Updated January, 2013

FREQUENTLY ASKED QUESTIONS ON STOP FORMULA GRANTS

Please Note:

The following FAQs were added in January, 2013:
Service Population-5
Financial Issues-15, 16, 17, 18, and 19
Certifications-33

The following FAQs were amended in January, 2013:
Service Population-2 and 4
Types of Services-11
Financial Issues-3, 4, 9, and 14
Match-3

SERVICE POPULATION

1. Can STOP funds be used to support services to children?

Yes, in limited circumstances. STOP funds should be used for projects that serve or focus on adult and teen women who are victims of domestic violence, dating violence, sexual assault, or stalking. In general, victims served with STOP funds must be adults or teens. Under a new purpose area created by VAWA 2005, however, STOP funds may also support "complementary new initiatives and emergency services for victims and their families." For example, STOP funds may support services for secondary victims such as children who witness domestic violence.

2. Can STOP funds support services for men?

Yes. However, funding may only be directed to projects with a primary focus of combating violence against women. The STOP statute states that "[t]he purpose of this subchapter [part] is to assist States, State and local courts (including juvenile courts), Indian tribal governments, tribal courts 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." 42 U.S.C. § 3796gg(a). However, subgrantees must provide services to a similarly situated male victim in need who requests services. Under the anti-discrimination provision of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d(c)(1), STOP-funded programs may not exclude any person from receiving grant-funded services on a number of prohibited grounds, including that person's sex. In addition, in the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Congress specifically provided that "Nothing in this title [which includes the STOP statute] shall be construed to prohibit

male victims of domestic violence, dating violence, sexual assault, and stalking from receiving benefits and services under this title."

3. **Can STOP funds be used to defend women who assault, kill, or otherwise injure their abusers?**

No. STOP funds cannot be used to fund any criminal defense work, including defending women who assault, kill, or otherwise injure their abusers.

4. **Can STOP funds be used to provide services to incarcerated victims of domestic violence, dating violence, sexual assault, or stalking?**

Yes. The services provided, however, may only address the domestic violence, dating violence, sexual assault, or stalking victimization experienced by the incarcerated individual, including both such crimes experienced while incarcerated and crimes experienced at other points in their youth and adult lives. Funds should not be used to provide any other types of services, such as rehabilitative services related to the crime committed by the incarcerated individual. Finally, as is the case with the use of all STOP funds, States must use those funds to supplement State funds, and not to supplant State funds that would otherwise be available for the activities funded.

Although STOP funds may be used to provide victim services as described above, other federal funds do have restrictions on serving incarcerated victims.

5. **Can STOP subgrantees provide services to lesbian, gay, bisexual, or transgender (LGBT) victims of domestic violence, dating violence, sexual assault, and stalking with STOP funds?**

Yes. The statute does not restrict provision of services under STOP-funded projects based on sexual orientation or gender identity. In addition, consistent with the response to Service Population question #2, above, gay, bisexual, and transgender male victims who request services should not be refused such services based on their sex.

TYPES OF SERVICES

1. **Can legal services be supported with STOP funds?**

Yes, however, the primary purpose of legal representation must be to protect the victim's safety. Funding through the STOP Program was not intended to pay the fees charged by attorneys for divorces, legal separations, and other actions falling outside the scope of the statute. Support for legal services, such as custody or visitation, must be examined on a case-by-case basis, must be directly related to enhancing a victim's safety, and must be otherwise allowable under federal cost principles. For example, if a protection order specifies "no contact" with the children, then attorney's fees related to a visitation case could be covered if resolution of the visitation case is necessary for the continued enforcement of the protection order.

2. **Can STOP funds be used to transport a woman safely out-of-state?**

Yes, in limited circumstances. STOP funds may be used to cover reasonable transportation costs that would enhance a woman's safety. STOP funds may not be used to pay for moving household goods to a new location in another State or acquiring furniture or housing in a new location.

3. **Can a victim services organization receive an award to help place survivors in permanent housing after shelter stay? For example, could the organization pay for a battered woman's first month's rent on a new apartment, purchase furniture, or pay moving costs?**

No. STOP funds may be used to cover reasonable transportation costs that would enhance a woman's safety. STOP funds may not be used to pay for moving household goods to a new location in another State or acquiring furniture or housing in a new location.

4. **Under the STOP Program, can the State create a voucher program where victims are directly given vouchers for such services as housing or counseling?**

No. The statutory purposes of the STOP Program do not authorize creation of a voucher program.

5. **Can STOP dollars support batterers' intervention programs? If so, what allocation should they be funded under?**

Yes. Batterers' intervention programs may be supported provided that the programs are part of a graduated range of sanctions that use the coercive power of the criminal justice system to hold abusers accountable for their criminal actions and for changing their behavior. However, couples counseling or any intervention that requires participation by a victim or that is not designed to hold offenders accountable for their violent behavior cannot be supported with STOP dollars.

The specific allocation may depend on the circumstances of the program and the particular State. Batterers' intervention may be supported through the "discretionary" portion of a State's formula grant (i.e., the 15 percent that is not designated for law enforcement, prosecution, courts, or victim services) or the courts portion.

6. **Can STOP funds support violence prevention programs, such as media campaigns to educate the general public about violence against women?**

No. According to the Violence Against Women Act, the general purpose of the STOP Program is to assist jurisdictions "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." 42 U.S.C. § 3796gg(a). The enumerated statutory program purpose areas do not address prevention programs, so prevention programs, such as media campaigns, may not be supported under this program. However, States may fund outreach efforts aimed at informing victims about services available. For example, a shelter could distribute brochures listing the signs of domestic violence, describing the services available, and providing a hotline number to access the services. Moreover, the STOP statute (as amended by the Violence Against Women Act of 2005) permits States to fund "core victim services and criminal justice initiatives, while supporting complimentary new initiatives and emergency services for victims and their families." Initiatives designed to reach victims, rather than raise awareness generally, may be supported under this purpose area.

7. **Can programs in schools be supported with STOP funds?**

Yes, programs in schools may be supported to the extent that they fit within one or more of the STOP program's statutory program purpose areas. For example, STOP funds could be used to provide support groups that meet at school for dating violence victims or to provide information to students about services available to help victims of dating violence. As discussed above, STOP funds may not support general prevention programs in schools.

8. **Can STOP funds be used to pay for the prosecution of child sexual abuse when the victim is now an adult?**

No, generally, STOP funds may not be used to pay for the prosecution of child sexual abuse when the victim is now an adult. The only rare exception would be if the abuse continued into adulthood, and the prosecution of the acts that occurred in childhood are part of the larger continuum of assaults that stretched into the victim's adult life.

9. **Can STOP funds be used to pay for health care providers' time conducting forensic examinations?**

Yes. Beginning with FY 2007 awards to the States, STOP funds may be used for health care providers' time conducting forensic examinations, if two requirements are met:

> 1) the examinations are performed by specially trained examiners for victims of sexual assault (such as Sexual Assault Nurse Examiners (SANEs) or Sexual Assault Forensic Examiners (SAFEs)); and
> 2) the jurisdiction does not require victims of sexual assault to seek reimbursement from their insurance carriers.

10. If the State is using STOP funds to pay for forensic examinations, do the medical providers performing the exams need to have any particular training or certification?

No, the medical providers need to have specialized sexual assault forensic exam training, but the specific nature and form of that training is not defined by statute. States can determine the most appropriate training for the needs of their States. The National Training Standards for Sexual Assault Medical Forensic Examiners (available at http://www.ncjrs.gov/pdffiles1/ovw/213827.pdf) provides recommendations on training for medical providers performing forensic examinations.

11. If the State pays for sexual assault forensic examinations, which allocation should it come from?

It could come from law enforcement, prosecution, or discretionary. Please refer to the definitions section of VAWA (see http://www.usdoj.gov/ovw/docs/overarching_definitions.pdf) for definitions of law enforcement and prosecution. A high-quality forensic exam could benefit either of these disciplines, depending on the structure and systems in the individual State. States should make decisions based on the laws, policies, and practices of their own State as to the most appropriate allocation. As discussed above, this only applies starting with FY 2007 funds.

FINANCIAL ISSUES

1. Can STOP funds be used to purchase equipment that will be used partially for purposes other than those outlined in the STOP program?

STOP funds may be used to partially purchase equipment that will be used for the STOP project as well as other purposes if the expenses are prorated according to the percentage of time that the equipment is used for STOP purposes. For example, a State could use STOP funds to support a portion of the digitalization of a 911 network if it can document the percentage of expenses based on the number of calls received for domestic violence, dating violence, sexual assault, and stalking

2. Can STOP funds be used to purchase automobiles?

No, STOP funds cannot be used to purchase vehicles. Please note that this is a change from a 1998 memorandum that authorized the purchase of vehicles under certain circumstances.

3. Can STOP funds be used to purchase food?

Yes, in some instances. The provision of food and beverages at training events or conferences is governed by the OVW Grants Financial Management Guide. (See http://www.ovw.usdoj.gov/docs/gfmd-financial-grants-management-guide.pdf). Please review the requirements carefully in determining if food provision at a particular event is acceptable and contact your grant manager if you have any questions. Food provision within the context of victim services (e.g., providing food in shelters) is permissible if the food is necessary or integral to providing services to women to enhance their safety.

4. **Are the salaries of prosecutors, law enforcement officers or judges considered allowable costs?**

Yes, if the prosecutors, law enforcement officers, or judges being paid are handling cases involving violence against women. If they are not working full time on violence against women cases, their time must be prorated.

5. **Can STOP funds be used to pay for immigration fees for battered immigrant women?**

No, such fees are not within the scope of the STOP Program.

6. **Can STOP dollars support the operational costs of a facility, such as a shelter?**

Yes, except that if the project is supported with funds from other sources as well (e.g., Victims of Crime Act or Family Violence Prevention and Services Act funds), the rent and operational expenses must be prorated among the different funding sources. In addition, the rent must be reasonable. If, however, the shelter owns its own facility, rent for use of that facility may not be charged to the grant at all; however, related expanses such as utilities and building security may be charged to the grant. As discussed below, renovations and construction may not be supported with STOP funds.

7. **Can a State agency use STOP funds to support a project it would like to undertake itself?**

Yes, as long as the project fits within the enumerated purpose areas. In such cases, however, the State will need to ensure that the STOP funds that are being used to support the project are supplementing and **not** supplanting non-federal funds that would otherwise be available for such a project. The State will also need to carefully consider the appropriate allocation for such a project, and should submit a STOP subgrant progress report regarding the specific project.

8. **Can a State allow a subgrantee to charge indirect costs to the subgrant?**

Yes, it is within the discretion of the State whether to allow subgrantees to charge indirect costs.

9. **If income is generated through grant-funded activities, how should that income be used?**

Grantees must receive prior approval from OVW before they earn program income. Program income may be used to supplement project costs or reduce project costs, or may be refunded to the Federal government. Program income may only be used for allowable program costs, however, and must be expended prior to additional drawdowns. Please see the OVW Grants Financial Management Guide (http://www.ovw.usdoj.gov/docs/gfmd-financial-grants-management-guide.pdf) for more information on this topic.

10. **Is there a difference between "supplies" and "equipment"?**

Yes. "Supplies" are generally items that will be expended during the project period. "Equipment" consists of non-expendable items. Federal guidelines define equipment as

tangible property having a useful life of more than two years and an acquisition cost of more than $5,000. States should follow their own guidelines for capitalization of equipment.

11. Can STOP funds be used for renovations or construction?
No. STOP monies cannot be used for renovations or construction. This includes even such seemingly minor renovations as painting or replacing carpet.

12. Do States have an administrative allowance within their budgets?
Yes. States can use up to 10 percent of funds for administrative costs.

13. Can unused administrative money be reallocated to fund subgrants?
If the State does not need the full 10 percent, these funds should be used to support subgrants.

14. Can a subgrantee charge a fee for counseling (therapy) of sexual assault victims?
Yes, at the discretion of the State administering agency. This income, however, should be treated as program income. See the OVW Grants Financial Management Guide (http://www.ovw.usdoj.gov/docs/gfmd-financial-grants-management-guide.pdf) and question 9, above, for more details on the allowable uses for program income.

15. Can a subgrantee provide gift cards, such as gas cards or grocery cards, to support victims?
No. Because it is impossible to ensure that all items purchased with gift cards are within the scope of the STOP program and are allowable under applicable State and Federal regulations, subgrantees may not use STOP funds to purchase gift cards or other prepaid cards, including gas or grocery cards, for victims.

16. Can STOP funds be used to purchase groceries?
Yes. STOP funding may be used to purchase groceries as part of victim services that subgrantees provide to victims. Grantees and subgrantees need to have a process in place to ensure that all items purchased are allowable, reasonable and necessary under applicable state and Federal statutes and regulations. Pursuant to Federal regulations, the purchase of any alcohol, tobacco, or related products is strictly prohibited with the use of grant funds. As noted in question 15 above, purchase of prepaid cards, including grocery cards with STOP funds is prohibited.

17. Can a subgrantee pay for the first month's rent or rental deposit for a victim of domestic violence?
Yes, STOP funds can be used to pay the first month's rent. Deposits are also allowable if the subgrantee has an agreement in place with the landlord that the full/remaining deposit will be returned to the subgrantee and not the victim at the end of the lease. OVW advises that the subgrantees arrange to pay the first month's rent, rather than a security deposit, to alleviate the need to recover and account for the deposit.

18. Is the purchase of equipment and supplies allowable in the last month of a grant?

Equipment and supplies are allowable costs under the STOP program. Grantees and subgrantees, however, should plan and budget for equipment and supplies early in the grant project to ensure the full benefit of the purchase is received. Purchasing equipment and supplies during the last month of the grant may not be undertaken merely for the purpose of using unobligated funds, as this does not support the purpose of the program. OVW therefore disfavors such purchases in the final month of a grant. Contact your program manager if you are unsure about any particular purchases.

19. How is the administrative allowance calculated? For example, is it taken off the top of the award amount, is it taken out of each allocation, or is it part of the "discretionary" category?

The STOP statute requires that the designated allocation for each discipline (law enforcement, courts, prosecution, and victims services) be taken from the total award amount. We recognize the importance of both the administrative funds and the amount of funds available to be used at the discretion of States and Territories. Therefore, we have a solution that would address these needs, while also ensuring adherence to STOP statute: states may allocate up to 10 percent of each of the other STOP allocations to be used for administration of the STOP grant. An example of the solution is as follows:

STOP award $1,000,000
5% or $50,000 for Courts; of this amount up to $5,000 can be used for administration
25% or $250,000 for Law Enforcement; of this amount up to $25,000 for administration
25% or $250,000 for Prosecution; of this amount up to $25,000 for administration
30% or $300,000 for Victim Services; of this amount up to $30,000 for administration
15% or $150,000 at the State's discretion; of this amount up to $15,000 for administration

This solution gives States and Territories the same amount of funds to meet the administrative cost and discretionary needs, but also complies with the statute because each discipline would receive the allocation amount calculated on the total amount awarded.

MATCH

A. Statute

1. What is the statutory language regarding match?

42 U.S.C. § 13925 (b)(1) provides:

> Match.—No matching funds shall be required for any grant or subgrant made under [the Violence Against Women Act] for—
>
> (A) any tribe, territory, or victim service provider; or
>
> (B) any other entity, including a State, that—
>
> (i) petitions for a waiver of any match conditions imposed by the Attorney General or the Secretaries of Health and Human Services or Housing and Urban Development; and
>
> (ii) whose petition for waiver is determined by the Attorney General or the Secretaries of Health and Human Services or Housing and Urban Development to have adequately demonstrated the financial need of the petitioning entity.

42 U.S.C. § 3796gg-1(f) provides:

> The Federal share of a grant made under [the STOP Formula Program] may not exceed 75 percent of the total costs of the projects described in the application submitted.

B. Exemption

2. <u>What entities are covered by the match exemption in 42 U.S.C. § 13925(b)(1)?</u>
Under VAWA 2005, matching funds cannot be required for a grant or subgrant for any tribe, territory, or victim service provider.

3. <u>Are there situations where victim services providers can be required to provide match?</u>
Yes. The exemption for victim services providers applies to subgrants awarded for victim services. If a victim services provider is given a subgrant under the law enforcement, courts, or prosecution allocation, such as a rape crisis center receiving law enforcement funds for training police, then the victim service provider can be required to provide a match. If a subgrant is awarded to a victim service provider to develop or facilitate a coordinated community response, whether they can be required to match would depend on the purpose of the subgrant. To the extent that the subgrant is supporting law enforcement, prosecution, or court purposes and is funded through those allocations, the provider can be required to match. For example, if a State gave a $200,000 subaward to a domestic violence shelter to manage a local coordinating council and $100,000 was from victim services funds, $50,000 was from law enforcement funds, and $50,000 from prosecution funds, then the shelter could be required to provide up to $25,000 in matching funds for the $100,000 dedicated to law enforcement and prosecution purposes.

4. <u>Is it permissible to request exempt victim services providers to voluntarily provide match?</u>
Yes. Often victim services providers have ready sources of in-kind match such as donated goods and volunteer services and may be willing to provide match even if not

required to do so. However, such provision of match must be truly voluntary; if the provider chooses not to provide match, it should not suffer adverse consequences.

5. Why do States have to cover the match for the exempt victim services providers?
42 U.S.C. § 3796gg-1(f) requires a 25 percent match on the full amount of the award, including those amounts for victim services. It is in the discretion of the State how to meet this match except for the restriction on requiring match on subgrants for victim services or tribes.

C. General Issues

6. How should in-kind match be calculated?
In-kind match must be documented in the same manner as grant funded activities. In-kind match should be calculated based on the fair market value of the goods or services. For example, the value of a volunteer answering a hotline should be the same as what the agency would pay an employee to answer the hotline. For more information and specific examples, please see http://www.usdoj.gov/ovw/docs/match_requirement.pdf.

7. Do the match funds need to follow the allocation formula (i.e., 25 percent law enforcement, 25 percent prosecution, 5 percent courts, 30 percent victim services)?
No, they do not. For example, a State could use funding from its law enforcement and courts subgrants to match its entire award if there is sufficient funding in those programs.

D. Waiver

8. Who is eligible to submit a request for a match waiver?
For the purpose of requesting a waiver through OVW's STOP Formula Program, eligible recipients are States.

9. How does a State request a match waiver?
An eligible applicant should formally request a match waiver by submitting a request letter addressed to the Director of the Office on Violence Against Women. Please mail the State's waiver request and supporting documentation to your OVW Program Specialist.

10. When should a State Administrator make a request for a match waiver?
As a general rule, a State has three months from the date of its most recent award to make a waiver request.

11. What is the standard for granting a match waiver?
The Attorney General must determine that the applicant for a match waiver has adequately demonstrated financial need.

12. What type of evidence demonstrates "financial need?"

Specific evidence of economic distress, such as documentation of high unemployment rates, poverty rates, and designation as a FEMA disaster area and how this affects the State's ability to provide violence against women matching funds may demonstrate financial need. For example, if a State shows that across the board budget cuts have directly reduced funding for violence against women by 20 percent, then the State would be considered for a 20 percent waiver, not a full waiver. Reductions in Federal funds are not relevant to State match unless the State can show that the reduced Federal funding directly reduced available State funds to support violence against women. The State would need to provide attachments to demonstrate this effect, such as portions of the State budget demonstrating shifts in funding or a letter from the Governor's office.

13. What should a waiver application include?

States that wish to apply for full or partial waivers of match must submit documentation of the following:

i. The sources of non-federal funds available to the State for match and the amount available from each source, including in-kind match and match provided by subgrantees or other entities;

ii. Efforts made by the State to obtain the matching funds, including, if applicable, letters from other State agencies stating that the funds available from such agencies may not be used for match;

iii. The specific dollar amount or percentage waiver that is requested;

iv. Cause and extent of the constraints on the historical and projected ability to raise violence against women matching funds; and

v. Specific evidence of economic distress, such as documentation of high unemployment rates, poverty rates, and designation as a FEMA disaster area and how this affects the State's ability to provide violence against women matching funds. For example, if a State shows that across the board budget cuts have directly reduced funding for violence against women programs by 20 percent, that State would be considered for a 20 percent waiver, not a full waiver. Reductions in Federal funds are not relevant to State match unless the State can show that the reduced Federal funding directly reduced available State funds to support violence against women programs. The State would need to provide attachments to demonstrate this effect, such as portions of the State budget demonstrating shifts in funding or a letter from the Governor's office.

14. How does a grantee learn of OVW's match waiver decision?

Once OVW receives the formal request for a match waiver and supporting documentation from the State, the time period from OVW review and consideration to notification will not exceed 90 days. OVW will notify the appropriate State STOP Administrator of all determinations via e-mail.

15. What if OVW denies the waiver request?

All requests for match waiver will be reviewed and considered by the Director of OVW on a case-by-case basis. Approval of such a waiver will require significant justification for need and will not be made automatically. All decisions are final.

16. If a State receives a match waiver for one grant award, will it automatically receive approval for the next grant award period?

A match waiver decision is only good for the current grant award.

ALLOCATION ISSUES

1. **If a State does not receive enough fundable law enforcement and prosecution projects to meet the 25 percent for these categories, can the State reallocate these funds to the discretionary category?**

No. Under the STOP statute, the funds must be allocated 25 percent for law enforcement, 25 percent for prosecution, 5 percent for courts, and 30 percent for nonprofit, nongovernmental victim services. Unused funds in one of the four funding categories revert to OVW at the end of the grant period.

2. **What if a State allocates funding to a subgrantee, but gets the money back?**

If it is early in the award cycle, the State may be able to reaward the funds. If the State's award is at or near its end date, the funds would revert to OVW. The State could contact its OVW Program Specialist in such an event.

3. **Should States make decisions to award law enforcement, prosecution, court, and victim services funds based on the purpose for which the funds will be used or the type of agency applying for the funds?**

The current language of the STOP statute requires States to allocate certain percentages of funding "for" law enforcement, prosecution, courts, and victim services. Beginning with FY 2007, decisions should be made based on the beneficiary of the funded activities. For example, a State may provide funds to its State coalition to provide training to police throughout the State under the "law enforcement" category because the training is to benefit law enforcement. Please review the definitions for law enforcement, prosecution, courts, and victim services to assist in making these determinations. (See http://www.usdoj.gov/ovw/docs/overarching_definitions.pdf.) If a subgrant recipient under a particular category is not the type of agency referred to in the category, States should ensure that the correct type of agency will benefit from the funds. For example, if a State coalition applies for law enforcement funds to train police, the application should include a Memorandum of Understanding or other documentation from police agencies indicating that they agree to attend the training and will be involved in the development of the training.

4. **Under which category would a probation or parole project be funded?**

This would depend on the structure of the State's criminal justice system. In some States, these agencies are part of the court system. In others, they are considered law enforcement. States should refer to the definitions of law enforcement and courts and use their best judgment. (See http://www.usdoj.gov/ovw/docs/overarching_definitions.pdf.)

5. **Can STOP funds be subgranted to State law enforcement or prosecution training divisions, such as Police Officer Standards and Training (POST) offices?**

Yes. Please see the definitions of law enforcement and prosecution at http://www.usdoj.gov/ovw/docs/overarching_definitions.pdf.

SUBGRANT MANAGEMENT ISSUES

1. What can OVW do if a subgrantee is misappropriating funds?

OVW's relationship and monitoring obligation is at the State level because the State is the grantee. If such misappropriation comes to the attention of OVW, the State would be held responsible for the misuse of funds.

2. Can a State put a special condition on its subawards prohibiting activities that may compromise victim safety?

Yes. OVW includes special conditions in its discretionary grant awards prohibiting activities that may compromise victim safety. We encourage States to include similar conditions.

3. To what extent should States control subgrant details and monitor subgrants?

As the grantee, the State is responsible for ensuring that STOP funds are expended appropriately and for the purposes mandated in the Violence Against Women Act. The State is also responsible for establishing its own guidelines for subgrant oversight and monitoring intensity.

VAWA 2005 QUESTIONS

1. When did the changes in VAWA 2005 take effect?

Most of the changes took effect in FY 2007. However, the definitions and general conditions, including the changes to match, took effect in FY 2006. (See http://www.usdoj.gov/ovw/docs/overarching_definitions.pdf.)

2. What purpose areas did VAWA 2005 add to the STOP Program?

VAWA 2005 added the following purpose areas:

(12) maintaining core victim services and criminal justice initiatives, while supporting complementary new initiatives and emergency services for victims and their families;

(13) supporting the placement of special victim assistants (to be known as "Jessica Gonzales Victim Assistants") in local law enforcement agencies to serve as liaisons between victims of domestic violence, dating violence, sexual assault, and stalking and personnel in local law enforcement agencies in order to improve the enforcement of protection orders. Jessica Gonzales Victim Assistants shall have expertise in domestic violence, dating violence, sexual assault, or stalking and may undertake the following activities--

(A) developing, in collaboration with prosecutors, courts, and victim service providers, standardized response policies for local law enforcement agencies, including triage protocols to ensure that dangerous or potentially lethal cases are identified and prioritized;

(B) notifying persons seeking enforcement of protection orders as to what responses will be provided by the relevant law enforcement agency;

(C) referring persons seeking enforcement of protection orders to supplementary services (such as emergency shelter programs, hotlines, or legal assistance services); and

(D) taking other appropriate action to assist or secure the safety of the person seeking enforcement of a protection order; and

(14) to provide funding to law enforcement agencies, nonprofit nongovernmental victim services providers, and State, tribal, territorial, and local governments, (which funding stream shall be known as the Crystal Judson Domestic Violence Protocol Program) to promote--

(A) the development and implementation of training for local victim domestic violence service providers, and to fund victim services personnel, to be known as "Crystal Judson Victim Advocates," to provide supportive services and advocacy for victims of domestic violence committed by law enforcement personnel;

(B) the implementation of protocols within law enforcement agencies to ensure consistent and effective responses to the commission of domestic violence by personnel within such agencies (such as the model policy promulgated by the International Association of Chiefs of Police ("Domestic Violence by Police Officers: A Policy of the IACP, Police Response to Violence Against Women Project" July 2003));

(C) the development of such protocols in collaboration with State, tribal, territorial and local victim service providers and domestic violence coalitions.

3. What new STOP certification requirements did VAWA 2005 add?

VAWA 2005 amended the sexual assault forensic examination certification and added two new certifications.

First, the change to the forensic examination certification is that States may not "require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both."

Second, a new judicial notification certification provides:
Judicial notification: A State or unit of local government shall not be entitled to funds under [the STOP Program] unless the State or unit of local government--

(A) certifies that its judicial administrative policies and practices include notification to domestic violence offenders of the requirements delineated in section 922(g)(8) and (g)(9) of Title 18, and any applicable related Federal, State, or local laws; or
(B) gives the Attorney General assurances that its judicial administrative policies and practices will be in compliance with the requirements of subparagraph (A) within the later of—the period ending on the date on which the next session of the State legislature ends; or 2 years.

Third, a new polygraph testing prohibition provides:
In order to be eligible for grants under [the STOP Program], a State, Indian tribal government, territorial government, or unit of local government shall certify that, not later than 3 years after January 5, 2006, their laws, policies, or practices will ensure that no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or child victim of an alleged sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an offense. The refusal of a victim to submit to an examination described [above] shall not prevent the investigation, charging, or prosecution of the offense.

4. **Do States have a grace period during which they can come into compliance with these certifications and remain eligible for STOP Program funds?**

For the change to the forensic examination, States had until January 5, 2009. For the judicial notification provision, States had two years after the passage of VAWA 2005 (January 5, 2008) or the date on which the next session of their State legislature after January 5, 2006 ended. For example, if the State had an annual legislative session that began before January 5, 2006, the next session would have been the 2007 session. The period would have ended on the last day of that session. For the polygraph certification, States had until January 5, 2009. As these periods have all ended, all States and Territories should now be in compliance.

5. **What is the new mandate to set aside funds for culturally specific community-based organizations?**

VAWA 2005 provides that within the 30 percent for victim services "at least 10 percent shall be distributed to culturally specific community-based organizations."

6. **What type of agencies can receive funds under the set-aside for "culturally specific community-based organizations?"**

An organization is eligible to receive the culturally-specific set-aside if the organization:

(i) has a focus on any underserved population;
(ii) is providing services tailored to the unique needs of that population; and,
(iii) at a minimum, has some expertise or demonstrated capacity to work effectively on domestic violence, dating violence, sexual assault or stalking or acquires that expertise through collaboration with another entity.

An organization will qualify for funding if its primary mission is to address the needs of an underserved population or if it has developed a special expertise regarding a particular underserved population. The organization must do more than merely provide services to an underserved population; rather, the organization must provide culturally competent services designed to meet the specific needs of the target population.

In reviewing subgrant applications, States should look not only at the numbers of victims that will be served, but also at how the services will be provided, whether the community to be served has been involved in planning for the delivery of the services, and whether there will be outreach to that community regarding the availability of the services. For example, if an applicant proposes to provide services to deaf victims, the State should consider such things as: line items in the budget for certified interpreters, TTYs, and other assistive technology; a demonstration that the applicant has a knowledge of and collaborative relationships with organizations serving the deaf; established outreach activities to the deaf community; and on-going staff training on deaf culture. A community-based organization that accepts funding to provide services to a particular underserved population cannot exclude others from participating in its programs and activities based on race, color, national origin, sex, religion, disability or age.

7. **What victim populations may be served under the set aside for culturally specific community-based organizations?**

The set-aside may address "underserved populations" as defined in VAWA 2005, which include "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General[.]" 42 U.S.C. § 13925(a)(33).

To date, OVW has declined to issue a definitive list of "underserved populations," because we believe that these populations vary by State and community. In implementing the Culturally and Linguistically Specific Services Program, a discretionary OVW grant program that funds culturally specific services for underserved communities, we ask applicants to describe their target populations, establish that local victim service providers are not fully meeting the needs of these populations, and demonstrate how their services and outreach will be tailored to meet the specific needs of these populations, including language and/or other cultural differences. Using these criteria, OVW has funded organizations serving, among others, the African American, Latino/Hispanic, Native American/Alaska Native, Asian/Pacific Islander, African immigrant, Arab, Deaf and Hard of Hearing, Lesbian Gay Bisexual Transgender and Queer (LGBTQ), Orthodox Jewish, and Portuguese-speaking communities. We encourage STOP Administrators to engage with community-based organizations to identify populations in their States who meet the definition of underserved.

8. VAWA 2005 requires States to "ensure that monies set aside to fund linguistically and culturally specific services and activities for underserved populations are distributed equitably among those populations." Does "equitably" refer to the whole State, or just the submitted applications?

"Equitably" refers to applications submitted to the State. Funds should be distributed to serve equitably those underserved populations represented in the applicant pool. In order to qualify for STOP funds, however, a State must develop an implementation plan that describes how the State will address the needs of underserved populations. In keeping with this obligation, States should reach out to underserved populations to increase their awareness of the availability of funding for culturally and linguistically specific services and how to access STOP funding.

9. What is the new collaboration requirement from VAWA 2005?

State applications must now include "documentation showing that tribal, territorial, State or local prosecution, law enforcement, and courts have consulted with tribal, territorial, State, or local victim service programs during the course of developing their grant applications in order to ensure that proposed services, activities and equipment acquisitions are designed to promote the safety, confidentiality, and economic independence of victims of domestic violence, sexual assault, stalking, and dating violence." This documentation could take the form of a letter from the Authorized Official describing how the State met the requirement.

CERTIFICATION QUESTIONS

Judicial Notification

1. **Does the Judicial Notification certification apply to local courts not under the control of the State courts?**

The State certification does not need to cover local courts not under the control of the State courts. However, if a local court seeks STOP Program funding, then it should provide such a certification to the State as a condition of receiving the subgrant.

2. **Under the Judicial Notice certification, would a State be in compliance if the notice is provided by law enforcement through the incident report, rather than through the courts?**

No. This would not qualify as "judicial" notice.

Forensic Examinations

3. **What is required by the State to comply with the forensic examination certification**?

Under 42 U.S.C. § 3796gg-4, a State is not entitled to funds under the STOP Program unless the State or another governmental entity "incurs the full out-of-pocket cost of forensic medical exams . . . for victims of sexual assault." In addition, effective January 5, 2009, States may not "require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both."

4. **What is a "forensic medical exam?"**

The term "forensic medical exam" means an examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law.

The examination should include at a minimum:

(A) examination of physical trauma;
(B) determination of penetration or force;
(C) patient interview; and
(D) collection and evaluation of evidence.

The inclusion of additional procedures (e.g., testing for sexually transmitted diseases) to obtain evidence or provide treatment may be determined by the State in accordance with its current laws, policies, and practices.

5. **What does a State have to do to "incur the full out-of-pocket cost" of forensic medical exams?**

A State shall be deemed to incur the full out-of-pocket cost of forensic medical exams for victims of sexual assault if any government entity:

(A) provides such exams to victims free of charge to victims;

(B) arranges for victims to obtain such exams free of charge to the victims; or
(C) reimburses victims for the cost of such exams if-
(1) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;
(2) the reimbursing governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;
(3) the reimbursing governmental entity provides reimbursement not later than 90 days after written notification of the victim's expense; and
(4) the State or reimbursing 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.

6. Is there required timing for reimbursement if the State pays the hospital directly, rather than the victim?

No. If the State or other governmental entity is paying the hospital or other medical provider directly, there is no statutory time limit for reimbursement. The above time limits only apply where the governmental entity is providing the reimbursement to the victim.

7. What is the definition of "full out-of-pocket costs?"

"Full out-of-pocket costs" means any expense that may be charged to a victim in connection with a forensic medical examination for the purpose of gathering evidence of a sexual assault (e.g., the full cost of the examination, an insurance deductible, or a fee established by the facility conducting the examination). For individuals covered by insurance, "full out-of-pocket costs" means any costs that the insurer does not pay. However, as described below and above, if the State wishes to use STOP funds to pay for the exams, it may not require victims to seek reimbursement from their private health insurance.

8. Can STOP funds be used to pay for a health care provider's time conducting forensic examinations?

Yes. Starting with FY 2007, STOP funds may be used for health care providers' time conducting forensic examinations, if two requirements are met:
(1) the examinations are performed by specially trained examiners for victims of sexual assault (such as Sexual Assault Nurse Examiners (SANEs) or Sexual Assault Forensic Examiners (SAFEs); and
(2) the jurisdiction does not require victims of sexual assault to seek reimbursement from their insurance carriers.

9. Can STOP Program funds pay for other aspects of SANE/SAFE programs even if the two above requirements are not met?

Yes. STOP Program funds may support the following activities related to SANE/SAFE programs even if the requirements for paying personnel costs are not met:
- training for SANE/SAFE personnel
- expert testimony of SANE/SAFE personnel
- forensic evidence collection kits ("rape kits")

- equipment, such as colposcopes, swab dryers, and lights
- outreach efforts to inform victims about available services
- victim advocate personnel to accompany victims through the forensic examination process
- on-going counseling services for victims
- on-call time of the SANE/SAFE personnel

This list of SANE/SAFE activities that may be funded is not comprehensive and other similar activities may be funded. Please contact your grant program specialist if you have questions.

10. What if the hospital charges a fee for the use of the examination room?

If the hospital or other medical facility charges a fee for the use of the examination room, it is considered part of the exam and must be paid by the State or other governmental entity.

11. Can the State require victims to submit the claims for the cost of the exam to their personal health insurance providers?

Yes, if they are not using STOP Program funds to pay for the cost of the forensic exam. Under the definition of "full out-of-pocket costs," States can require that victims submit claims to their personal insurers. However, any expenses not covered by the insurer must be covered by the State or other governmental entity. This includes any deductibles or denial of claims by the insurer. We urge States to keep in mind that, in some cases, insurance billing can present a hardship for victims. For example, a victim of spousal rape may not want her husband to find out that she got a forensic exam. If the victim is forced to submit the claim to her insurance company and she is on her husband's insurance, he may receive a statement from the insurance indicating that she got the exam. For this reason, the Office on Violence Against Women strongly encourages States to not require victims to file a claim with their insurers.

12. Are States permitted to require victims to cooperate with law enforcement as a condition for receiving a free exam?

No. Effective January 5, 2009, a State will not be in compliance with this provision and will be ineligible for STOP Program funds if the victim is required to cooperate with law enforcement or participate in the criminal justice system in order to receive an exam, payment for the exam, or both. Some victims are unable or unready to decide whether they want to cooperate with law enforcement in the immediate aftermath of the assault. Because evidence is lost as time progresses, such victims should be encouraged to have the evidence collected immediately and decide about reporting the crime at a later date. If local jurisdictions have policies or practices that requires victim cooperation or participation in order to receive an exam or pay for the exam, the State is responsible for ensuring that all victims are able to receive free exams, regardless whether they cooperate with law enforcement or participate in the criminal justice system.

13. Can a State set a limit on the cost of the exam?

This depends on whether the State is reimbursing the victim for the exam or providing the exam to the victim for free. The State may not set a limit on reimbursement to victims relating to these exams. If the State is providing the exams free of charge to victims, then the State may set a rate for the cost of an exam. However, States should be cautious that they do not set the rate so low that no facilities are willing to provide exams.

14. Can a State use its Crime Victims Compensation Fund to pay for the forensic exams?

Yes, if State law designates the victim compensation program as the primary paying source for the exams. In approximately 15 States, the compensation program is the primary payer under State law. In the other States, compensation programs may pay for the exams, but generally a different primary payment source has this responsibility. For Federal guidelines that apply to the Victims of Crime Act Victim Compensation Grant Program, go to http://www.ojp.usdoj.gov/ovc/welcovc/scad/guides/voca.pdf. If you have further questions about the use of crime victim compensation funding for forensic exam payment, please contact the Office for Victims of Crime at (202) 307-5983.

15. Under the forensic exam certification, is the State required to provide exams for victims of child sexual abuse?

No. The certification applies only to adult and teen victims of sexual assault.

Fees and Costs

16. What grant programs are affected by the "fees and costs" certification?

This requirement applies to grantees under the STOP (Services*Training*Officers*Prosecutors) Violence Against Women Formula Grants (STOP) and Grants to Encourage Arrest Policies and Enforcement of Protection Orders (Arrest) Programs.

17. Who is affected by the "fees and costs" certification?

States, Indian tribal governments, units of local government, and State and local courts that apply for funding under the STOP or Arrest Programs.

18. What is required to comply with the "fees and costs" certification?

Applicants for these programs must certify that:

[Their] laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction.

This certification shall be treated as a material representation of fact upon which the Department of Justice will rely when it determines whether to award the grant.

For additional assistance in understanding the types of fees covered by this requirement and assessing your compliance, please see the Violence Against Women Act of 2000 Costs for Criminal Charges and Protection Orders Chart.

19. Do applicants need to change their statutes to come into compliance with the "fees and costs" certification?

If the laws of the State, tribe, or unit of local government conflict with the "fees and costs" provision, then the applicant will not be able to make the necessary certification, even if the jurisdiction has a policy of never charging fees.

20. **What if an applicant's statute is silent on the issue of fees**?

If the statute is silent on the issue of fees, then the applicant may not need to pass a law because the policy does not need to be expressed in a law. However, the applicant will need to ensure that its policies and practices do not require victims to bear any of the relevant costs. We encourage applicants to pass a law or adopt a written policy to ensure that victims are not required to bear these costs.

21. When do applicants need to be in compliance with the "fees and costs" certification?

All applicants to the STOP Program and those applicants to the Arrest Program who have previously received Arrest Program funds need to be in compliance with this requirement prior to submitting an application. Applicants under the Arrest Program that have not applied previously have until the end of their next legislative session after their first application for an Arrest grant to fulfill the requirement.

22. As a policy matter, why is it important to comply with this requirement?

This provision is designed to ensure that jurisdictions are not forcing victims to bear costs related to criminal and civil domestic violence, sexual assault, and stalking cases. The intent of the statutory language is to ensure that all victims can access legal relief in the civil and criminal justice systems, regardless of their financial circumstances.

23. Can grant funds be used to cover these fees and costs?

No, grantees cannot use grant funds to cover these fees and costs. Such use of grant funds would not comply with the VAWA 2000 provision because grantees are not entitled to funds unless they first certify that they have met (or will meet in certain cases as described in the answer regarding timing of compliance above) the filing fee requirement. This certification is a prerequisite for receiving grant funds. Program funds may not be used to pay these fees and costs, as Congress instructed grantees to certify that victims are not bearing these costs prior to receiving grant funds.

24. Can the respondent or defendant be charged fees in connection with protection orders or criminal cases?

There is nothing in the STOP or Arrest Program statutes to prevent jurisdictions from charging respondents or defendants. In fact, this may be a good way for jurisdictions to cover these costs.

25. What if the State law provides that persons below a certain income can get a fee waiver?

Providing fee waivers only for victims below a certain income is not sufficient. The statutory requirement applies to all victims, regardless of income.

26. Can victims be charged these fees if they are later reimbursed?

No. Charging victims up front and providing reimbursement also is not sufficient to meet the statutory requirement. Even if victims are fully reimbursed, this would require victims to "bear the cost" during the time from when they pay the fees until they receive the reimbursement, which is not permitted by the statute.

27. What if the respondent, defendant, or subject of a warrant or witness subpoena lives out of State? Who should pay the costs of service in such cases?

The statute specifies that the requirement applies whether the warrant, protection order, petition for protection order, or witness subpoena is "issued inside or outside the State, tribal, or local jurisdiction." This makes clear that victims can not be charged in such cases. However, the statute does not specify which jurisdiction is required to cover the fees in such a case.

28. **What types of protection orders are covered by the requirement**?

The requirement specifically applies to an order "to protect a victim of domestic violence, sexual assault, or stalking." This includes any civil order of any type or duration so long as it was issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person. This also includes orders issued by criminal courts, and pendente lite orders in other proceedings, as described in 18 U.S.C. § 2266.

29. Can fees be charged for general protection orders such as "antiharassment" or "repeat violence" orders?

If the person applying for the order is a victim of domestic violence, sexual assault, or stalking and is applying to get an order because of that crime, then the order would constitute an order "to protect a victim of domestic violence, sexual assault, or stalking." Jurisdictions may charge for general protection orders when the applicant is not a victim of these crimes.

30. **What if a victim of domestic violence, sexual assault, or stalking returns to court to request a modification of a protection order**?

The victim could not be charged for this because it would constitute a fee associated with the "filing, issuance, registration, or service" of a protection order.

31. If the court denies a petition for an order, can the petitioner then be charged fees?

Possibly, depending on the specific circumstances of the case. It is possible that a court may deny a protection order even though the petitioner is a victim of domestic violence, sexual assault, or stalking. For example, if the State law requires physical abuse to have occurred within a certain time period, a victim could be denied an order because there was not a recent enough incident of physical abuse. The petitioner may be charged fees if the court makes a finding that the petitioner is not a victim of domestic violence, sexual assault, or stalking and denies the order based on that finding.

32. Can fees still be charged for divorce cases filed by victims of domestic violence, sexual assault or stalking?

The provision does not limit the ability of a jurisdiction to charge fees for divorce cases. However, if a victim of domestic violence, sexual assault or stalking files for a protection order within the divorce case, the victim cannot be charged fees associated with the protection order.

33. Does the polygraph testing prohibition mean that victim polygraphs can never be used in a sexual assault investigation?

The polygraph testing prohibition at 42 U.S.C. 3796gg-8 requires States to certify that their laws, policies, or practices "will ensure that no law enforcement officer, prosecuting officer, or other governmental official shall ask or require an adult, youth, or child victim of an alleged sex offense…to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation for such an offense."

This means that if the polygraph is not required and not a condition for the investigation, an official may request or offer an opportunity to take a polygraph examination. Jurisdictions should keep in mind however, that such "requests" may be inherently coercive to victims. Also, such requests should only be made in extreme circumstances and with justification, not as a routine matter. For example, the Attorney General Guidelines for Victim and Witness Assistance provide that "Department personnel are strongly discouraged from asking sexual assault victims to take polygraph examinations. The investigating agent may ask a sexual assault victim to take a polygraph examination only in extraordinary circumstances and only with the concurrence of a Special Agent in Charge or the Supervisory Assistant United States Attorney. All reasonable alternative investigative methods should be exhausted before requesting or administering a sexual assault victim polygraph examination." Jurisdictions that do not prohibit all polygraph examinations of victims should consider implementing similar practices to ensure polygraph examinations are not misused.

MISCELLANEOUS

1. **Why are Indian populations excluded from the formula used to determine States' STOP grant amounts when there is a purpose area for developing and strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women?**

There is no legislative history that clarifies why this was included in the Violence Against Women Act. Because the statute specifies the basis to be used in distributing the STOP funds among the States and territories, OVW must comply with the formula.

2. **Can universities be STOP subgrantees?**

Yes, a university may be a STOP subgrantee if it meets STOP eligibility requirements and program purposes.

3. **Why is there a greater emphasis in the STOP Program on collaboration with nonprofit, nongovernmental victim services programs than with law enforcement and prosecution?**

One of the fundamental purposes of VAWA is to give an equal voice to victim advocates in establishing the priorities for funding within a State. Not all victims of violence against women seek help from the criminal justice system; many instead turn to shelters, rape crisis centers, and other programs for assistance.

4. **What does OVW expect to see in a State's implementation plan?**

In general, OVW is looking for statutory compliance, collaboration, and good practices to enhance victim safety and offender accountability. Each plan is very different and tailored to the needs of the particular State. For more guidance on this topic, please see the Implementation Plan Tool Kit (http://www.usdoj.gov/ovw/docs/implementation_plan_tool.pdf).

5. **Is it possible to change the project period or end date of my grant?**

Yes. Please contact your grant program specialist soon as possible so he/she can explain how to submit a Grant Adjustment Notice (GAN) for this purpose. You will need to provide a justification for the change, including the amount of funds remaining in the grant, the reasons why the funds have not been (or will not be) expended by the current end date, and how the State plans to use the funds in the additional time period.

6. **Is it possible change the project start date of my grant?**

Yes, but only prior to the award being issued. You must contact your grant program specialist to make the request.

7. **Is there a definition of "rural?"**

Yes. Please see the statutory definitions list at http://www.usdoj.gov/ovw/docs/overarching_definitions.pdf .