of the agreement, from \$12,410.04 to \$12,119.66.

FISCAL IMPACT/FINANCING:

No funds were received in fiscal year 2013/2014. The total current balance in the trust is \$12,119.66. This amount was included in the DA's fiscal year 14/15 budget to augment the District Attorney's operating budget. There will be no Net County cost.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The County's five-year Strategic Business Plan and Management System includes a Safety and Security Initiative to effectively and fairly investigate, arrest, prosecute and punish individuals who engage in criminal behaviors. The Federal Equitable Sharing Agreement will support the Initiative by depriving criminals of the profits and proceeds of their illegal activities.

ADMINISTRATIVE SIGN-OFF:

Dan Underwood
Assistant District Attorney

Cc: Auditor-Controller
County Counsel
County Administrative Office (2)

Attachment(s) Equitable Sharing Agreement & Certification

BEFORE THE BOARD OF SUPERVISORS COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF APPROVE)
AN AGREEMENT WITH THE UNITED) Resolution No. _____
STATES DEPARTMENT OF JUSTICE) Agreement No. _____

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JEAN M. ROUSSEAU
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

1. Approved an agreement with the United States Department of Justice to participate in the Federal Equitable Sharing program retroactive to July 1, 2013 through June 30, 2014. This agreement is retroactive due to the United States Department of Justice's procedures in collecting this information at the end of each fiscal year.
2. Found that the Board had authority to enter into the proposed agreement as of July 1, 2013, and that it was in the County's best interest to enter into the agreement on that date.
3. Authorized the District Attorney, or his designee, to sign the agreement as the Agency Head.
4. Authorized the Chairman to sign the agreement.



Equitable Sharing Agreement and Certification



OMB Number 1123-0011
Expires 9-30-2014

- ☐ Police Department ☐ Sheriff's Office ☐ Task Force (Complete Table A)
☒ Prosecutor's Office ☐ National Guard Counterdrug Unit ☐ Other

* Please fill each required field. Hover mouse over any fillable field for pop-up instructions. *

Agency Name: Tulare County District Attorney's Office

NCIC/ORI/Tracking Number: C A 0 5 4 0 2 3 A

Mailing Address: 221 S. Mooney Blve., Room 224

City: Visalia

State: CA

Zip: 93291

Finance Contact: First: Dan

Last: Underwood

Phone: 559-636-5494

E-mail: dunderwo@co.tulare.ca.us

Preparer:

First: Karen

Last: McVaigh

☐ Same as
Finance Contact

Phone: 559-623-0680

E-mail: kmcvaigh@co.tulare.ca.us

Independent Public Accountant:

E-mail: rwoodard@co.tulare.ca.us

Last FY End Date: 06/30/2014

Agency Current FY Budget:

\$18,447,938.00

- ☐ **New Participant:** Read the Equitable Sharing Agreement and sign the Affidavit.
☒ **Existing Participant:** Complete the Annual Certification Report, read the Equitable Sharing Agreement, and sign the Affidavit.
☐ **Amended Form:** Revise the Annual Certification Report, read the Equitable Sharing Agreement, and sign the Affidavit.

Annual Certification Report

Summary of Equitable Sharing Activity		Justice Funds ¹	Treasury Funds ²
1	Beginning Equitable Sharing Fund Balance (must match Ending Equitable Sharing Fund Balance from prior FY)	\$12,410.04	
2	Federal Sharing Funds Received		
3	Federal Sharing Funds Received from Other Law Enforcement Agencies and Task Forces (To populate, complete Table B)		
4	Other Income		
5	Interest Income Accrued Non-Interest Bearing <input type="radio"/> Interest Bearing <input checked="" type="radio"/>	\$123.18	
6	Total Equitable Sharing Funds (total of lines 1 - 5)	\$12,533.22	\$0.00
7	Federal Sharing Funds Spent (total of lines a - m below)	\$413.56	\$0.00
8	Ending Balance (difference between line 7 and line 6)	\$12,119.66	\$0.00

¹ Justice Agencies are: FBI, DEA, ATF, USPIS, USDA, DCIS, DSS, and FDA.

² Treasury Agencies are: IRS, ICE, CBP, TTB, USSS, and USCG.

Summary of Shared Funds Spent		Justice Funds	Treasury Funds
a	Total spent on salaries under permitted salary exceptions		
b	Total spent on overtime		
c	Total spent on informants, "buy money", and rewards		
d	Total spent on travel and training	\$413.56	
e	Total spent on communications and computers		
f	Total spent on weapons and protective gear		
g	Total spent on electronic surveillance equipment		
h	Total spent on buildings and improvements		
i	Total transfers to other participating state and local law enforcement agencies (To populate, complete Table C)		
j	Total spent on other law enforcement expenses (To populate, complete Table D)		
k	Total Expenditures in Support of Community-Based Programs (To populate, complete Table E)		
l	Total Windfall Transfers (To populate, complete Table F)		
m	Total spent on matching grants (To populate, complete Table G)		
n	Total	\$413.56	\$0.00
o	Did your agency receive non-cash assets? <input type="radio"/> Yes <input checked="" type="radio"/> No If yes, complete Table H.		

Please fill out the following tables, if applicable.

Table A: Members of Task Force

Agency Name	NCIC/ORI/Tracking Number
<input type="text"/>	<input type="text"/>

Table B: Equitable Sharing Funds Received from other Agencies

Transferring Agency Name, City, and State	Justice Funds	Treasury Funds
Agency Name: <input type="text"/>	<input type="text"/>	<input type="text"/>
NCIC/ORI/Tracking Number: <input type="text"/>	<input type="text"/>	<input type="text"/>

Table C: Equitable Sharing Funds Transferred to Other Agencies

Receiving Agency Name, City, and State	Justice Funds	Treasury Funds
Agency Name: <input type="text"/>	<input type="text"/>	<input type="text"/>
NCIC/ORI/Tracking Number: <input type="text"/>	<input type="text"/>	<input type="text"/>

Table D: Other Law Enforcement Expenses

Description of Expense	Justice Funds	Treasury Funds

Table E: Expenditures in Support of Community-Based Programs

Recipient	Justice Funds	

Table F: Windfall Transfers

Recipient	Justice Funds	Treasury Funds

Table G: Matching Grants

Matching Grant Name	Justice Funds	Treasury Funds

Table H: Other Non-Cash Assets Received

Source	Description of Asset
Justice <input type="radio"/>	
Treasury <input type="radio"/>	

Table I: Civil Rights Cases

Name of Case	Type of Discrimination Alleged			
	<input type="checkbox"/> Race	<input type="checkbox"/> Color	<input type="checkbox"/> National Origin	<input type="checkbox"/> Gender
	<input type="checkbox"/> Disability	<input type="checkbox"/> Age	<input type="checkbox"/> Other	

Paperwork Reduction Act Notice

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create accurate and easily understood forms that impose the least possible burden on you to complete. The estimated average time to complete this form is 30 minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, please write to the Asset Forfeiture and Money Laundering Section, 1400 New York Avenue, N.W., Washington, DC 20005.

Equitable Sharing Agreement

This Federal Equitable Sharing Agreement, entered into among (1) the Federal Government, (2) the above-stated law enforcement agency ("Agency"), and (3) the governing body, sets forth the requirements for participation in the federal Equitable Sharing Program and the restrictions upon the use of federally forfeited cash, property, proceeds, and any interest earned thereon, which are equitably shared with participating law enforcement agencies. By its signatures, the Agency agrees that it will be bound by the statutes and guidelines that regulate shared assets and the following requirements for participation in the federal Equitable Sharing Program. Receipt of the signed Equitable Sharing Agreement and Certification (this "Document") is a prerequisite to receiving any equitably shared cash, property, or proceeds.

1. Submission. This Document must be submitted to aca.submit@usdoj.gov within 60 days of the end of the Agency's fiscal year. This Document must be submitted electronically with the Affidavit/Signature submitted by fax. This will constitute submission to the Department of Justice and the Department of the Treasury.

2. Signatories. This agreement must be signed by the head of the Agency and the head of the governing body. Examples of Agency heads include police chief, sheriff, director, commissioner, superintendent, administrator, chairperson, secretary, city attorney, county attorney, district attorney, prosecuting attorney, state attorney, commonwealth attorney, and attorney general. The governing body's head is the person who allocates funds or approves the budget for the Agency. Examples of governing body heads include city manager, mayor, city council chairperson, county executive, county council chairperson, director, secretary, administrator, commissioner, and governor.

3. Uses. Any shared asset shall be used for law enforcement purposes in accordance with the statutes and guidelines that govern the federal Equitable Sharing Program as set forth in the current edition of the Department of Justice's *Guide to Equitable Sharing for State and Local Law Enforcement (Justice Guide)*, and the Department of the Treasury's *Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies (Treasury Guide)*.

4. Transfers. Before the Agency transfers cash, property, or proceeds to other state or local law enforcement agencies, it must first verify with the Department of Justice or the Department of the Treasury, depending on the source of the funds, that the receiving agency is a current and compliant Equitable Sharing Program participant.

5. Internal Controls. The Agency agrees to account separately for federal equitable sharing funds received from the Department of Justice and the Department of the Treasury. Funds from state and local forfeitures and other sources must not be commingled with federal equitable sharing funds. The Agency shall establish a separate revenue account or accounting code for state, local, Department of Justice, and Department of the Treasury forfeiture funds. Interest income generated must be accounted for in the appropriate federal equitable sharing account.

The Agency agrees that such accounting will be subject to the standard accounting requirements and practices employed for other public funds as supplemented by requirements set forth in the current edition of the *Justice Guide* and the *Treasury Guide*, including the requirement in the *Justice Guide* to maintain relevant documents and records for five years.

The misuse or misapplication of shared resources or the supplantation of existing resources with shared assets is prohibited. Failure to comply with any provision of this agreement shall subject the recipient agency to the sanctions stipulated in the current edition of the *Justice or Treasury Guides*, depending on the source of the funds/property.

6. Audit Report. Audits will be conducted as provided by the Single Audit Act Amendments of 1996 and OMB Circular A-133. The Department of Justice and Department of the Treasury reserve the right to conduct periodic random audits.

Affidavit - Existing Participant

Under penalty of perjury, the undersigned officials certify that **they have read and understand their obligations under the Equitable Sharing Agreement** and that the information submitted in conjunction with this Document is an accurate accounting of funds received and spent by the Agency under the *Justice* and/or *Treasury Guides* during the reporting period and that the recipient Agency is in compliance with the National Code of Professional Conduct for Asset Forfeiture.

The undersigned certify that the recipient Agency is in compliance with the nondiscrimination requirements of the following laws and their Department of Justice implementing regulations: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), 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. The Agency agrees that it will comply with all federal statutes and regulations permitting federal investigators access to records and any other sources of information as may be necessary to determine compliance with civil rights and other applicable statutes and regulations.

During the past fiscal year: (1) has any court or administrative agency issued any finding, judgment, or determination that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above; or (2) has the Agency entered into any settlement agreement with respect to any complaint filed with a court or administrative agency alleging that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above? ☐ Yes ☒ No

If you answered yes to the above question, complete Table I

Agency Head

Signature: _____
Name: Anthony Fultz
Title: Assistant District Attorney
Date: _____
E-mail: tward@co.tulare.ca.us

Governing Body Head

Signature: _____
Name: Phillip A. Cox
Title: Chairman, Tulare County BOS
Date: _____
E-mail: pacox@co.tulare.ca.us

Subscribe to Equitable Sharing Wire:

The Equitable Sharing Wire is an electronic newsletter that gives you important, substantive, information regarding Equitable Sharing policies, practices, and procedures.

Final Instructions:

- Step 1: Click to save for your records
Step 2: Click to save in XML format

- Step 3: Email the XML file to aca.submit@usdoj.gov
Step 4: Scan & email this Affidavit to aca.affidavit@usdoj.gov
(Email subject line must include Agency NCIC/ORI Code)

FOR AGENCY USE ONLY

Entered by _____

Entered on _____

☐ FY End: 06/30/2014

Date Printed: July 25, 2014 13:41

☒ NCIC: CA054023A

Agency: Tulare County District Attorney's Office

Phone: 559-623-0680

☐ State: CA

Preparer: Karen McVaigh

E-mail: kmcvaigh@co.tulare.ca.us

