



CONSULTATION FRAMING PAPER FOR TRIBAL SET-ASIDE FROM THE CRIME VICTIMS FUND FOR FUTURE OVC FUNDING

The Department of Justice (the Department) has a long-standing commitment to improve services for victims of crime in Native communities. On Tuesday, August 20, 2019, at the Pokagon Band of Potawatomi Indians in New Buffalo, Michigan, the Department will consult with tribal leaders about future “tribal set-aside” funding administered by the Office for Victims of Crime (OVC) from the Crime Victims Fund (CVF)¹. The Department presents this paper to help guide the conversation at the consultation by outlining issues for discussion. This paper includes: (1) the Department’s plans for distributing the FY 2019 tribal set-aside funds, and (2) questions for tribal leaders to consider at the August 20 consultation.

While there are numerous ways OVC tribal set-aside funding can meet the needs of crime victims in American Indian and Alaska Native communities, there are statutory limitations on how the funds may be spent. Generally, this funding can be used for projects related to supporting and/or assisting crime victims. Conversely, unallowable costs include activities focused primarily on crime prevention, prosecution, investigations or law enforcement, capital expenses, offender services, construction, or the purchase of a building or real estate.²

Feedback from tribes thus far has focused on moving to a formula/block grant process. While this may result in lower award amounts for some tribes, many tribal representatives believe the advantages of a formula process outweigh the disadvantages.

To further the dialogue related to potential formula funding strategies, the Department has developed formula hypotheticals for discussion purposes, which in this case reflects \$70 million in funding and 300 applicants. This is not an indication of any DOJ decisions or preferences and,

¹ In February 2019, in the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2019, Congress authorized OVC to receive \$3.53 billion from the CVF to fund FY 2019 programs, and the Act designated a 5% tribal set-aside (\$167.65 million) to improve services for victims of crime, consistent with the requirements of the Victims of Crime Act. Previously, in March 2018, Congress allocated a tribal set-aside of \$133 million to fund victim service programs for tribes; the FY 2018 funding was the first such set-aside for tribal victim services.

² A detailed list of allowable and unallowable costs/activities related to how OVC funding can be used is included in the FY 2019 Tribal Set-Aside solicitation posted at <https://www.ovc.gov/grants/pdfxt/FY19-Tribal-VSSA-Solicitation.pdf> (see pages 21-33).

at this time, DOJ has not made any decisions about moving to a formula strategy, but is eager to continue receiving guidance and feedback from tribal representatives.

Possible Formula Examples

Formula 1: The full amount of available funding is divided equally among all tribal applicants without regard to population or any other factor.

Formula 2: Funding is divided into 50% base and 50% formula: Each tribal applicant is allocated \$116,667 in base funding and the remaining funds are distributed on a per capita basis.

Formula 3: Funding is divided into 50% base and 50% formula ranking: Each tribal applicant is allocated \$116,667 in base funding and the remaining funds are distributed based on formula ranking. Formula funds would be allocated to the highest ranking tribes until funding was exhausted such that all tribes would receive base funding with another approximately 20% receiving formula funding. *Note:* This could include as many factors as desired in the formula rankings.

Formula 4: Funding is divided into 40% base, 40% formula, and 20% competitive. Each tribal applicant is allocated \$93,333 in base funding (using the hypothetical numbers above) and formula funds are distributed on a per capita basis. Competitive funds would be distributed through a separate competitive solicitation, or as part of a comprehensive application process for various victim services projects.

Formula 5: Funding is divided into 40% base, 40% formula ranking, and 20% competitive. Each tribal applicant is allocated \$93,333 in base funding, and formula funds are distributed based on formula ranking. Formula funds would be allocated to the highest ranking tribes until funding was exhausted such that all tribes would receive base funding with another approximately 20% receiving formula funding. Competitive funds would be distributed through a separate competitive solicitation, or as part of a comprehensive application process for various victim services projects.

Formula 6: Funding is divided into 75% formula and 25% competitive. Each tribal applicant is allocated formula funding distributed on a per capita basis. Competitive funds would be distributed through a separate competitive solicitation, or as part of a comprehensive application process for various victim services projects.

Formula Scenarios (assumes \$70,000,000 in available funding and 300 applicants)

	Census Pop.	Formula 1	Formula 2	Formula 3	Formula 4	Formula 5	Formula 6
TRIBE A	590	\$233,333	\$124,284	\$116,667	\$99,427	\$93,333	\$104,897
TRIBE B	3,762	\$233,333	\$165,235	\$116,667	\$132,188	\$93,333	\$131,223
TRIBE C	23,459	\$233,333	\$419,531	\$1,400,000	\$1,035,625	\$1,820,000	\$994,698
TRIBE D	193,275	\$233,333	\$2,611,917	\$1,400,000	\$2,789,533	\$1,820,000	\$2,404,089

CONSULTATION QUESTIONS

Question: How should OVC allocate tribal set-aside funding to increase programs, access and resources for American Indian and Alaska Native crime victims and those that serve them?

- **What changes to the sample formulas (provided on previous page) would you suggest?**
 - **In your community, what are the major factors that impact your ability to deliver services to victims (i.e. geographical distance? population? others?)**
 - **Are there other formulas you would like to propose for consideration?**
- **Should there be a cap on the amount of funds awarded and if so, how should that cap be determined?**
- **Should OVC use some of the funding to establish resources or technical assistance or evaluation centers physically located in Alaska and strategic areas in the lower 48 to engage directly with tribes, tribal organizations and crime victim advocates to better assist them in assessing the needs of AI/AN crime victims and help to develop plans for addressing those needs?**
- **What other specific assistance could OVC provide to help existing programs, support innovative ideas to expand programs, and provide additional training and technical assistance?**

The Department has received feedback from tribal leaders and representatives encouraging OVC to increase outreach efforts and build awareness about the tribal set-aside funding for victim services – particularly to tribes that have not historically applied for OVC funding, and/or tribes that may not have well-developed grant-writing programs. The Department is continuing its outreach and assistance efforts.

Further, OVC is committed to providing vital programmatic training and technical assistance, as well as tribal financial management assistance, to grantees and other tribes that wish to apply for funding in the future. OVC currently supports three organizations that provide substantive, subject-matter training and technical assistance and financial grants management assistance, so that all OVC tribal program grantees have the resources and infrastructure needed to establish and/or sustain successful victim services programs. OVC is dedicated to the success of these grantees and to providing much-needed services to victims of crime, and OVC is eager to increase the number of tribes receiving funding from any tribal victim services set-aside appropriation.

This paper is not a statement of official Department policy. It is intended to provide information and suggest questions to be considered by tribal leaders and representatives as they prepare to participate in the August 20 consultation. The Department welcomes all input from tribes on this and other matters that are of concern to tribal communities.

APPENDIX A:

BACKGROUND: THE CRIME VICTIMS FUND & FEDERAL VICTIMS OF CRIME ACT (VOCA) FUNDING

A 1988 amendment to the Victims of Crime Act of 1984 (VOCA) created the Office for Victims of Crime as part of the Department's Office of Justice Programs (OJP). An important part of OVC's mission is to administer grant award programs that are funded by the Crime Victims Fund (CVF), which primarily includes criminal fines paid by convicted federal offenders. Each year Congress authorizes OVC to use the CVF to support grant programs for victim services.

BACKGROUND: COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018, sec. 510

In March 2018, President Donald Trump signed the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2018, (the Act) into law creating a CVF tribal set-aside for the first time. Accordingly, the set-aside totaled about \$133 million. OJP was statutorily required to obligate FY 2018 CVF grant funds no later than September 30, 2018.

Due to time constraints and the six months between enactment of the budget and the end of the fiscal year, an in-person consultation wasn't possible prior to developing and implementing a plan to disseminate the FY 2018 set-aside funds. The Department did, however, host three telephone consultations with tribal leaders, victim advocates, and other interested parties, and considered feedback received at earlier consultations and listening sessions. Subsequently, OJP designed a unique two-phase application process to decrease the complexity of the usual grant application process, thereby making it possible for a greater number of tribes to apply for the funding and have the opportunity to significantly improve victim services for tribal members. Further, OJP created the broadest program possible, allowing for a wide variety of victim services to be funded, to be responsive to the needs of each tribal community. During the application process, OVC created a new FAQ document and enlisted the assistance of the newly created OVC Tribal Financial Management Center to provide technical assistance to certain applicants who had not received an OJP grant in the previous 5 years.

OVC received 195 applications for funding; after an extensive review process to evaluate the allowability of activities and expenses proposed by each applicant, and analyzing any past performance reports that would suggest an applicant may not be able to administer a federal grant program, 154 grants were awarded, totaling \$88 million. Subsequently, many of the applicants who were not funded are being provided with technical assistance, which should equip them for success in future funding applications. Additionally, OVC obligated more than \$20 million in FY 2018 tribal set-aside funds under other FY 2018 solicitations and/or programs to enhance victim services and resources in Indian country and/or Alaska Native villages.

**THE COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES
APPROPRIATIONS ACT OF 2019, SECTION 510**

In February 2019, Congress authorized OVC to receive \$3.53 billion from the CVF to fund its programs, and designated a 5% tribal set-aside (\$167.65 million) to provide grants to tribes to improve services for victims of crime, consistent with the requirements of the Victims of Crime Act.

To assist potential applicants, OJP hosted general pre-application webinars during the FY 2019 CTAS application period which covered topics, such as budget development and grant-writing. Additionally, OJP sponsored two in-person grant-writing workshops in the Lower 48 and Alaska to aid previously unsuccessful applicants, and OVC hosted a webinar in January 2019 for applicants interested in the CTAS solicitation (Purpose Area 7 for victim services). OVC also engaged in additional outreach activities to inform potential applicants that tribal set-aside funds for victim services were available in FY 2019.

OVC has continued to explore options for programming the tribal set-aside funding to enhance victim services for AI/AN crime victims and assist tribal communities, and an expansive tribal set-aside “stand-alone” solicitation for victim services is open until August 16, 2019 (see <https://www.ovc.gov/grants/pdfxt/FY19-Tribal-VSSA-Solicitation.pdf>).

OVC continues to use various methods to provide information about the newest tribal set-aside solicitation, including additional webinars, two of which were held in June with approximately 200 total participants and with OVC answering dozens of questions (archived on OVC’s site at <https://www.ovc.gov/news/tribal-set-aside.html>). Information provided to potential applicants included an overview of the basic minimum requirements of the solicitation, and the types of activities and costs that are allowable under the solicitation, as well as the technical aspects of submitting an application. Additional webinars and activities will occur in July 2019.