

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

**Bank Secrecy Act Access Memorandum of Understanding Between
the Financial Crimes Enforcement Network
and the Lexington-Fayette Urban County Government (Kentucky)**



This Memorandum of Understanding (MOU) is between the Financial Crimes Enforcement Network (FinCEN), a bureau within the U.S. Department of the Treasury, and the Lexington-Fayette Urban County Government (Kentucky) (Agency). This MOU states the terms under which the Agency may obtain direct electronic access to information collected pursuant to the reporting authority contained in the Bank Secrecy Act (BSA), codified at 12 U.S.C. § 1829b, 12 U.S.C §§ 1951-1960, and 31 U.S.C. §§ 310, 5311-5314, 5316-5336, and including notes thereto, with implementing regulations at 31 C.F.R. Chapter X. This MOU includes and incorporates by reference the following documents, which, as set forth herein, may be periodically updated with notice to the Agency: (1) Re-Dissemination Protocols for Bank Secrecy Act Information, included as Attachment A (Re-Dissemination Protocols); and (2) the Information Access Security Protocols for Bank Secrecy Act Information, included as Attachment B (Security Protocols), collectively the “Protocols.” To the extent that FinCEN and the Agency have entered into previous BSA access agreements, this MOU and accompanying Protocols supersede any and all such agreements including the most recent version of their attachments.

- (1) Definitions: For purposes of this MOU, the definitions set forth below apply.

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

(A) Authorized Personnel: All individuals who have been granted access to FinCEN BSA Systems to conduct authorized queries pursuant to this MOU.

Consistent with the requirements set forth in the Security Protocols, Authorized Personnel must be: (1) designated employees of the Agency; or (2) contractors under the supervision of a designated employee of the Agency.

(B) Agency Coordinator: The individual Point of Contact (POC) who represents their Agency in their obligations as specified in this MOU and the Protocols.

(C) FinCEN BSA Systems: The systems through which FinCEN may provide access to the Agency for searching and obtaining BSA Information, as defined in this MOU. For purposes of this MOU, this includes FinCEN Query and any successor to the FinCEN Query System, as well as any other system used to access BSA Information.

(D) Subject: Any person, entity, or transaction that is the basis for a query of the FinCEN BSA Systems system.

(E) BSA Information:¹ Information protected under the BSA, including the following:

- (a) Suspicious Activity Reports (SARs);
- (b) Currency Transaction Reports (CTRs);
- (c) Reports of Foreign Bank and Financial Accounts (FBARs);

¹ This MOU does not cover beneficial ownership information reported to FinCEN pursuant to 31 U.S.C. § 5336.

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

- (d) Reports of International Transportation of Currency or Monetary Instruments (CMIRs);
- (e) Form 8300 Reports of Cash Payments over \$10,000 Filed by a Trade or Business (Form 8300s);
- (f) Information provided in response to any Geographic Targeting Order (GTO);
- (g) Registration forms filed by money services businesses (MSB Registration Forms);
- (h) Forms completed by banks to designate certain persons as exempt from CTR reporting (DOEP Forms);
- (i) Any other information filed with, or obtained by, FinCEN pursuant to its authority under the BSA which FinCEN may make available; and
- (j) Any other information concerning whether any particular person, entity, or transaction is named or referred to in any report filed under the BSA, including the type of form filed, whether the information is a null set, and all query results.

(2) Access to BSA Information. This MOU applies to any access of BSA Information, including whether by examination of screen displays, download to an Agency system, transfer to any electronic or physical media, or otherwise directly through FinCEN BSA Systems. The Agency must designate an Agency Coordinator and provide that individual's contact information to FinCEN.

(3) Safeguarding of BSA Information; Unauthorized Disclosures. The safeguarding of BSA Information is critically important, and FinCEN takes this responsibility seriously. In

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

making BSA Information available to the Agency, FinCEN is relying upon the Agency's commitment to safeguard BSA Information. By signing this MOU, the Agency expressly agrees to safeguard BSA Information made available to the Agency. The Agency expressly agrees to report any unauthorized disclosure of BSA Information to FinCEN immediately. The unauthorized disclosure of SARs, including information that would reveal the existence of a SAR, can be a crime, and FinCEN refers such matters to the Treasury Department's Office of Inspector General. Given the vital importance of safeguarding BSA Information, the Agency expressly agrees to cooperate in any inquiries from FinCEN, the Treasury Department, or relevant law enforcement authorities involving potential unauthorized disclosures of BSA Information, including by providing any information that FinCEN, the Treasury Department, or relevant law enforcement authorities deem necessary to investigate a potential unauthorized disclosure of BSA Information.

(4) Limitations on Access to BSA Information. Authorized Personnel, acting on behalf of the Agency (including in the Agency's capacity as a participant in a multiagency task force), may make direct electronic queries to retrieve BSA Information from FinCEN BSA Systems:

- (A) Solely consistent with the legal authority of the Agency; and
- (B) Solely for the following purposes: identification, investigation, or prosecution of possible or actual violations of criminal law that fall within the investigative or prosecutorial jurisdiction of the Agency, including related proceedings such as civil and criminal forfeiture proceedings.
- (C) Limited in scope: BSA Information they obtain through FinCEN BSA Systems should be limited to that BSA Information which is immediately useful

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

in connection with the specific matter prompting the query and narrowing any query as much as possible based on reasonably available information.

(5) Limitations on Retention of Queried BSA Information. The Agency and Authorized Personnel will make best efforts to retain only that BSA Information that is immediately useful in connection with the specific matter prompting the query through which the BSA Information was obtained, and consistent with applicable law enforcement requirements. The Agency and Authorized Personnel will promptly destroy any and all data, documents, or summaries which contain BSA Information that it has obtained, stored, or generated that is not immediately useful in connection with the specific matter prompting the query.

(6) Limitations on Use of Queried BSA Information. Authorized Personnel may retain and use BSA Information if it continues to be consistent with the Agency’s legal authority; and for the identification, investigation, or prosecution of possible or actual violations of criminal law that fall within the investigative or prosecutorial jurisdiction of the Agency, including related proceedings such as civil and criminal forfeiture proceedings.

(7) Limitations on Copying and Storing BSA Information. The Agency and Authorized Personnel will make best efforts to obtain advance approval from FinCEN before copying BSA Information into a format that can be accessed outside of FinCEN BSA Systems, when such copy will contain or consist of 5000 or more unique reports covered by Section 1, or substantially all of the information contained in such reports. Any such copies of BSA Information will be stored and maintained solely on a secure government system (or equivalent). The approval described herein is required whether such copy is an electronic file containing images of the reports, an electronic file containing BSA Information in spreadsheet form, a printed document, or a copy in any other format or medium. In the event of exigent

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

circumstances preventing the Agency from obtaining prior approval, the Agency shall notify FinCEN before the end of the first business day after the copying of records as described in this paragraph. Notwithstanding the foregoing, the following conditions apply:

(A) The Agency will not use BSA Information to develop or contribute to any database not under the control of FinCEN that Agency personnel will be able to search as an alternative to making subsequent direct electronic queries to retrieve BSA Information from FinCEN BSA Systems; and

(B) If the Agency discovers that such a database exists and that it contains BSA Information, the Agency will (i) immediately notify FinCEN; (ii) destroy all BSA Information contained in the database; and (iii) destroy any copies, summaries, or other documents that include or make derivative use of such BSA Information.

(8) Conditions of Access. In addition to requirements set forth in the MOU and Protocols, the Agency agrees that, prior to accessing BSA Information, all Authorized Personnel must: (i) enter into individual user agreements acknowledging the terms and conditions under which they can obtain access to FinCEN BSA Systems; and (ii) fully and accurately complete the FinCEN BSA Systems computer access screens (Access Screens) for the relevant data file, to include the search justification field, conducting any queries or accessing BSA Information.

(9) Continuing Representation and Warranty. Each query under this MOU, including, if applicable, completion of any Access Screen in connection with such query, shall be deemed to constitute a continuing representation and warranty by the Agency that the request for retrieval or use complies with, and any use of retrieved or analyzed information will comply with, the terms of this MOU.

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

(10) Disclaimer of Liability. FinCEN will make all reasonable efforts to make BSA Information available to the Agency upon the Agency's request, consistent with the terms of this MOU. However, FinCEN expressly disclaims any liability for any consequence of the non-availability of BSA Information through FinCEN BSA Systems for whatever reason.

(11) Re-dissemination of BSA Information. No BSA Information may be disseminated to any person outside the Agency except consistent with the provisions of the Re-Dissemination Protocols. This restriction also applies to case-related information, and to statistical or other information that references, summarizes, or may reveal the existence of BSA Information.

(12) Information about Inquiries by the Agency. FinCEN maintains as part of its internal databases information concerning queries made by Authorized Personnel, including without limitation (i) information contained on the Access Screens completed by Authorized Personnel, if applicable, and (ii) a record of the information in the relevant data files searched, retrieved, or both, by such Authorized Personnel.

(13) Networking. FinCEN seeks to facilitate networking among agencies that may be investigating the same matters. If the Subject of a query under this MOU has been or subsequently becomes the Subject of another query to FinCEN by another agency, FinCEN at its discretion and without obtaining prior permission, may concurrently notify the Agencies making the two queries concerning the match of information about the two queries, provided that (i) such concurrent notification will involve only the name of the Subject queried, sufficient additional information about the Subject to demonstrate the fact of the match, and information about relevant officials to contact at the two Agencies; and (ii) no concurrent notification of a match will be made in a particular case to the extent that the Access Screen completed by either

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

relevant Agency with respect to that case is specifically marked to indicate the Agency's decision not to permit concurrent notification.

(14) Reports on Use of BSA Information. Upon FinCEN's request, the Agency will supply FinCEN with a report or reports in a format prescribed by FinCEN on information needed to assess the usefulness and impact of the use of BSA Information and networking. This can include but is not limited to (i) the status or results of investigations and prosecutions relating to inquiries made hereunder, including investigations and prosecutions based on referrals from the Agency in connection with such inquiries; and (ii) such other information, including statistical information about the Agency's use of BSA Information hereunder as FinCEN may reasonably request, provided, however, that the Agency may delay providing information concerning any specific investigation or prosecution until such time after the final resolution of that case as the Agency in the reasonable exercise of its discretion deems appropriate.

(15) Records Relating to Re-Dissemination. The Agency agrees not to re-disseminate or share BSA Information with agencies, entities, organizations, or individuals who do not have independent access to BSA Information through an access MOU with FinCEN, except as provided in the Re-Dissemination Protocols or with the express permission of FinCEN. In the event such sharing is authorized, the Agency agrees to maintain records relating to any dissemination of BSA Information to agencies, entities, organizations, or individuals who do not have independent access to BSA Information through an access MOU with FinCEN, consistent with the requirements and procedures set forth in the Re-Dissemination Protocols. The Agency agrees to retain such files and make them available, upon request or as otherwise required by this MOU and accompanying Protocols, to FinCEN, Treasury, or law enforcement.

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

(16) Records of Queries of BSA Information. The Agency shall ensure that appropriate documentation is maintained for FinCEN with respect to the Agency's compliance with this MOU. Such documentation shall include a written record of the purpose for which every query was conducted that coincides with the query justification noted in the database. A contemporaneous investigative file relating to a Subject will satisfy the requirement to prepare such a written record. The Agency agrees to make such files regarding justification for queries of BSA Information available to FinCEN, Treasury, or law enforcement, upon request by FinCEN.

(17) Agency's Compliance. To ensure the Agency's compliance with the terms of this MOU, FinCEN may (i) request the Agency provide internal review and certification of their compliance; and/or (ii) arrange for and conduct onsite and/or electronic inspections of the Agency's access of FinCEN BSA Systems. The Agency agrees to cooperate and respond timely to all requests and actions initiated by FinCEN to ensure compliance and understands that failure to do so may result in the termination of its access to FinCEN BSA Systems.

(18) Periodic Updates to Protocols. FinCEN reserves the right to revise and supplement the Protocols at any time. Revised Protocols automatically become part of this MOU upon receipt by the Agency. In addition, FinCEN reserves the right to issue additional BSA Information safeguards in connection with this MOU in the future as necessary. The Agency also agrees that any such future safeguards will also automatically become part of this MOU upon receipt by the Agency.

(19) Security; Authorized Personnel. The Agency agrees to follow the steps outlined in the Security Protocols, including confirming that all Agency employees acting as Authorized Personnel (or proposed by the Agency for Authorized Personnel status) are the subject of a

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

satisfactory background investigation completed in accordance with the Agency’s policies, have taken all required training, and met all other requirements specified in the Security Protocols.

The Agency must immediately revoke access privileges of Authorized Personnel when they no longer require access to FinCEN BSA Systems. This includes authorized users who (i) are no longer employed by the agency; (ii) have changes in employment status or undergo changes in job duties and responsibilities such that they no longer require access to BSA information; (iii) are subject to personnel actions that implicate matters pertaining to honesty, integrity, or security; or (iv) are the subject of any criminal charges that become known to the Agency.

(20) Control of Records; Open Information and Privacy Laws. BSA Information, or any records thereof, are exempt from search and disclosure under the Freedom of Information Act (FOIA). *See* 31 U.S.C. § 5319. Further, BSA Information “may not be disclosed under any State, local, tribal, or territorial ‘freedom of information’, ‘open government’, or similar law.” *Id.* The Agency shall promptly notify FinCEN of any FOIA or similar request implicating BSA Information and coordinate any response to such a request with FinCEN FOIA Office. Similarly, the Agency shall promptly notify FinCEN of any Privacy Act or similar request as well as any subpoena implicating BSA Information and coordinate any response to such a request with FinCEN FOIA Office.

(21) Costs. The Agency is responsible for costs to the Agency that may arise in connection with its compliance with this MOU, its use of BSA Information consistent with this MOU, and its receipt of training as contemplated by this MOU, including but not limited to travel expenses of Authorized Personnel for the purpose of receiving training. FinCEN imposes no charges for access to BSA Information hereunder and no charges with respect to the travel

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

expenses of FinCEN personnel for the purposes of exercising FinCEN’s inspection rights or providing training as contemplated by this MOU.

(22) Authority to Sign. The persons identified below as signing on behalf of FinCEN and the Agency have the authority to commit FinCEN and the Agency to the undertakings contained in this MOU for the period during which this MOU is effective.

(23) Effective Date; Termination. This MOU is effective as of the first Monday following the date on which it is signed on behalf of FinCEN (Effective Date). This MOU expires five (5) years from the Effective Date. This MOU may be renewed on the same terms for additional five (5) year terms upon mutual agreement of the parties. This MOU may be terminated by either party upon written notice to the other, effective 30 days from the date that notice of termination is sent (Termination Date). The Agency’s access rights to BSA Information under this MOU will terminate on the Termination Date. FinCEN reserves the right without notice, to suspend the Agency’s access to data files containing BSA Information if, in FinCEN’s sole discretion, such suspension is necessary for reasons of security or for failure to observe the terms of this MOU. If the Agency’s access to BSA Information is terminated or suspended, the Agency shall continue to use and safeguard BSA Information consistent with the terms of this MOU and shall continue to cooperate with FinCEN’s efforts to ensure the Agency’s compliance in that regard.

(24) Material Changes. The Agency is required to notify FinCEN immediately of any material changes to the Agency’s organization, mandate, or structure, that would alter the Agency’s ability to comply with any provision of this MOU.

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

(25) For all required communications referenced in this MOU, FinCEN communications shall be routed to the FinCEN employee assigned as your point of contact or to DataAccessManagement@fincen.gov.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

**BSA Access MOU – FinCEN and the Lexington-Fayette Urban County Government
(Kentucky)
2024**

Accepted and agreed to:

FINANCIAL CRIMES ENFORCEMENT NETWORK

By:

Katherine E. Ford
Associate Director, Strategic Operations Division

Date:

LEXINGTON (KY) POLICE DEPARTMENT

By:

Lawrence Weathers
Chief of Police

Date:

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (KENTUCKY)

By:

Linda Gorton
Mayor

Date:

Attachments:

- Tab A: Re-dissemination Protocols for Bank Secrecy Act Information
- Tab B: Information Access Security Protocols for Bank Secrecy Act Information
(Security Protocols)