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U.S. Department of Justice
Office of Justice Programs

Grants to Combat Violent Crime Against Women: Proposed Regulations

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ACQUISITIONS



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DEPARTMENT OF JUSTICE
Office of Justice Programs
December 28, 1994

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Grants to Combat Violent Crimes Against Women

AGENCY: U.S. Department of Justice, Office of Justice Programs.

ACTION: Proposed Rule.

SUMMARY: This proposed rule implements and requests comments on the Grants to Combat Violence Against Women Program as authorized by Sections 2001 through 2006 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Title IV, Section 40121 of the Violent Crime Control and Law Enforcement Act of 1994.

DATE: Comments on this proposed rule must be received on or before February 27, 1995.

ADDRESS: All comments concerning these proposed regulations should be addressed to the Office of the General Counsel, Office of Justice Programs, Room 1245, 633 Indiana Avenue, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Response Center at 1-800-421-6770 or (202)301-1480.

SUPPLEMENTARY INFORMATION: The Violence Against Women Act (VAWA), as enacted by the 103rd Congress, is set out in Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (Sept. 13, 1994). VAWA, in part, amends the Omnibus Crime Control and Safe Streets Act of 1968, as amended (the Omnibus Act), 42 U.S.C. § 3711 *et seq.* by adding a new 'Part T'. Part T comprises Sections 2001 through 2006, to be codified at 42 U.S.C. §§ 3796gg through 3796gg-5.

Unless otherwise specified, statutory references to those provisions will be to the Sections in Part T of the Omnibus Act, as amended by VAWA.

This new program authorizes FY 1995 Federal financial assistance to States for developing and strengthening effective law enforcement and prosecution strategies and victim services in cases involving violent crimes against women. Units of local government, Indian tribal governments and non-profit, non-governmental victim service programs are eligible to apply to States for subgrants under this program. Indian tribal governments are also eligible to apply directly to the Office of Justice Programs for discretionary grants under Subpart C of these regulations.

Statement of the Problem

There are three aspects to violence against women in the United States which reflect the compelling nature of the problem. First, there are a tremendous number of incidents of violent crimes against women, many of which are often hidden and under-reported. The following statistics taken from the Bureau of Justice Statistics' 1994 data from the National Crime Victimization Survey, and a recent Bureau of Justice Statistic report, *Violence Against Women* (January 1994), paint a grim picture of violence against women in America:

- ☐ Over two-thirds of violent crimes committed against women were committed by someone known to them.
- ☐ Over 1 million women a year are victims of violence perpetrated by husbands or boyfriends.

- ❑ Every year, nearly 500,000 women age 12 or older are victims of rape or attempted rape.
- ❑ Data from 1992 show that one-third of all female murder victims over age 14 were killed by an intimate, such as a boyfriend, spouse, or ex-spouse.
- ❑ Over half of the family violence crime victimizations result in injuries to the victim; female victims are more likely to sustain injuries at the hands of intimates than strangers.
- ❑ Less than half of all violent crime against women is ever reported to law enforcement officials.
- ❑ Over one-fifth of those convicted of intimate violent offenses reported having been physically or sexually abused during childhood.
- ❑ Over one-third of those incarcerated for harming an intimate had a previous conviction for a violent offense.

Second, it is only recently that society has begun to view violence against women as a serious criminal problem. In domestic violence cases, where the victim knows the perpetrator, there has been a tendency to consider the matter a private dispute and not a crime for public scrutiny or judgment. Even when the violence comes at the hands of a stranger, as in many cases of sexual assault, the incident has too often been blamed more on the victim than on the perpetrator.

The third aspect of the problem lies in the traditional response by the justice system to incidents of violence against women. Existing criminal justice and victim services efforts to alleviate the problem have been fragmented due to lack of resources and/or coordination. Consequently, the criminal justice system has too often not been responsive to women in domestic violence and sexual assault cases.

The Violence Against Women Act of 1994

VAWA reflects a firm commitment towards working to change the criminal justice system's response to violence that occurs when any woman is threatened

or assaulted by someone with whom she has or has had an intimate relationship, with whom she was previously acquainted, or who is a stranger. By committing significant Federal resources and attention to issues of violence against women, VAWA can assist the nation's criminal justice system in responding to the needs and concerns of women who have been, or potentially could be, victimized by violence.

Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women

For FY 1995, Congress appropriated \$26 million to the Department of Justice as a down payment towards assistance to combat violent crimes against women. Part T authorizes an appropriation of \$130 million for FY 1996 and increasing amounts in following years.

Thus, the \$26 million appropriation for FY 1995 is the initial step of a multi-year program designed to encourage States to implement innovative and effective criminal justice approaches to this problem. VAWA enumerates the following seven broad purpose areas for which funds may be used:

- 1) training for law enforcement officers and prosecutors to identify and respond more effectively to violent crimes against women, including crimes of sexual assault and domestic violence;
- 2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women;
- 3) developing and implementing more effective police and prosecution policies and services for preventing and responding to violent crimes against women;
- 4) developing and improving data collection and communications systems linking police, prosecutors, and courts or for purposes of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions;

5) developing, expanding, or improving victim services programs, including improved delivery of such services for racial, cultural, and ethnic minorities, and providing specialized domestic violence court advocates;

6) developing and enhancing programs addressing stalking; and

7) developing and enhancing programs addressing the special needs and circumstances of Indian tribes in dealing with violent crimes against women.

Additionally, by statute, 4% of the of the amount appropriated each year is available for Indian tribal governments through a discretionary program. For FY 1995, this program will fund up to fifteen to twenty programs. Tribes, which may apply individually or as a consortium in order to maximize resources, are encouraged to develop programs which address their unique needs.

A Coordinated and Integrated Approach to the Problem

By definition, a coordinated and integrated approach suggests a partnership among law enforcement, prosecution, the courts, victim advocates and service providers. The goal of this program is to encourage States and localities to restructure and strengthen the criminal justice response to be proactive in dealing with this problem; to draw on the experience of all the players in the system, including the advocate community; and to develop a comprehensive set of strategies to deal with this complex problem. The development of such strategies necessitates collaboration among police, prosecutors, the courts, and victim services providers. Thus, the program requires that jurisdictions draw into the planning process the experience of non-governmental victim services and State domestic violence and sexual assault coalitions, as well as existing domestic violence and sexual assault task forces and coordinating councils, in addition to police, prosecutors and the courts. Examples of innovative approaches include those:

❑ Instituting comprehensive training programs to change attitudes that have traditionally prevented the criminal justice system from adequately responding to the problem.

❑ Forming specialized units within police departments and prosecutors' offices, or specialized multidisciplinary units, devoted exclusively to the handling of domestic violence and sexual assault cases.

❑ Establishing sexual trauma units in emergency rooms where forensic examinations, victim counseling, and victim advocacy are equally available.

❑ Developing strategies that maximize resources by establishing regional approaches, such as the registration and enforcement of protective orders across jurisdictional lines.

❑ Establishing protocols to achieve better coordination in the handling of cases involving violence against women between civil and criminal courts.

❑ Establishing and expanding victim services that address the special needs of women from minority and ethnic communities, women who are disabled, or who do not speak English.

Eligibility Requirements Applicable To The States

To be eligible to receive grants under this program, States must develop plans which comply with the requirements set out in VAWA. Although grant amounts are limited for FY 1995, States should plan their VAWA activities with a view to implementing a continuing program over the next several years.

First, States will have to demonstrate how they plan each year to distribute their grant funds. At least 25% must be allocated to law enforcement, 25% to prosecution, and 25% to victim services programs. (Section 2002(c)(3).) Second, priority must be given to areas within the State of varying geographic size with the greatest showing of need. Need is based on population and the availability of existing domestic violence and sexual assault programs in the population and geographic area to

be served. (Section 2002(e)(2)(C).) States must insure equitable geographic distribution among urban, non-urban, and rural areas. They must also address the needs of populations previously underserved due to geographic location, racial or ethnic barriers, or special needs such as language barriers or physical disabilities. (Section 2002(e)(2)(D).) States are encouraged to develop preliminary multi-year plans for the disbursement of funds based on geography, need, and underserved populations to achieve a balanced distribution, consistent with the statute, over the life of the program extending through FY 2000.

Third, in their applications, States and Indian tribal governments must certify that they (or another level of government) will incur the full out-of-pocket costs for forensic medical exams involving sexual assault victims. (Section 2005(a)(1).) Additionally, each State and Indian tribal government must also provide certification that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, and witness subpoena. (Section 2006(a)(1).) If the latter condition is not satisfied, States and Indian tribal governments must provide assurances that they will be in compliance by September 13, 1996, or at the end of the next legislative session, whichever is later.

Finally, an important goal of the legislation is to create vehicles for the various participants in the system to begin a dialogue. To help foster this communication, States are required to consult and coordinate with non-profit, non-governmental victim services programs, including sexual assault and domestic violence victim services programs.

Indian Tribal Governments Discretionary Program

Indian tribal governments are eligible recipients for these funds either through the States as subgrantees

or directly from the Office of Justice Programs through a small discretionary program. As described, the Office of Justice Programs will make grants to States and the State will make funds available to units of local government, Indian tribal governments and non-profit, non-governmental victim services programs. In addition, VAWA requires that 4% of the total funds be set aside for Indian tribal governments. These funds may be used for the same general purposes set out for the State recipients in the block grant program.

Tribes will be invited to make individual applications, or apply as a consortium or as an inter-tribal group. VAWA defines Indian tribes to include both those with and without law enforcement authority. (Section 2003(3).) Consequently, the requirement applicable to State block grants, that at least 25% of the total grant award be allocated respectively to law enforcement, prosecution, and victim assistance, would not be applicable to Indian tribal governments that do not have law enforcement authority. Nonetheless, program plans should be developed through consultation with tribal law enforcement, prosecutors, courts, and victims services to the extent they exist. Tribal applicants are also encouraged to integrate into their plans traditional models of dispute resolution such as peacemaker forums. Additionally, tribes may want to develop a domestic violence code, if one is not already in place, to facilitate the implementation of strategies which have reduced violence against women in other court systems.

Funding limits the number of discretionary grants in FY 1995 to approximately fifteen to twenty awards. To be eligible for funding under the discretionary program, Indian tribal governments must comply with the forensic exam cost and the filing and serving fee requirements applicable to the State block grant program.

Technical Assistance and Training/ Evaluation

The Office of Justice Programs intends to assist States and Indian tribal governments in meeting the

program goal of developing effective coordinated and integrated strategies. A small portion of the funds provided under this program has been set aside to provide specialized training and technical assistance to States and units of local government and Indian tribal governments to help restructure the system's response to violence against women.

Further, consistent with the statute, the Office of Justice Programs, in conjunction with the National Institute of Justice, will evaluate the effectiveness of the programs established with these funds. Recipients of grants must agree to cooperate with Federally-sponsored evaluations of their projects. In addition, the Attorney General is required by VAWA to report to Congress on a profile of the persons served, the programs funded, and their effectiveness. Program recipients must therefore specifically provide a statistical summary of persons served, detailing the nature of victimization, and providing data on age, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability. Additionally, program recipients are expected to cooperate with any investigations or audits performed by components of the Department of Justice, including the Civil Rights Division or the Office of the Inspector General.

Request for Comments

The Office of Justice Programs seeks to fulfill Congressional intent by soliciting, encouraging and incorporating comments on all aspects of this program while ensuring that the statutory limitations are applied appropriately to all recipients. Comments are specifically solicited on, but not limited to, the following issues:

1) The scope of the impact on States, units of local government, and Indian tribal governments of the mandate, contained in Section 90.14 of Subpart B of this regulation, that exempts sexual assault victims from paying out-of-pocket expenses with regard to forensic medical exams.

2) Whether the scope of the services identified in Section 90.2(b) of Subpart A (the definition of

forensic exam) of this proposed regulation adequately covers the needs of victims and prosecutors.

3) The special needs of Indian tribal governments in implementing the discretionary grant program.

4) The scope of the impact on States, units of local government, and Indian tribal governments of the mandate, contained in Section 90.15 of Subpart B of this regulation, prohibiting the imposition of criminal court-related costs on domestic violence victims, and proposed timetables for States, local governments and Indian tribal governments in meeting this mandate.

5) Approaches to addressing allocation and distribution requirements applicable to States, as set out in Section 90.16 of Subpart B, in making subgrants to units of local government.

A detailed Program Announcement for the States for FY 1995 will be available in March 1995. An Application Kit for Indian tribal governments will also be available in March 1995.

Administrative Requirements

The Office of Justice Programs has determined that this rule is a "significant regulatory action" for purposes of Executive Order 12866 and, accordingly, this rule has been reviewed by the Office of Management and Budget.

In addition, this rule will not have a significant impact on a substantial number of small entities; therefore, an analysis of the impact of these rules on such entities is not required by the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*

No information requirements are contained in this rule. Any information collection requirements contained in future application notices for this program will be reviewed by the Office of Management and Budget, as is required by provisions of the Paperwork Reduction Act, 44 U.S.C. § 3504(h).

List of Subjects

Grant Programs, Judicial Administration.

For the reasons set out in the preamble, Title 28, Chapter I of the Code of Federal Regulations is proposed to be amended by adding the new Part 90 as set forth below.

Part 90—Violence Against Women

Subpart A—General Provisions

Sec.

90.1 General

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Authority: Title I of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3711 *et seq.*, as amended by Pub. L. No. 103-322.

Subpart A--General Provisions

§ 90.1 General.

a) This Part implements provisions of the Violence Against Women Act (VAWA), which was enacted by Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322 (Sept. 13, 1994).

b) Subpart B of this part defines program eligibility criteria and sets forth requirements for application for and administration of formula grants to States to combat violent crimes against women. This program under VAWA was enacted as a new

'Part T' of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (the Omnibus Act), codified at 42 U.S.C. §§ 3796gg through 3796gg-5. Units of local government, Indian tribal governments, and non-profit, non-governmental victim services programs are eligible to apply for subgrants from this program.

c) Indian tribal governments are eligible to receive assistance as part of the State program pursuant to Subpart B of this part. In addition, Indian tribal governments may apply directly for discretionary grants under Subpart C of this part.

§ 90.2 Definitions.

a) **Domestic Violence.** As used in this Part, "domestic violence" includes felony or misdemeanor crimes of violence (including threats or attempts) committed:

- 1) by a current or former spouse of the victim;
- 2) by a person with whom the victim shares a child in common;
- 3) by a person who is co-habiting with or has co-habited with the victim as a spouse;
- 4) by a person similarly situated to a spouse of the victim under domestic or family violence laws of the jurisdiction receiving grant monies; or
- 5) by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies. (Section 2003(1).)

b) **Forensic Medical Examination.** The term "forensic medical examination" means:

- 1) All medical diagnostic procedures performed for a sexual assault victim, including, but not limited to:
 - i) examination of physical trauma;
 - ii) determination of penetration, force, or lack of consent;
 - iii) patient interview; and
 - iv) collection and evaluation of evidence.
- 2) The records and test results of such diagnostic procedures and evidence collection must be obtained in a manner suitable for use in a court of law.

c) **Indian Tribe.** The term "Indian Tribe" means a tribe, band, pueblo, nation, or other organized

group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. § 1601 *et seq.*), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (Section 2003(3).)

d) **Law Enforcement.** The term "law enforcement" means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs). (Section 2003(4).)

e) **Prosecution.** For purpose of this program the term "prosecution" means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus such as governmental victim services programs. (Section 2003(5).)

f) **Sexual Assault.** The term "sexual assault" means any conduct proscribed by Chapter 109A of Title 18, United States Code, and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim. (Section 2003(6).)

g) **State.** The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

h) **Unit of Local Government.** For the purposes of Subpart B of this part, the term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, or Indian tribe which performs law enforcement functions as determined by the Secretary of Interior, or for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and the Trust Territory of the Pacific Islands.

i) **Victim Services.** The term “victim services” means a private non-profit, non-governmental organization that assists domestic violence or sexual assault victims, including rape crisis centers, battered women’s shelters, and other sexual assault or domestic violence programs, such as non-profit, non-governmental organizations assisting domestic violence or sexual assault victims through the legal process. (Section 2003(8).)

Subpart B—Grants To Combat Violence Against Women Program

§ 90.10 Description of Grants To Combat Violence Against Women.

It is the purpose of this program to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women. (Section 2001(a).)

§ 90.11 Program Criteria.

a) The Assistant Attorney General for the Office of Justice Programs is authorized to make grants to the States, for use by States, Indian tribal governments, units of local government and non-profit, non-governmental victim services programs for the purpose of developing and strengthening effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.

b) States and localities shall develop plans for implementation and shall consult and coordinate with non-profit, non-governmental victim services programs, including sexual assault and domestic violence victim services programs. (Section 2002(c)(2).) The goal of the planning process is the

enhanced coordination and integration of law enforcement, prosecution, and victim services in the prevention, identification, and response to cases involving violence against women. States and localities are encouraged to include Indian tribal governments in developing their plans. States and localities should, therefore, consider the needs of Indian tribal governments in developing their law enforcement, prosecution and victims services in cases involving violence against women. Indian tribal governments may also be considered subgrantees of the State. (Section 2002(a).)

§ 90.12 Eligible Purposes.

a) In General. Grants under this program shall provide personnel, training, technical assistance, evaluation, data collection and equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women.

b) Eligible Purposes. (Section 2001(b).) Grants under this program may be used for the following purposes:

- 1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

- 2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

- 3) developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

4) developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;

5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs; developing or improving delivery of victim services to racial, cultural, ethnic, and language minorities; providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted; and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence;

6) developing, enlarging, or strengthening programs addressing stalking; and

7) developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of sexual assault and domestic violence.

§ 90.13 Eligibility.

a) All States are eligible to apply for, and to receive, grants to combat violent crimes against women under this program. Indian tribal governments, units of local government, and non-profit, non-governmental victim service programs may receive subgrants from the States under this program.

b) For the purpose of this Subpart B, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State and, for these purposes, 67% of the amounts allocated shall be allocated to American Samoa, and 33% to the Commonwealth of the Northern Mariana Islands.

§ 90.14 Rape Exam Payment Requirement.

a) For the purpose of this Subpart B, a State, Indian tribal government or unit of local government shall not be entitled to funds under this program unless the State, Indian tribal government, unit of local government, or another governmental entity incurs the full costs of forensic medical exams for victims of sexual assault. (Section 005(a)(1).)

b) A State, Indian tribal government, or unit of local government shall be deemed to incur the full cost of forensic medical exams for victims of sexual assault if that governmental entity or some other:

- 1) provides such exams to victims free of charge;
- 2) arranges for victims to obtain such exams free of charge; or
- 3) reimburses victims for the cost of such exams if:

i) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of reimbursement;

ii) the governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;

iii) the governmental entity provides reimbursement not later than ninety days after written notification of the victim's expense; and

iv) the governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement. Section 2005(b).

§ 90.15 Filing Costs for Criminal Charges.

a) A State shall not be entitled to funds under this Subpart B unless it:

1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, and witness subpoena; or

2) assures that its laws, policies and practices will be in compliance with the requirements of paragraph (a)(1) of this section by the date on which the next session of the State legislature ends, or by September 13, 1996, whichever is later.

b) An Indian tribal government or unit of local government shall not be eligible for subgrants from the State unless it complies with the requirements of paragraph (a) of this section with respect to its laws, policies and practices.

c) If a State does not come into compliance within the time allowed in paragraph (a)(2) of this section, the State will not receive its share of the grant money whether or not individual units of local government are in compliance.

§ 90.16 Availability and Allocation of Funds.

a) Section 2002(b) provides for the allocation of the amounts appropriated for this program as follows:

1) Allocation to Indian tribal governments. Of the total amounts appropriated for this program, 4% shall be available for grants directly to Indian tribal governments. This program is addressed in Subpart C of this part.

2) Allocation to States. Of the total amounts appropriated for this program in any fiscal year, after setting aside the portion allocated for discretionary grants to Indian tribal governments covered in paragraph (a)(1) of this section, and setting aside a portion for evaluation, training and technical assistance, a base amount shall be allocated for grants to eligible

applicants in each State. After these allocations are made, the remaining funds will be allocated to each State on the basis of the State's relative share of total U.S. population. For purposes of determining the distribution of the remaining funds, the most accurate and complete data compiled by the U.S. Bureau of the Census shall be used.

3) Allocation of Funds within the State. Funds granted to qualified States are to be further subgranted by the State to agencies and programs including, but not limited to State agencies, public or private non-profit organizations, units of local government, Indian tribal governments, non-profit, non-governmental victim services programs, and legal services programs to carry out programs and projects specified in Section 90.12.

b) In distributing funds received under this part, States must:

1) Give priority to areas of varying geographic size with the greatest showing of need. In assessing need, States must consider the range and availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas. Applications submitted by a State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis. (Section 002(e)(2)(A).)

2) Take into consideration the population of the geographic area to be served when determining subgrants. (Section 2002(e)(2)(B).) Applications submitted by a State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis.

3) Equitably distribute monies on a geographic basis, including non-urban and rural areas of

various geographic sizes. (Section 2002(e)(2)(C).) Applications submitted by the State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis.

4) In disbursing monies, States must ensure that the needs of previously underserved populations are identified and addressed in its funding plan. (Section 2002(e)(2)(D).) For the purposes of this program, underserved populations include, but are not limited to, populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs due to language barriers or physical disabilities. (Section 2003(7).) Each State has flexibility to determine its basis for identifying underserved populations, which may include public hearings, needs assessments, task forces, and U.S. Bureau of Census data. Applications submitted by the State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis.

c) States must certify that a minimum of 25% of each year's grant award (75% total) will be allocated, without duplication, to each of the following areas: prosecution, law enforcement, and victim services. (Section 2002(c)(3).) This requirement applies to States and does not apply to individual subrecipients, or Indian tribal governments.

§ 90.17 Matching Requirements.

A grant made under the State formula program may not be expended for more than 75% of the total costs of the projects specified in a State's application submission. (Section 2002(f).) The States are expected to submit a budget which identifies the source of the 25% non-Federal portion of the budget. The non-Federal expenditures must be committed for each funded project and cannot be derived from other Federal funds. States may

satisfy this 25% match through in-kind services. Indian tribes, who are subgrantees of a State under this program, may meet the 25% matching requirement for programs under Subpart B by using funds appropriated by Congress for the activities of any agency of an Indian tribal government or for the activities of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands. All funds designated as match are restricted to the same uses as the Violence Against Women Program funds and must be expended within the grant period.

§ 90.18 Non-supplantation.

Federal funds received under this part shall be used to supplement, not supplant non-Federal funds that would otherwise be available for expenditure on activities described in this part. (Section 2002(c)(4).)

§ 90.19 State Office.

a) Statewide plan and application. The chief executive of each participating State shall designate a State office for the purposes of:

- 1) certifying qualifications for funding under this Subpart B;
- 2) developing a statewide plan for implementation of the grants to combat violence against women in consultation and coordination with non-profit, non-governmental victim services programs, including sexual assault and domestic violence service programs;
- 3) preparing an application to obtain funds under this Subpart B;

b) Administration and fund disbursement. In addition to the duties specified by paragraph (a) of this section above the office shall:

- 1) administer funds received under this Subpart B, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing and fund disbursements; and

2) coordinate the disbursement of funds provided under this part with other State agencies receiving Federal, State, or local funds for domestic or family violence and sexual assault prosecution, prevention, treatment, education, and research activities and programs.

§ 90.20 Application Content.

a) **Format.** Applications from the States for grants to Combat Violence Against Women must be submitted on Standard Form 424, Application for Federal Assistance, at a time specified by the Office of Justice Programs. The Office of Justice Programs will request the Governor of each State to identify which State agency should receive the Application Kit. The Application Kit will include a Standard Form 424, a list of assurances that the applicant must agree to, a table of fund allocations, and additional guidance on how to prepare and submit an application for grants under this Subpart.

b) **Programs.** Applications must set forth programs and projects which meet the purposes and criteria of the Grants to Combat Crimes Against Women program set out in Sections 90.11 and 90.12 on an annual or multi-year basis.

c) **Requirements.** Applicants in their applications shall at the minimum:

1) include documentation from non-profit, non-governmental victim services programs describing their participation in developing the plan as provided in Section 90.19(a);

2) include documentation from prosecution, law enforcement, and victim services programs to be assisted, demonstrating the need for grant funds, the intended use of the grant funds, the expected results from the use of grant funds, and demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background. (Section 2002(d)(1));

3) include proof of compliance with the requirements for rape exam payments as provided

in Section 90.14(a);

4) include proof of compliance with the requirements for filing and service costs for domestic violence cases as provided in Section 90.15 of this Subpart; and

5) describe how the State and its subgrantees will provide for evaluation of programs funded under this Subpart, as provided in Section 90.21(b), and agree to cooperate with the National Institute of Justice in a federally-sponsored evaluation.

d) Certifications.

1) As required by Section 2002(c) each State must certify in its application that it has met the requirements of this Subpart regarding the use of funds for eligible purposes (Section 90.12); allocation of funds for prosecution, law enforcement, and victims services (Section 90.16(c)); non-supplantation (Section 90.18); and the development of a statewide plan and consultation with victim services programs (Section 90.19(a)(2)).

2) Each State must certify that all the information contained in the application is correct, that all submissions will be treated as a material representation of fact upon which reliance will be placed, that any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

§ 90.21 Evaluation.

a) The National Institute of Justice will conduct an evaluation of these programs. A portion of the overall funds authorized under this grant program will be set aside for this purpose. Recipients of funds under this Subpart must agree to cooperate with federally-sponsored evaluations of their projects.

b) Recipients of program funds are strongly encouraged to develop a local evaluation strategy to

assess the impact and effectiveness of the program funded under this Subpart. Applicants should consider entering into partnerships with research organizations that are submitting simultaneous grant applications to the National Institute of Justice for this purpose.

§ 90.22 Review of State Applications.

a) **Review Criteria.** The provisions of Part T of the Omnibus Act and of these regulations provide the basis for review and approval or disapproval of State applications and amendments in whole or in part.

b) **Intergovernmental Review.** This program is covered by Executive Order 12372 (Intergovernmental Review of Federal Programs) and implementing regulations at 28 CFR Part 30. A copy of the application submitted to the Office of Justice Programs should also be submitted at the same time to the State's Single Point of Contact, if there is a Single Point of Contact.

c) **Written notification and reasons for disapproval.** The Office of Justice Programs shall approve or disapprove applications within sixty days of official receipt and shall notify the applicant in writing of the specific reasons for the disapproval of the application in whole or in part. (Section 2002(e)(1).)

§ 90.23 Grantee Reporting.

a) Upon completion of the grant period under this Subpart, a State shall file a performance report with the Assistant Attorney General for the Office of Justice Programs explaining the activities carried out, including an assessment of the effectiveness of those activities in achieving the purposes of this part.

b) A section of the performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. (Section 2002(h)(2).)

c) The Assistant Attorney General shall suspend funding for an approved application if:

1) an applicant fails to submit an annual performance report;

2) funds are expended for purposes other than those described in this subchapter; or

3) a report under this Section or accompanying assessments demonstrate to the Assistant Attorney General that the program is ineffective or financially unsound.

Subpart C—Discretionary Grants for Indian Tribal Governments

§ 90.50 Indian Tribal Governments Discretionary Program.

a) Indian tribal governments are eligible to receive assistance as part of the State program pursuant to Subpart B of this part. In addition, Indian tribal governments may also apply directly to the Office of Justice Programs for discretionary grants under this Subpart, based on Section 2002(b)(1).

b) Indian tribal governments under the Violence Against Women Act (VAWA) do not need to have law enforcement authority. Thus, the requirements, applicable to State formula grants under Subpart B that at least 25% of the total grant award be allocated to law enforcement and 25% to prosecution, are not applicable to Indian tribal governments which do not have law enforcement authority.

§ 90.51 Program Criteria for Indian Tribal Government Discretionary Grants.

a) The Assistant Attorney General for the Office of Justice Programs is authorized to make grants to Indian tribal governments for the purpose of developing and strengthening effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.

b) Grantees shall develop plans for implementation and shall consult and coordinate with, to the extent

that they exist, tribal law enforcement; prosecutors; courts; and non-profit, non-governmental victim services programs, including sexual assault and domestic violence victim services programs. The goal of the planning process should be to achieve better coordination and integration of law enforcement, prosecution, and victim services in the prevention, identification, and response to cases involving violence against women.

§ 90.52 Eligible Purposes.

a) Grants under this program may provide personnel, training, technical assistance, evaluation, data collection and equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women.

b) Grants may be used for the following purposes (Section 2001(b)):

- 1) training law enforcement officers and prosecutors to identify and respond more effectively to violent crimes against women, including the crimes of sexual assault and domestic violence;
- 2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;
- 3) developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;
- 4) developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;

5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs; providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted; and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence; and

6) developing, enlarging, or strengthening programs addressing stalking.

7) developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of sexual assault and domestic violence.

§ 90.53 Eligibility of Indian Tribal Governments.

a) **General.** Indian tribes as defined by Section 90.2 of this Part shall be eligible for grants under this Subpart.

b) **Rape Exam Payment Requirement.**

1) An Indian tribal government shall not be entitled to funds under this program unless the Indian tribal government (or other governmental entity) incurs the full costs of forensic medical exams for victims of sexual assault.

2) An Indian tribal government shall be deemed to incur the full cost of forensic medical exams for victims of sexual assault if, where applicable, it meets the requirements of Section 90.14(b) or establishes that another governmental entity is responsible for providing the services or reimbursements meeting the requirements of Section 90.14(b).

c) **Filing Costs for Criminal Charges Requirement.** An Indian tribal government shall not be entitled to funds under this Part unless the Indian tribal government:

1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, witness subpoena; or

2) assures that its laws, policies and practices will be in compliance with the requirements of paragraph (a) of this section by September 13, 1996. (Section 2006.)

§ 90.54 Allocation of Funds.

a) 4% of the total amounts appropriated for this program under Section 2002(b) shall be available for grants directly to Indian tribal governments.

b) Indian tribal governments may make individual applications, or apply as a consortium.

c) Limited funding restricts the awarding of grants to approximately fifteen to twenty awards in FY 1995. The selection process will be sensitive to the differences among tribal governments and will take into account the applicants' varying needs in addressing violence against women.

§ 90.55 Matching Requirements.

A grant made to an Indian tribal government under Subpart C may not be expended for more than 75% of the total cost of the projects specified in the application. Applicants should submit a budget which identifies the source of the 25% matching funds. Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide matching share of the cost of programs or projects funded. An Indian tribal government may also satisfy the 25% match through in-kind services. All funds designated as match are restricted to the same uses as the grant funds and must be expended within the grant period.

§ 90.56 Non-supplantation.

Federal funds received under this part shall be used to supplement, not supplant funds that would otherwise be available for expenditure on activities described in this part. (Section 2002(c)(4).)

§ 90.57 Application Content.

a) **Format.** Applications from the Indian tribal groups for discretionary grants to Combat Violence Against Women must, under this Subpart, be submitted on Standard Form 424, Application for Federal Assistance, at a time specified by the Office of Justice Programs.

b) Programs.

1) Applications must set forth programs and projects for a one year period which meet the purposes and criteria of the Grants to Combat Crimes Against Women program set out in Section 2001(b) and Section 90.12.

2) Plans should be developed by consulting with tribal law enforcement, prosecutors, courts, and victim services, to the extent that they exist. Applicants are also encouraged to integrate into their plans traditional models of dispute resolution, such as peacemaker forums. Additionally, tribes may want to develop a domestic violence code, if one is not already in place, to facilitate the implementation of strategies which have reduced violence against women in other court systems.

c) **Requirements.** Applicants in their applications shall at the minimum:

1) Describe the project or projects to be funded.

2) Agree to cooperate with the National Institute of Justice in a Federally-sponsored evaluation of their projects.

d) Certifications.

1) As required by Section 2002(c) each Indian tribal government must certify in its application

that it has met the requirements of this Subpart regarding the use of funds for eligible purposes (Section 90.52); and non-supplantation (Section 90.56).

2) A certification that all the information contained in the application is correct, that all submissions will be treated as a material representation of fact upon which reliance will be placed, that any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

§ 90.58 Evaluation.

The National Institute of Justice will conduct an evaluation of these programs.

§ 90.59 Grantee Reporting.

a) Upon completion of the grant period under this Part, an Indian tribal grantee shall file a perfor-

mance report with the Assistant Attorney General for the Office of Justice Programs explaining the activities carried out, including an assessment of the effectiveness of those activities in achieving the purposes of this Subpart. (Section 2002(h)(1).)

b) The Assistant Attorney General shall suspend funding for an approved application if:

1) an applicant fails to submit an annual performance report;

2) funds are expended for purposes other than those described in this subchapter; or

3) a report under this Section or accompanying assessments demonstrate to the Assistant Attorney General that the program is ineffective or financially unsound.

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