



U.S. Department of Justice
OVW
Office on Violence Against Women
Working Together to End the Violence

Frequently Asked Questions (FAQs) About STOP Formula Grants

Updated October 2017

TABLE OF CONTENTS

Service Population	1
1. Can STOP funds be used to support services to children?	1
2. Can STOP funds support services for men?	1
3. Can STOP funds be used to defend women who assault, kill, or otherwise injure their abusers?... 2	
4. Can STOP funds be used to provide services to incarcerated victims of domestic violence, dating violence, sexual assault, or stalking?	2
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?	2
Types of Services	4
1. Can legal services be supported with STOP funds?	4
2. Can STOP funds be used to transport a woman safely out-of-state?	4
3. Can a victim services organization receive an award to help place survivors in permanent housing after shelter stay? For example, could the organization purchase furniture or pay moving costs? .. 4	
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?	5
5. Can STOP dollars support batterers' intervention programs? If so, what allocation should they be funded under?	5
6. Can STOP funds support violence prevention programs, such as media campaigns to educate the general public about violence against women?	5
7. What is the difference between prevention/education (which is limited to 5 percent) and "outreach" which is more broadly allowable?	6
8. Can programs in schools be supported with STOP funds?	6
9. When can STOP funds be used to assist child sexual abuse victims?	6
10. Can STOP funds be used to address child sexual abuse when the victim is now an adult?	6
11. Can STOP funds be used to pay for health care providers' time conducting forensic examinations?	6
12. 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?	7
13. If the state pays for sexual assault forensic examinations, which allocation should it come from? .. 7	
14. Can a state provide funding to a child advocacy center?	7
15. Can STOP support payment for substance abuse counseling for domestic abuse or sexual assault victims?	7
16. Can STOP support alternative treatments for victims?	7
17. Can STOP funds support supervised visitation with children in cases involving domestic violence, dating violence, sexual assault, or stalking?	8
Financial Issues	9
1. Can STOP funds be used to purchase equipment that will be used partially for purposes other than those outlined in the STOP Program?	9
2. Can STOP funds be used to purchase automobiles?	9

3. Can STOP funds be used to purchase food?	9
4. Are the salaries of prosecutors, law enforcement officers or judges considered allowable costs? ..	9
5. Can STOP funds be used to pay for immigration fees for battered immigrant women?	9
6. Can STOP dollars support the operational costs of a facility, such as a shelter?.....	9
7. Can a state agency use STOP funds to support a project it would like to undertake itself?	10
8. Can a state allow a subgrantee to charge indirect costs to the subgrant?.....	10
9. If income is generated through grant-funded activities, how should that income be used?	10
10. Is there a difference between “supplies” and “equipment”?	11
11. Can STOP funds be used for renovations or construction?	11
12. Do states have an administrative allowance?.....	11
13. How can states use administrative funds?	11
14. Can administrative funds support personnel who work on other federal or state grant programs in addition to STOP?.....	12
15. Can unused administrative money be reallocated to fund subgrants?	12
16. Can a subgrantee charge a fee for counseling (therapy) of sexual assault victims?	13
17. Can a subgrantee provide gift cards, such as gas cards or grocery cards, to support victims?	12
18. Can STOP funds be used to provide stipends to victims who attend focus groups?	13
19. Can STOP funds be used to purchase groceries?	13
20. Can a subgrantee pay for the first month’s rent or rental deposit for a victim of domestic violence as part of the provision of transitional housing?	14
21. Is the purchase of equipment and supplies allowable in the last month of a grant?	14
22. 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?	14
23. Can STOP be used to pay for co-location of services, such as Family Justice Centers	14
24. Can STOP funds be used to "backfill" a position without violating the non-supplanting requirement? For example, if a police department wants to start a domestic violence unit with an experienced detective and then replace their previous position.....	15
25. Can STOP funds be used to support the purchase of standard issued law enforcement items, such as uniforms, safety vests, shields, weapons, bullets, and armory?.....	15
Match	16
A. Statute	16
1. What is the statutory language regarding match?	16
B. Exemption	16
2. What entities are covered by the match exemption in 42 U.S.C. § 13925(b)(1)?.....	16
3. When is the state exempted from match?	16
4. Are there situations where victim service providers can be required to provide match?.....	17
5. Is it permissible to request exempt victim service providers to voluntarily provide match?	17
6. Is the match exemption based on the initial awards or final awards? For example, if a state gives funding to a law enforcement agency for law enforcement purposes, but the funds are returned and the state reallocates the returned funds to a victim service provider for victim services, is match required?.....	18
C. General Issues.....	18
7. How should the value of in-kind match be determined?	18

8. 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)?..... 18

D. Waiver 18

9. Who is eligible to submit a request for a match waiver? 18
10. How does a state request a match waiver?..... 18
11. When should a state administrator make a request for a match waiver? 19
12. What is the standard for granting a match waiver?..... 19
13. What type of evidence demonstrates “financial need?” 19
14. What should a waiver application include? 19
15. How does a grantee learn of OVW’s match waiver decision?..... 20
16. What if OVW denies the waiver request?..... 20
17. If a state receives a match waiver for one grant award, will it automatically receive approval for the next grant award period?..... 20

Allocation Issues..... 21

1. If a state does not receive enough fundable projects in a particular allocation to meet the set aside for that category, can the state reallocate these funds to another allocation category?..... 21
2. What if a state allocates funding to a subgrantee, but gets the money back? 21
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?..... 22
4. What types of entities are eligible for the 30 percent for victim services? 22
5. Under which category would a probation or parole project be funded? 22
6. Can STOP funds be subgranted to state law enforcement or prosecution training divisions, such as Police Officer Standards and Training (POST) offices? 22
7. What allocation should be used for funding under the new prevention purpose area?..... 23
8. What entities can receive funds under the courts allocation? 23
9. Can a court receive the funds but then pass some or all of them through to a victim service provider? 23
10. What type of agencies can receive funds under the 10 percent set aside within victim services for “culturally specific community-based organizations?” 23
11. What type of subgrant entities are required to have 501(c)(3) status?..... 24
12. What victim populations may be served under the set aside for culturally specific community-based organizations? 24
13. Can other underserved populations, such as Deaf victims, LGBT victims, and religious minorities be served with the culturally specific set aside? 25
14. How is the new 20 percent sexual assault set aside calculated? 25

Subgrant Management Issues..... 26

1. What can OVW do if a subgrantee is misappropriating funds?..... 26
2. Can a state put a special condition on its subawards prohibiting activities that may compromise victim safety? 26
3. To what extent should states control subgrant details and monitor subgrants? 26
4. Can states look at client records in monitoring subgrants?..... 26

5. What is the difference between a subgrant and a contract?	27
6. What information is required in a subgrant?.....	27
7. Can a state use pass-through administration, such as using state domestic violence and sexual assault coalitions to make subgrant determinations and administer funding?	28

VAWA 2013 Questions..... 29

1. When do the changes in VAWA 2013 take effect?	29
2. What purpose areas did VAWA 2013 add to the STOP Program?.....	29
3. What changes were made to the rape exam payment certification?	29
4. Can states still require, or ask, victims to submit charges for the exams to their personal insurance providers?.....	30
5. What does it mean to “coordinate with health care providers in the region to notify victims of sexual assault of the availability of rape exams at no cost to the victims?”	30
6. When do states need to be in compliance with the revised rape exam payment certification?.....	30
7. What changes were made to the fees and costs certification?	30
8. When do states need to be in compliance with the revised fees and costs certification?.....	30
9. What is the new sexual assault set aside requirement?	30
10. What is the compliance deadline for the new sexual assault set aside?.....	31
11. How can states ensure that the projects funded under the set aside “meaningfully” address sexual assault?.....	31
12. What changes did VAWA 2013 make to the implementation planning process?	31
13. How should states coordinate their implementation plans with the state plans for the Family Violence Prevention and Services Act and the Victims of Crime Act and Rape Prevention Education Programs? How will states be expected to document this coordination?	32
14. What entities must states consult and coordinate with in developing their implementation plans?	33
15. Are all collaborating partners members of the “planning committee”?.....	33
16. For purposes of the planning committee, what does "most significant" underserved populations and culturally specific populations mean?	34
17. How will states be expected to provide “documentation from each member of the planning committee as to their participation in the planning process?”	34
18. What documentation should states provide for entities that were consulted but were not part of the formal planning committee?	35
19. What does it mean to “meaningfully” consult with tribes and population-specific and culturally-specific organizations?.....	35
20. What does it mean to consult with tribes? Does it need to include all the tribes in states with significant numbers of tribes?.....	36
21. What do states need to do to "provide goals and objectives for reducing domestic violence-related homicides" in their implementation plans?.....	36
22. When is the implementation plan due?	36

Certification Questions..... 37

A. Judicial Notification..... 37

1. Does the Judicial Notification certification apply to local courts not under the control of the state	
--	--

courts?	37
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?	37
B. Forensic Examinations.....	37
3. What is required by the state to comply with the forensic examination certification?	37
4. What is a "forensic medical exam?"	37
5. What does a state have to do to "incur the full out-of-pocket cost" of forensic medical exams? ..	38
6. What is the definition of "full out-of-pocket costs?"	38
7. Can STOP funds be used to pay for a health care provider’s time conducting forensic examinations?	38
8. Can STOP Program funds pay for other aspects of SANE/SAFE programs even if the two above requirements are not met?	38
9. What if the hospital charges a fee for the use of the examination room?	39
10. Can the state require victims to submit the claims for the cost of the exam to their personal health insurance providers?	39
11. Are states permitted to require victims to cooperate with law enforcement as a condition for receiving a free exam?	39
12. Can a state set a limit on the cost of the exam?	40
13. Can a state use its Crime Victims Compensation Fund to pay for the forensic exams?	40
14. Under the forensic exam certification, is the state required to provide exams for victims of child sexual abuse?	40
15. What should states do when the victim is raped in one state but gets the medical forensic exam in another?.....	40
C. Fees and Costs	40
16. What grant programs are affected by the “fees and costs” certification?	40
17. Who is affected by the “fees and costs” certification?.....	41
18. What is required to comply with the “fees and costs” certification?	41
19. Do applicants need to change their statutes to come into compliance with the “fees and costs” certification?	41
20. What if an applicant’s statute is silent on the issue of fees?	41
21. As a policy matter, why is it important to comply with this requirement?	42
22. Can grant funds be used to cover these fees and costs?	42
23. Can the respondent or defendant be charged fees in connection with protection orders or criminal cases?	42
24. What if the state law provides that persons below a certain income can get a fee waiver?	42
25. Can victims be charged these fees if they are later reimbursed?	42
26. 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?	43
27. What types of protection orders are covered by the requirement?.....	43
28. Can fees be charged for general protection orders such as “antiharassment” or “repeat violence” orders?.....	43
29. What if a victim of domestic violence, dating violence, sexual assault, or stalking returns to court to request a modification of a protection order?	43
30. If the court denies a petition for an order, can the petitioner then be charged fees?.....	43

- 31. Can fees still be charged for divorce cases filed by victims of domestic violence, dating violence, sexual assault or stalking?..... 43

D. Polygraphing..... 44

- 32. Does the polygraph testing prohibition mean that victim polygraphs can never be used in a sexual assault investigation? 44

Miscellaneous..... 45

- 1. Can universities be STOP subgrantees?..... 45
- 2. Why is there a greater emphasis in the STOP Program on collaboration with nonprofit, nongovernmental victim services programs than with law enforcement and prosecution?..... 45
- 3. Is it possible to change the project period or end date of the grant?..... 45
- 4. Is it possible change the project start date of the grant? 45

NOTE: These FAQs have been updated to reflect amendments to 28 CFR Part 90, published on November 29, 2016, at 81 FR 85877. These changes take effect with OVW grants issued on or after December 29, 2016 and STOP Program subgrants issued on or after that date, even if the STOP subgrants are being made under prior OVW grants. If the funding involved is from fiscal years 2015 or 2016, please use the FAQs dated February 2016 (available at: <https://www.justice.gov/ovw/grantees#faqs>), except with regard to subgrants that were issued by the state on or after December 29, 2016.

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 youth (age 11-24) women and girls who are victims of domestic violence, dating violence, sexual assault, or stalking. In general, victims served with STOP funds must be adults or youth. 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, in some circumstances. The STOP statute states that “[t]he purpose of this [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.” 34 U.S.C. § 10441(a) [formerly 42 U.S.C. § 3796gg(a)]. Accordingly, with the exception of projects under the two purpose areas discussed below, and in certain circumstances in other projects, the focus of the subgrant projects must be on violence against women.

In VAWA 2013, Congress added two new purpose areas that specifically included men, which means that subgrantees under those purpose areas may have projects that target male victims. The specific purpose areas are purpose area 17 (focusing on programs addressing sexual assault against men, women, and youth in correctional and detention settings) and purpose area 19 (focusing on services and responses targeting male and female victims of domestic violence, dating violence, sexual assault, or stalking, whose ability to access traditional services and responses is affected by their sexual orientation or gender identity).

Regardless of the purpose of the STOP subaward, STOP subgrantees must provide services to a male victim in need who is similarly situated to female victims the subgrantee ordinarily serves and who requests services. Under the anti-discrimination provision of the Omnibus Crime Control and Safe Streets Act of 1968, 34 U.S.C. § 10228(c)(1) [formerly 42 U.S.C. § 3789d(c)(1)] and under a new nondiscrimination grant condition from VAWA 2013,

grantees, including STOP subgrantees, may not exclude any person from receiving grant-funded services on a number of prohibited grounds, including that person's sex. The VAWA 2013 provision further provides that "If sex segregation or sex-specific programming is necessary to the essential operation of a program, nothing in this paragraph shall prevent any such program or activity from consideration of an individual's sex. In such circumstances, grantees may meet the requirements of this paragraph by providing comparable services to individuals who cannot be provided with the sex-segregated or sex-specific programming." For more information on the VAWA 2013 nondiscrimination provision, please see the separate FAQ document at: www.justice.gov/ovw/docs/faqs-ngc-vawa.pdf.

To summarize, although the focus of the projects should be on female victims (with the exception of the two new purpose areas), subgrantees are expected to serve male victims who are in need and request services.

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. As described above, there is now a specific purpose area for "developing, enlarging, or strengthening programs addressing sexual assault against men, women, and youth in correctional or detention settings." 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.

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. There is a new purpose area for developing, enlarging, or strengthening programs and projects to provide services and responses targeting male and female victims of domestic violence, dating violence, sexual assault, or stalking, whose ability to access traditional services and responses is affected by their sexual orientation or gender identity, as defined in section 249(c) of title 18, United States Code. In addition, the new nondiscrimination grant

condition described in the answer to [question 2](#), above, provides that subgrantees may not exclude any person from receiving grant-funded services on a number of prohibited grounds, including that person's sexual orientation or gender identity.

TYPES OF SERVICES

1. Can legal services be supported with STOP funds?

Yes. Under purpose area 5, as amended, states can now provide a full range of legal services, such as housing, family law, public benefits, and other similar matters. Any subgrantee providing legal assistance must certify that:

- (1) any person providing legal assistance with STOP funds
 - a. has demonstrated expertise in providing legal assistance to victims of domestic violence dating violence, sexual assault, or stalking in the targeted population; or
 - b.
 - i. is partnered with an entity or person that has such demonstrated expertise and
 - ii. has completed or will complete training in connection with domestic violence, dating violence, stalking, sexual assault, and related legal issues, including training on evidence-based risk factors for domestic and dating violence homicide;
- (2) any training program conducted in satisfaction of the requirement of paragraph (1) has been or will be developed with input from and in collaboration with a tribal, state, territorial, or local domestic violence, dating violence, sexual assault, or stalking victim service provider or coalition, as well as appropriate tribal, state, territorial, and local law enforcement officials;
- (3) any person or organization providing legal assistance through the STOP Program has informed and will continue to inform state, local, or tribal domestic violence, dating violence, or sexual assault programs and coalitions, as well as appropriate state and local law enforcement officials of their work; and
- (4) the subgrantee's organizational policies do not require mediation or counseling involving offenders and victims physically together, in cases where sexual assault, domestic violence, dating violence, or child sexual abuse is an issue.

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.

3. Can a victim services organization receive an award to help place survivors in permanent housing after shelter stay? For example, could the organization purchase furniture or pay moving costs?

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

[question 20](#) under [Financial Issues](#) for a discussion of paying rent for provision of transitional housing.

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 use court monitoring to hold offenders accountable for 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?

Yes. In VAWA 2013, Congress added a new purpose area for "developing, enhancing, or strengthening prevention and educational programming to address domestic violence, dating violence, sexual assault, or stalking[.]" However, no more than 5 percent of the state's total STOP award for the year may be used for this purpose.

Prevention is defined in 28 CFR 90.2(d) as follows:

The term "prevention" includes both primary and secondary prevention efforts. "Primary prevention" means strategies, programming, and activities to stop both first-time perpetration and first-time victimization. Primary prevention is stopping domestic violence, dating violence, sexual assault, and stalking before they occur. "Secondary prevention" is identifying risk factors or problems that may lead to future domestic violence, dating violence, sexual assault, or stalking and taking the necessary actions to eliminate the risk factors and the potential problem. "Prevention" is distinguished from "outreach," which has the goal of informing victims and potential victims about available services.

7. What is the difference between prevention/education (which is limited to 5 percent) and “outreach” which is more broadly allowable?

The goal of prevention is to stop or reduce domestic violence, dating violence, sexual assault, and stalking. By contrast, an outreach initiative is linked to a specific set of services and the goal is to increase awareness about the services, so that victims know where to go for the services.

8. 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. Prevention programs are now allowed under new purpose area #20 but are limited to not more than five percent of funds.

9. When can STOP funds be used to assist child sexual abuse victims?

STOP funds can serve sexual assault victims who are age 11 or older. VAWA defines sexual assault as “any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent.” The target of the STOP Program is adult and youth victims. Youth is defined as “a person who is 11 to 24 years old.”

10. Can STOP funds be used to address child sexual abuse when the victim is now an adult?

Yes, STOP funds may be used to address child sexual abuse when the victim is now an adult, provided that the abuse occurred or continued when the victim was age 11 or older.

11. Can STOP funds be used to pay for health care providers’ time conducting forensic examinations?

Yes. 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.

12. 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 do not need to have particular sexual assault forensic exam training. They do need to have sexual assault 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 <https://www.justice.gov/ovw/selected-publications>) provides recommendations on training for medical providers performing forensic examinations.

13. 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 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.

14. Can a state provide funding to a child advocacy center?

Yes, it is technically allowable but, as described above, the state must ensure that the funding only supports services for victims age 11 and older. States should also think carefully about which allocation (law enforcement, prosecution, victim services, or discretionary) to use for this purpose, depending on the purpose of the subgrant.

15. Can STOP support payment for substance abuse counseling for domestic abuse or sexual assault victims?

Yes, in limited circumstances. STOP funds may not be used for general substance abuse counseling, but they may be used for victim service providers who wish to focus on providing services to victims with substance abuse issues.

16. Can STOP support alternative treatments for victims?

Yes, but on a limited basis. The subgrantee must provide specific justification for the type of approach, such as research on the benefits of the specific type of treatment to domestic violence or sexual assault survivors. There would also need to be justification that the cost of service was reasonable.

17. Can STOP funds support supervised visitation with children in cases involving domestic violence, dating violence, sexual assault, or stalking?

Yes, STOP grants can support supervised visitation and exchange by and between parents in cases involving domestic violence, dating violence, sexual assault, and stalking. Such programs can be funded through the court allocation if the funds are awarded to a court or through the victim services or discretionary allocations. For progress reporting purposes, the subgrantee would count the victim/parent as a victim served. Other information, such as numbers of custodial and noncustodial parents served, number of children, and number of visits could be reported in the narrative section of the progress report.

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 most recent version of the [DOJ Financial Guide](#). Please review the requirements carefully in determining if food provision at a particular event is acceptable and contact the state's program specialist if the state has 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 paid prosecutors, law enforcement officers, or judges 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 expenses 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 purpose. 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. Furthermore, if a subgrantee has a federally approved indirect cost rate, the state must honor it. If there is no federally approved indirect cost rate, the state must recognize a rate negotiated between the state and the subgrantee (in accordance with 2 CFR 200) or a “de minimus indirect cost rate” of 10 percent of Modified Total Direct Costs as defined in 2 CFR §200.414.

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

Program income, as defined by 2 CFR 200.80, means gross income earned by the non-federal entity that is directly generated by a supported activity or earned as a result of the federal award during the period of performance. Without prior approval from OVW, program income must be deducted from total allowable costs to determine the net allowable costs. In order to add program income to the OVW award, the recipient must seek approval from its program manager via a budget modification Grant Adjustment Notice (GAN) prior to generating any program income. Any program income added to the federal award must be used to support activities that were approved in the budget and follow the conditions of the OVW award. Any program income approved via budget modification GAN must be reported in the recipient’s quarterly Federal Financial Report SF-425 in accordance with the addition alternative. If the program income amount changes (increases or decreases) during the project period, it must be approved via a budget modification GAN by the end of the project period. If the budget modification is not submitted and approved, it could result in audit findings for the recipient.

10. Is there a difference between “supplies” and “equipment”?

Yes. “Equipment” consists of non-expendable items. Federal guidelines define equipment as tangible personal property having a useful life of more than one year and a per unit acquisition cost which equals or exceeds the lesser of the capitalization threshold of the non-federal entity or \$5,000. States should follow their own guidelines for capitalization of equipment. Supplies are all tangible property other than that defined as equipment. Supplies are generally items that will be expended during the project period. See 2 CFR §200.33 Equipment and 2 CFR §200.94 Supplies for definitions.

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?

Yes. States can use up to 10 percent of funds for administrative costs. Please see question 13 below for more information on the use of administrative funds.

13. How can states use administrative funds?

Under 28 CFR 90.17(b), administrative funds may only be used for costs directly associated with administering the program. Following are examples of how states may use funds, although none of these is required:

- Salaries and benefits of state office staff and consultants to administer and manage the program;
- Training of state office staff, including, but not limited to, travel, registration fees, and other expenses associated with state office staff attendance at technical assistance meetings and conferences relevant to the program;
- Monitoring compliance of STOP Program subgrantees with federal and state requirements, provision of technical assistance, and evaluation and assessment of program activities, including, but not limited to, travel, mileage, and other associated expenses;
- Reporting and related activities necessary to meet federal and state requirements;
- Program evaluation, including, but not limited to, surveys or studies that measure the effect or outcome of victim services;
- Program audit costs and related activities necessary to meet federal audit requirements for the STOP Program grant;
- Technology-related costs, generally including for grant management systems, electronic communications systems and platforms (e.g., web pages and social media), geographic information systems, related equipment (e.g., computers, software,

- facsimile and copying machines, and TTY/TDDs) and related technology support services necessary for administration of the program;
- Memberships in organizations that support the management and administration of violence against women programs, except if such organizations engage in lobbying, and publications and materials such as curricula, literature, and protocols relevant to the management and administration of the program;
 - Strategic planning, including, but not limited to, the development of strategic plans, both service and financial, including conducting surveys and needs assessments;
 - Coordination and collaboration efforts among relevant federal, state, and local agencies and organizations to improve victim services;
 - Publications, including, but not limited to, developing, purchasing, printing, distributing training materials, victim services directories, brochures, and other relevant publications; and
 - General program improvements – enhancing overall state office operations relating to the program and improving the delivery and quality of STOP Program funded services throughout the state.

14. Can administrative funds support personnel who work on other federal or state grant programs in addition to STOP?

Yes, but the funding should be pro-rated according to the percentage of the time that the person works on STOP. For example, if a person works half of the time on STOP and the other half on a state program, then STOP could support half of the costs (salary and fringe) of that person.

15. 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.

16. 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 DOJ Financial Guide and [question 9](#), above, for more details on the allowable uses for program income.

17. Can a subgrantee provide gift cards, such as gas cards or grocery cards, to support victims?

OVW strongly discourages the use of gift cards, because oversight of expenditures is very difficult to manage and there is a high risk of misuse. Gift cards are only allowable to the extent that they are used for purposes that are otherwise an allowable use of STOP funds, such as to purchase groceries for victims as described in [question 19](#), below. If the grantee or

subgrantee determines that use of gift cards is necessary to provide services to victims, they must ensure that effective control and accountability is maintained over gift cards and that those cards are used solely for authorized purposes. As noted in [question 3](#) under Subgrant Management Issues, states are responsible for ensuring that their subgrantees use STOP funds appropriately. Please contact OVW's Grants Financial Management Division (OVW.GFMD@usdoj.gov) if the state has specific questions about adequate fiscal controls regarding the use of gift cards, including tracking and safeguarding of cards and ensuring that all items purchased with those cards are within the scope of the STOP Program and are allowable under federal regulations.

18. Can STOP funds be used to provide stipends to victims who attend focus groups?

It is allowable to provide a stipend intended to reimburse the participants for their costs in attending, such as mileage, gas, childcare, etc. This can be done through actual reimbursement or through a generic gift card in an amount intended to compensate for such costs of attending. (As noted above, states are responsible to ensure adequate fiscal controls are in place when gift cards are used.) Focus groups must be part of the implementation of one of the STOP Program purpose areas. For example, a jurisdiction might want to hold a focus group as part of the development of local "policies that enhance best practices for responding to domestic violence, dating violence, sexual assault, and stalking."

19. 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 and used for program purposes. Pursuant to federal regulations, the purchase of any alcohol, tobacco, or related products is strictly prohibited with the use of grant funds.

20. Can a subgrantee pay for the first month's rent or rental deposit for a victim of domestic violence as part of the provision of transitional housing?

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.

21. 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. Please contact the state's OVW program manager with questions about any particular purchases.

22. 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.

23. Can STOP be used to pay for co-location of services, such as Family Justice Centers?

Yes, STOP can pay for co-location of services under the purpose area for “maintaining core victim services and criminal justice initiatives, while supporting complementary new initiatives and emergency services for victims and their families.” However, if any of the underlying services at the center cannot be funded through STOP, such as services for children under 11, then the staffing for those services still cannot be supported through this purpose area, just the co-location. For example, co-location costs might include a centralized intake person, rent, or security. Such expenses should be pro-rated according to the percentage of the services in the center that can be covered with STOP. For example if ten percent of the services are out of scope of the STOP Program then STOP can pay up to 90 percent of the co-location costs.

24. Can STOP funds be used to “backfill” a position without violating the non-supplanting requirement? For example, if a police department wants to start a domestic violence unit with an experienced detective and then replace their previous position.

Yes. The key to determine whether this is unallowable supplanting is whether the violence against women capacity of the department was increased or remained the same. So, for example, if the city had been paying for the domestic violence detective and now they are using STOP for that position and the funds that were previously paying for the position are now used for a traffic officer, then supplanting would have occurred because the domestic violence capacity of the department stayed the same.

24. Can STOP funds be used to support the purchase of standard issued law enforcement items, such as, uniforms, safety vests, shields, weapons, bullets, and armory?

No. STOP funds can only be used to purchase law enforcement equipment that is specifically for the purpose of responding to or investigating domestic violence, dating violence, sexual assault, or stalking, such as cameras to record injuries.

MATCH

A. Statute

1. What is the statutory language regarding match?

34 U.S.C. § 12291(b)(1) [formerly 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.

34 U.S.C. § 10441(f) [formerly 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, except that, for purposes of this subsection, the costs of projects for victim services or tribes for which there is an exemption under section 40002(b)(1) of the Violence Against Women Act of 1994 ([formerly 42 U.S.C. § 13925(b)(1)]) shall not count toward the total costs of the projects.

B. Exemption

2. What entities are covered by the match exemption in 34 U.S.C. § 12291(b)(1) [formerly 42 U.S.C. § 13925(b)(1)]?

Under VAWA 2005, the state cannot require matching funds for a grant or subgrant for any tribe, territory, or victim service provider, regardless of funding allocation category.

3. When is the state exempted from match?

The state is exempted from matching the portion of the state award that goes to a victim service provider for victim services or that goes to tribes. Territories are also exempted in

full. States can receive additional waiver of match based on a petition to OVW and a demonstration of financial need.

The below chart illustrates the specific situations where a state is exempt from match, and the situations where states cannot pass match on to specific subgrantees:

Situation	Match is waived for the subgrantee (but not exempted for the state) – the state cannot require the subgrantee to provide the match, but it is still required of the state	Match is waived for the subgrantee and exempted for the state – the state cannot require the subgrantee to provide match and it is not required of the state	Match is neither waived nor exempted – the state can require the subgrantee to provide match and it is required of the state
Award to victim service provider for victim services		X	
Award to victim service provider for another purpose (for example law enforcement training)	X		
Award to tribe		X	
Awards to courts, law enforcement, prosecution			X

4. Are there situations where victim service providers can be required to provide match?

No, a “victim service provider,” as defined in VAWA, cannot be required to provide match. See [question 11](#) under [Allocation Issues](#) for a discussion of when a victim service provider is required to have 501(c)(3) status. Such an entity can provide match voluntarily, including “in kind” match. This includes situations where a victim service provider is receiving a subgrant under a non-victim services allocation, such as law enforcement or prosecution.

5. Is it permissible to request exempt victim service providers to voluntarily provide match?

Yes. Often victim service 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.

- 6. Is the match exemption based on the initial awards or final awards? For example, if a state gives funding to a law enforcement agency for law enforcement purposes, but the funds are returned and the state reallocates the returned funds to a victim service provider for victim services, is match required?**

Match exemption is based on the final award. In the example above, match would not be required for the amount that was reallocated to a victim service provider for victim services. OVW will look at the time of closeout at the entities and purposes of funds and base the required match on that.

C. General Issues

- 7. How should the value of in-kind match be determined?**

In-kind match must be documented in the same manner as grant-funded activities. In-kind match should be valued 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, see 28 CFR 90.18(b) and 2 CFR 200.306. For specific examples of how to provide in-kind match, see www.justice.gov/sites/default/files/ovw/legacy/2014/02/06/stop-match-requirement-for-formula-grants.pdf.

- 8. 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 match provided by its law enforcement and courts subgrantees to match its entire award.

D. Waiver

- 9. 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. Territories do not need to request a waiver because they are automatically exempted from match.

- 10. 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 submit the state's waiver request and supporting documentation to OVW.STOPMatchWaiver@usdoj.gov.

11. 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 for that award year.

12. What is the standard for granting a match waiver?

The OVW Director must determine that the applicant for a match waiver has adequately demonstrated financial need.

13. 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.

14. What should a waiver application include?

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

- (1) 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;
- (2) 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;
- (3) The specific dollar amount or percentage waiver that is requested;
- (4) Cause and extent of the constraints on projected ability to raise violence against women matching funds and changed circumstances that make past sources of match unavailable; and
- (5) If applicable, 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.

Please note that, in some circumstances, only a partial waiver will be granted. For example, if a state shows that across the board budget cuts have directly reduced funding for violence against women programs by 20 percent, 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 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. In a request for partial waiver of match for a particular allocation, the state may provide letters from the entities under that allocation attesting to their financial hardship.

15. 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.

16. 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.

17. 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. For each award, states will need to submit a new waiver request describing the need for waiver during the period covered by that award. For example, a waiver based on the existence of a past natural disaster does not guarantee continued waivers without specific justification of current hardship.

ALLOCATION ISSUES

1. If a state does not receive enough fundable projects in a particular allocation to meet the set aside for that category, can the state reallocate these funds to another allocation category?

Yes. If a state does not receive sufficient eligible applications to award the full funding within one of the allocations, then the state can reallocate the funds to another category. States should have the following documentation on file to demonstrate lack of sufficient eligible applications:

- A copy of their solicitation
- Documentation on how the solicitation was distributed, including all outreach efforts to entities from the allocation in question, which entities the state reached out to that did not apply, and, if known, why those entities did not apply
- An explanation of their selection process
- A list of who participated in the selection process (name, title, and employer)
- Number of applications that were received for the specific allocation category
- Information about the applications received, such as who they were from, how much money they were requesting, and any reasons the applications were not funded
- Letters from any relevant state-wide body explaining the lack of applications (e.g., if the state is seeking to reallocate money from courts, a letter from the State Court Administrator)
- For the culturally specific allocation, demographic statistics of the relevant racial and ethnic minority groups within the state and documentation that the state has reached out to relevant organizations within the state or national organizations

The state may wish to reach out to OVW technical assistance providers and the U.S. Department of Health and Human Services Resource Centers for assistance in reaching the relevant culturally specific providers for the populations in their state (for information on OVW TA Providers, please see <https://ta2ta.org/directory.html>; for more information on the Resource Centers, please see www.acf.hhs.gov/programs/fysb/programs/family-violence-prevention-services/programs/centers)

Although OVW approval is not required prior to reallocation, OVW encourages states to reach out to their program specialist to ensure they have adequate justification, so that it does not become an issue later during monitoring.

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

If funds awarded from a subgrant are returned to the state, then the state can re-allocate them under any allocation category (victim services, law enforcement, prosecution, courts, discretionary). If the state's award is at or near its end date, the funds would revert back to OVW. However, a state may request extensions as outlined in the DOJ Financial Guide. The state must contact its OVW program specialist if seeking an extension. STOP awards

may not remain open longer than five years, unless there are extraordinary circumstances justifying a longer award period.

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, and victim services. The courts allocation must be awarded "to" state and local courts. Decisions for law enforcement, prosecution, and victim services 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. If a subgrant recipient under a particular category is not the type of agency referred to in the category, states must require demonstration from the entity to be benefitted in the form of a memorandum of understanding signed by the chief executive of both the entity and the subgrant recipient stating that the entity supports the proposed project and agrees that it is to the entity's benefit.

4. What types of entities are eligible for the 30 percent for victim services?

The 30 percent is "for victim services." Victim services is defined in VAWA as "services provided to victims of domestic violence, dating violence, sexual assault, or stalking, including telephonic or web-based hotlines, legal advocacy, economic advocacy, emergency and transitional shelter, accompaniment and advocacy through medical, civil or criminal justice, immigration, and social support systems, crisis intervention, short-term individual and group support services, information, and referrals, culturally specific services, population specific services, and other related supportive services." As long as the type of service is one described above, the subgrant can be awarded from the victim services allocation, regardless of the type of entity receiving the funding.

5. 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.

6. 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 VAWA definitions of law enforcement and prosecution.

7. What allocation should be used for funding under the new prevention purpose area?

Prevention projects should be funded from the 15 percent discretionary funding.

8. What entities can receive funds under the courts allocation?

The “courts” allocation is “to” courts, rather than “for” courts, so the money must be awarded to a court entity. This includes state, local, tribal, and juvenile courts. “Court” is defined in VAWA as “any civil, criminal, tribal, and Alaska Native Village, federal, state, local, or territorial court having jurisdiction to address domestic violence, dating violence, sexual assault, or stalking, including immigration, family, juvenile, and dependency courts, and the judicial officers serving in those courts, including judges, magistrate judges, commissioners, justices of the peace, or any other persons with decision making authority.” Examples could include a state administrative office of the courts, a state supreme court, a local domestic violence court, a local probation project (in a state where probation is part of the courts). States should include their state court administrators on their planning committees for advice on how to distribute court money in their states.

9. Can a court receive the funds but then pass some or all of them through to a victim service provider?

Yes, as long as the funds are initially awarded “to” a court, the court can then subcontract them to another entity for all or part of the project.

10. What type of agencies can receive funds under the 10 percent set aside within victim services for “culturally specific community-based organizations?”

An organization is eligible to receive the culturally-specific set aside if the organization is a nonprofit, nongovernmental organization or tribal organization that serves a specific geographic community that:

- focuses primarily on domestic violence, dating violence, sexual assault, or stalking;
- has established a specialized culturally specific program that addresses domestic violence, dating violence, sexual assault, or stalking;
- has a primary focus on underserved populations (and includes representatives of these populations) and domestic violence, dating violence, sexual assault, or stalking; or
- obtains expertise, or shows demonstrated capacity to work effectively, on domestic violence, dating violence, sexual assault, and stalking through collaboration;
- is primarily directed toward racial and ethnic minority groups; **and**
- is providing services tailored to the unique needs of that population.

An organization will qualify for funding if its primary mission is to address the needs of racial and ethnic minority groups or if it has developed a special expertise regarding a

particular racial and ethnic minority group. (Please see [question 12](#) below for definition of covered racial and ethnic minorities). The organization must do more than merely provide services to the targeted group; 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 Mexican immigrant victims, the state should consider such things as: line items in the budget for certified interpreters; a demonstration that the applicant has knowledge of and collaborative relationships with other organizations relevant to the community; established outreach activities to the community; and on-going staff training on Mexican culture. A community-based organization that accepts funding to provide services to a particular racial and ethnic population cannot exclude others from participating in its programs and activities based on race, color, religion, national origin, sex, gender identity, sexual orientation, disability, or age.

11. What type of subgrant entities are required to have 501(c)(3) status?

As a result of VAWA 2013, any entity that is eligible for funding based on its status as a nonprofit organization must be an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code. See 34 U.S.C. § 12291(b)(16)(B) [formerly 42 U.S.C. § 13925(b)(16)(B)]. In the STOP Program, this applies to grantees under the set aside to culturally specific community-based organizations, except for grantees that are tribal governmental organizations. In addition, for the state to receive the victim service match exemption, or for victim service providers to be waived from match, the victim service providers must have 501(c)(3) status unless they are tribal governmental organizations or governmental rape crisis centers (except in territories where governmental rape crisis centers are not eligible as victim service providers).

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

The set aside may address “racial and ethnic minorities” as defined in section 1707(g) of the Public Health Service Act, which means “American Indians (including Alaska Natives, Eskimos, and Aleuts); Asian Americans; Native Hawaiians and other Pacific Islanders; Blacks; and Hispanics.”

13. Can other underserved populations, such as Deaf victims, LGBT victims, and religious minorities be served with the culturally specific set aside?

No. The set aside is only for racial and ethnic minorities, as defined in the answer to [question 12](#), above. However, states are required to address in their implementation plans how they will recognize and meaningfully respond to the needs of underserved populations, which may include Deaf, LGBT, and other victim populations. “Underserved populations” is defined as “populations who face barriers in accessing and using victim services, and includes populations underserved because of geographic location, religion, sexual orientation, gender identity, 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.”

14. How is the 20 percent sexual assault set aside calculated?

Under VAWA 2013, 20 percent of funds granted to a state shall be allocated for programs or projects in two or more allocations (victim services, courts, law enforcement, and prosecution) that meaningfully address sexual assault, including stranger rape, acquaintance rape, alcohol or drug- facilitated rape, and rape within the context of an intimate partner relationship. The 20 percent is counted on the total amount granted to the state, but is not a separate allocation.

For example, if a state received \$100,000:

- The sexual assault set aside would be \$20,000
- The victim services allocation would be \$30,000
- The courts allocation would be \$5,000
- The law enforcement and prosecution allocations would be \$25,000 each

The \$20,000 for sexual assault would not be in addition to these other allocations, but must fit within at least 2 of them. So if the state used \$10,000 of its victim services money for sexual assault projects, it would need an additional \$10,000 from courts, law enforcement, and/or prosecution. Even if \$20,000 of the state’s victim services allocation were spent on sexual assault projects, the state would need to award sexual assault funding in the law enforcement, courts, or prosecution allocations to meet the set aside. If the state is funding sexual assault in a discretionary area (i.e., not victim services, courts, law enforcement, or prosecution) it will not count toward the set aside.

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. STOP grant funds may not be used to support activities that compromise victim safety and recovery. 28 CFR 90.24. States must ensure that subgrantees comply with this requirement and may do so by including a special condition regarding victim safety on subawards.

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. Monitoring must include: reviewing financial and programmatic reports; following up and ensuring that the subgrantee takes appropriate action on any deficiencies noted during audits, on-site reviews, and other means; and issuing a management decision for audit findings pertaining to the STOP subgrant. States are required to assess the level of risk of subgrantees and impose additional special conditions based on the level of risk. Depending on the level of risk, these additional monitoring tools may be useful: providing subgrantees with training and technical assistance, performing on site reviews of the subgrantee's program operations, and arranging for specific procedures to address risk. States should consider taking enforcement actions against noncompliant subgrantees. For additional information on requirements for pass-through entities (i.e., states), please see 2 CFR §200.331.

4. Can states look at client records in monitoring subgrants?

The Violence Against Women Act confidentiality provision provides that grantees may not share identifying information about clients served unless the client signs an informed, time-limited release, or there is a statutory or court mandate for the release. The nature of identifying information is fact-specific and could include things like age, race, and number of children, depending on the situation. This means that states need to find ways to monitor subgrantees without looking at identifying information. For example, a state could ask a subgrantee to redact the identifying information from a sample of files.

5. What is the difference between a subgrant and a contract?

A subgrant, or subaward, is for the purpose of carrying out the federal award and creates a federal assistance relationship with the subrecipient. A subgrant is generally for the purpose specified in the authorizing program statute as opposed to providing goods or services for the benefit of the state. In determining whether a particular relationship is a contract or subgrant, the substance of the relationship is more important than the form. See 2 CFR 200.330.

6. What information is required in a subgrant?

Subgrants must include the following information:

- Subgrantee name (which must match the name associated with its unique entity identifier)
- Subgrantee's unique entity identifier
- Federal Award Identification Number
- Federal Award Date
- Subgrant period of performance start and end date
- Amount of federal funds obligated by this action
- Total amount of federal funds obligated to the subrecipient
- Total amount of the federal award
- Federal award project description
- Name of federal awarding agency, state agency, and contact information of state awarding official
- CFDA number and name for the grant program
- Indirect cost rate for the federal award (including if the de minimis rate is charged)
- All requirements imposed by the state on the subgrantee so that the federal award is used in accordance with federal statutes and regulations and the terms and conditions of the federal award
- Any additional requirements that the state imposes on the subgrantee to meet its own responsibility to OVW, including identification of any required financial and performance reports
- An approved federally recognized indirect cost rate if the subgrantee has one, a rate negotiated between the state and the subgrantee, or a de minimus indirect cost rate (see 2 CFR 200.414)
- A requirement that the subgrantee permit the state administrator and auditors to have access to records and financial statements
- Appropriate terms and conditions concerning closeout of the subgrant

7. Can a state use pass-through administration, such as using state domestic violence and sexual assault coalitions to make subgrant determinations and administer funding?

Yes. The state has broad latitude in structuring its administration of the STOP Program. States that opt to use a pass-through entity must ensure that the total sum of STOP funding for administrative and training costs for the state and the pass-through entity is within the ten percent limit, the reporting of activities at the subgrantee level is equivalent to what would be provided if the state were directly overseeing subawards, and an effective system of monitoring subawards is used. States must report on the work of the pass-through entity in such form and manner as OVW may specify from time to time.

VAWA 2013 QUESTIONS

1. When did the changes in VAWA 2013 take effect?

The changes took effect with FY 2014 STOP awards.

2. What purpose areas did VAWA 2013 add to the STOP Program?

VAWA 2013 added the following purpose areas:

- (14) developing and promoting state, local, or tribal legislation and policies that enhance best practices for responding to domestic violence, dating violence, sexual assault, and stalking;
- (15) developing, implementing, or enhancing Sexual Assault Response Teams or other similar coordinated community responses to sexual assault;
- (16) developing and strengthening policies, protocols, best practices, and training for law enforcement agencies and prosecutors relating to the investigation and prosecution of sexual assault cases and the appropriate treatment of victims;
- (17) developing, enlarging, or strengthening programs addressing sexual assault against men, women, and youth in correctional and detention settings;
- (18) identifying and conducting inventories of backlogs of sexual assault evidence collection kits and developing protocols and policies for responding to and addressing such backlogs, including protocols and policies for notifying and involving victims;
- (19) developing, enlarging, or strengthening programs and projects to provide services and responses targeting male and female victims of domestic violence, dating violence, sexual assault, or stalking, whose ability to access traditional services and responses is affected by their sexual orientation or gender identity, as defined in section 249(c) of title 18, United States Code; and
- (20) developing, enhancing, or strengthening prevention and educational programming to address domestic violence, dating violence, sexual assault, or stalking, with not more than 5 percent of the amount allocated to a state to be used for this purpose.

3. What changes were made to the rape exam payment certification?

Two substantive changes were made to the rape exam payment certification. First, states need to coordinate with health care providers in the region to notify victims of sexual assault of the availability of rape exams at no cost to the victims. Second, states no longer have the option of reimbursing the victim for the out-of-pocket costs for the exams: they must provide the exams free of cost to the victim or arrange for victims to obtain the exams free of charge to the victim.

4. Can states still require, or ask, victims to submit charges for the exams to their personal insurance providers?

Yes, states can still require, or ask, victims to submit the charges for the exams to their health insurance. However, under the new provisions, they must ensure that victims are not billed any costs for co-payments or deductibles, but must ensure that such costs are billed to whatever government entity is responsible for payment for the exams.

5. What does it mean to “coordinate with health care providers in the region to notify victims of sexual assault of the availability of rape exams at no cost to the victims?”

The specifics will vary for each state and territory according to the needs and plans of that state or territory, but the underlying purpose is to ensure the broadest possible notification of victims of how to get a forensic exam. Examples of collaborating partners for distribution of notice might include state hospital associations, state medical associations, state nursing associations, Indian Health Services, and the state insurance commission. States should choose their partners so as to notify the broadest range of possible providers.

6. When do states need to be in compliance with the revised rape exam payment certification?

States had until March 7, 2016, to comply.

7. What changes were made to the fees and costs certification?

The fees and costs provision now includes felony and misdemeanor dating violence, sexual assault, and stalking offenses. It also includes fees in connection with modification, enforcement, dismissal, or withdrawal or a protection order, and it includes protection orders to protect victims of dating violence. Please see [question 17](#), under [Certification Questions](#), for the full text of the fees and costs certification.

8. When do states need to be in compliance with the revised fees and costs certification?

States need to be in compliance with the revisions to the fees and costs certification by the period ending on the date on which the next session of the state legislature ends, starting from October 1, 2013.

9. What is the new sexual assault set aside requirement?

The new requirement is that “not less than 20 percent of the total amount granted to a state under this subchapter shall be allocated to programs or projects in two or more allocations

[victim services, courts, law enforcement, or prosecution] that meaningfully address sexual assault, including stranger rape, acquaintance rape, alcohol or drug-facilitated rape, and rape within the context of an intimate partner relationship.”

10. What is the compliance deadline for the new sexual assault set aside?

States had until March 7, 2015, to implement the sexual assault set aside. Any funds that were not obligated by this date are subject to the set aside.

11. How can states ensure that the projects funded under the set aside “meaningfully” address sexual assault?

States should evaluate whether the interventions are tailored to meet the specific needs of sexual assault victims, including ensuring that the projects funded under the set aside have a legitimate focus on sexual assault and that personnel funded under the projects have sufficient expertise and experience on sexual assault. OVW encourages states to work closely with sexual assault coalitions and service providers in each state to help ensure that programs “meaningfully” address sexual assault. Sexual assault coalitions and service providers can provide assistance, including staff and peer reviewer training, language for solicitations, and insight into interventions that successfully respond to the unique needs of sexual assault survivors. It is important to count only subgrants that are truly dedicated to sexual assault, rather than count subgrants that are more focused on domestic violence and have added sexual assault without having a substantive understanding of the issue. OVW encourages states to assess the extent to which existing subgrantees are specifically addressing sexual assault through the subgrantee reporting system.

12. What changes did VAWA 2013 make to the implementation planning process?

There have been many changes to the implementation planning process:

- The implementation plan is due with the application.
- There is a new list of entities that must be consulted and coordinated with (see [question 14](#) for the specific list).
- The plan needs to be coordinated with the state plan for the Family Violence Prevention and Services Act and the programs under the Victims of Crime Act and Rape Prevention Education (see [question 13](#) for additional information).
- The plan needs to address the 20 percent sexual assault set aside (see [questions 9-11](#)).
- The plan needs to include documentation from the required planning committee members as to their participation in the planning process (see [question 15](#)).
- The plan needs to include documentation from the prosecution, law enforcement, court, and victim services programs to be assisted. The documentation must describe the need for the grant funds, the intended use of those funds, the expected results of funding, and the demographic characteristics of the population to be served, including age, disability,

race, ethnicity, and language background. The documentation from the prosecution, law enforcement, court, and victim services programs is not a new requirement, but, in the past, was part of the application rather than part of the implementation plan. The documentation can still take the form of letters—either from current grantees or from statewide organizations representing the category of grantee (for example, a state law enforcement or prosecutor association). The documentation must explain the need for grant funds and contain all other required information.

- The plan needs to describe how the state will ensure that subgrantees consult with victim service providers during the development of their grant applications. Consulting with victim service providers is intended to ensure that the proposed activities are designed to promote the safety, confidentiality, and economic independence of victims. Before VAWA 2013, states were required to provide documentation showing that subgrantees had already consulted with victim service provider. VAWA 2013 introduced the requirement for states to provide descriptive information on how they will ensure that the subgrantees will consult with victim service providers. For example, some states may indicate that they will require letters of support; other states may indicate that they will require memoranda of understanding as part of the subgrant applications.
- The plan needs to include demographic data on the distribution of underserved populations within the state and a description of how the state will meet the needs of underserved populations, including the minimum allocation for culturally specific services.
- The plan needs to include:
 - information on how the state will meet the requirement to give priority to areas of varying geographic size that show the greatest need based on the availability of existing domestic violence, dating violence, sexual assault and stalking programs in the areas;
 - determine the amount of subgrants based on the population and geographic area to be served;
 - equitably distribute monies on a geographic basis, including nonurban and rural areas of various geographic sizes; and
 - recognize and meaningfully respond to the needs of underserved populations and ensure that monies set aside to fund culturally specific services and activities for underserved populations are distributed equitably among those populations.
- The plan needs to include goals and objectives for reducing domestic violence-related homicides within the state (see [question 21](#)).

13. How should states coordinate their STOP implementation plans with their plans for the Family Violence Prevention and Services Act, the Victims of Crime Act, and Rape Prevention Education Programs? How will states be expected to document this coordination?

States structure their programs differently and house them in different offices so there is no single way to meet the requirement to coordinate. Options include convening a meeting of the various program administrators to discuss plans and priorities, having a shared implementation planning process or meeting, having the various program administrators attend each other's implementation planning meetings, sharing and commenting on each

other's plans, and asking other administrators to give feedback on how the STOP plan complements their programs. It may be possible to combine various plans as long as the required elements for each are addressed. Improved coordination can produce more diversity across programs, increase consistency in the overall administration of similar programs, and help states leverage funds across programs. For example, coordination can lead to consistency in terms and conditions or the consolidation of monitoring activities. STOP implementation plans must include information about how the state will coordinate across funding streams and how coordination impacts the plans.

14. What entities must states consult and coordinate with in developing their implementation plans?

States must consult and coordinate with all the following entities in developing their implementation plans:

- The state sexual assault coalition
- The state domestic violence coalition
- The law enforcement entities within the state
- Prosecution offices
- State and local courts
- All state and federally recognized tribal governments in the state
- Representatives from underserved populations, including culturally specific populations
- Victim service providers, including at least one sexual assault victim service provider and one domestic violence victim service provider
- Population specific organizations

States are also encouraged to include survivors of domestic violence, dating violence, sexual assault, and stalking in the planning process (with protections for safety and confidentiality) and probation and parole entities.

15. Are all collaborating partners members of the “planning committee”?

No. By statute, states must consult and coordinate with the state domestic violence and sexual assault coalitions, law enforcement, prosecution, courts, tribal governments, representatives from underserved populations, including culturally specific populations, victim service providers, and population specific organizations. The state must have meaningful consultation with all the entities on the above list, but they do not all need to be on the “planning committee.” For example, states need to consult with all state and federally recognized tribes in their state, but for the planning committee they could include representatives from a smaller number of tribes, tribal organizations, or tribal coalitions. Specifically, the planning committee must include at a minimum:

- The state domestic violence and sexual assault coalitions as defined by 34 U.S.C. 12291(a)(32) and (33) [formerly 42 U.S.C. 13925(a)(32) and (33) (or dual coalition)
- A law enforcement entity or state law enforcement organization
- A prosecution entity or state prosecution organization
- A court or the state administrative office of the courts
- Representatives from tribes, tribal organizations, or tribal coalitions
- Population specific organizations representing the most significant underserved populations and culturally specific populations in the state- in addition to tribes, which are addressed separately

The full consultation process should include more robust representation from each of the required groups (as provided in [question 14](#), above).

16. For purposes of the planning committee, what does “most significant” underserved populations and culturally specific populations mean?

The meaning of “most significant” will be different for each state. States must document in their implementation plan how they determined which underserved and culturally specific populations to include. States should consider demographic information about the state population (and also what groups may be missing from common sources of demographic information, such as U.S. Census data) and barriers to service, including historical lack of access to services for each population. The needs assessment conducted under the Family Violence Prevention and Services Act may be a source of information to help inform this decision.

17. How will states be expected to provide “documentation from each member of the planning committee as to their participation in the planning process?”

The grantee must submit a form to OVW documenting the type and extent of each member’s participation in the planning process, as well as major issues that were raised during the process and how they were resolved. Specifically, states can accomplish this in the following manner:

First, the state must create and retain, but need not submit to OVW, the following documentation with the implementation plan:

- For in-person meetings: a sign-in sheet with each attendee participant’s name, title, organization, type of entity the participant represents (e.g., tribal government, population specific organization, prosecution, courts, state coalition), phone number, email address, and signature
- For online meetings: a web-based report, registration form, or other documentation of with each attendee participant’s name, title, organization, type of entity the participant represents, phone number, and email address
- For phone meetings: documentation, such as a roll call or minutes, with each attendee participant’s name, title, organization, type of entity the participant represents, phone number, and email address

- For reviews that occurred outside a meeting: documentation about who received the draft implementation plan (name, title, organization, type of entity the recipient represents, phone number, and email address), how it was sent (for example, email versus mail), and the name, title, organization, type of entity the respondent represents, phone number, and email address of who responded.

Second, the STOP state administrator must create and submit to OVW, a summary of major concerns that are raised during the development process and how they are addressed or why they are not addressed. The summary of major concerns should be sent to the planning committee along with any draft implementation plan and with the final plan. Although states do not need to note every comment and how it was addressed, if there are serious or significant concerns with the draft implementation plan, these must be added to the summary of major concerns.

Third, the state must create and submit to OVW documentation of collaboration for each participant. The documentation must include, at a minimum, which type of entity the participant represents (such as law enforcement, state coalition, or population-specific organization), whether they were informed of the meetings, whether they attended meetings, whether they were given drafts of the implementation plan to review, whether they submitted comments on the draft, and whether they received a copy of the final plan and the STOP state administrator's summary of major concerns. The documentation should also include space for participants to include their major concerns, if any, with the final plan. A state should ensure that committee members are sent the final version of the plan after it has received the necessary state approvals.

18. What documentation should states provide for entities that were consulted but were not part of the formal planning committee?

States should submit to OVW proof that they consulted all of the required entities.

- For consultation by mail or email: submit a copy of the letter or email and the list of whom it was sent to, including the type of entity.
- For consultation by phone: submit a copy of the invitation, a list of who was invited, and a copy of the meeting agenda.

States should keep records of, but do not need to submit, the specific comments received by any consulted parties. States must specifically include information on how tribes were meaningfully consulted and how the state selected and meaningfully consulted with population-specific and culturally-specific organizations.

19. What does it mean to “meaningfully” consult with tribes and population-specific and culturally-specific organizations?

In this context, meaningfully means that the tribe or organization had a genuine opportunity to shape the direction of the plan. For example, ways to meaningfully consult with tribes

could include tours of the reservations in the state and meetings with tribal leaders. Meaningful consultation should be an ongoing effort at relationship-building by the state administrator, rather than a one-time event. States should also make sure that the consultation is accessible for the people involved. For example, is the location geographically accessible to the targeted group? Is it physically accessible for attendees with disabilities? Is there a need for sign language or other interpretation?

20. What does it mean to consult with tribes? Does it need to include all the tribes in states with significant numbers of tribes?

All state and federally recognized tribes should be invited to the table. This could mean that they receive written documents to comment on or invitations to join meetings or conference calls. Regardless of format, states should make sure to give sufficient notice to tribes and keep records of who was invited, how they were invited (e.g., email), and whether and how they participated. Many states have intertribal councils or related groups that can facilitate communication with the tribes in the state.

21. What do states need to do to “provide goals and objectives for reducing domestic violence-related homicides” in their implementation plans?

States need to provide statistics on the rates of domestic violence homicides within their state. In consultation with law enforcement, prosecution, and victim services, the state should analyze and document the sources and accuracy of the statistics and discuss the best ways to address domestic violence homicide. The implementation plan should identify specific goals and objectives for reducing domestic violence homicide based on the discussions and analysis and describe challenges specific to the state and how the plan can overcome them. For example, the state should identify which priority areas, projects, or technical assistance related to domestic violence homicide the plan covers. Plans created after 2014 should include updated statistics.

22. When is the implementation plan due?

It is due every year with the state’s STOP application. A full implementation plan, however, must only be submitted once every four years. In other years, each state must submit information on any updates or changes to the plan and updated demographic information.

CERTIFICATION QUESTIONS

A. Judicial Notification

- 1. Does the Judicial Notification certification apply to local courts that are not under the control of the state courts?**

The state certification does not need to cover local courts that are not under the control of the state courts. However, if a local court seeks STOP Program funding, then it must 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.

B. Forensic Examinations

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

Under 34 U.S.C § 10449 [formerly 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” and “coordinates with health care providers in the region to notify victims of sexual assault of the availability of rape exams at no cost to the victims.” In addition, a state must comply with this requirement without regard to whether the victim cooperates in the criminal justice system or cooperates with law enforcement.

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

The term "forensic medical exam" means an examination provided to a victim of sexual assault by medical personnel 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:

- (1) gathering information from the patient for the forensic medical history;
- (2) head-to-toe examination of the patient;
- (3) documentation of biological and physical findings; and
- (4) collection of evidence from the patient.

Any costs associated with items (1) through (4) above, such as equipment or supplies, are considered part of the “forensic medical examination.” The inclusion of additional procedures (e.g., testing for sexually transmitted diseases) 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:

- (1) provides such exams to victims free of charge to victims; or
- (2) arranges for victims to obtain such exams free of charge to the victims.

6. 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.

7. 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 to pay for a health care provider's 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.

8. Can STOP Program funds pay for other aspects of SANE/SAFE programs even if the two requirements in question 7 above are not met?

Yes. Even if the requirements for paying personnel costs are not met, STOP Program funds may still support the following activities related to SANE/SAFE programs:

- 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 the state's grant program specialist with questions.

9. 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.

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

Yes, if the state is not using STOP Program funds to pay for 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 and cannot be billed to the victim. This includes any deductibles or denial of claims by the insurer. OVW urges 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 know that she got a forensic exam. A victim who is on her husband's insurance policy and who is forced to submit a bill to her insurance provider risks the chance that her husband will find out about the exam. For this reason, OVW strongly discourages states from requiring that victims file a claim with their insurers.

11. 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 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 require 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.

12. Can a state set a limit on the cost of the exam?

Yes, 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.

13. 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 many states, the compensation program is the primary payer under state law. For federal guidelines that apply to the Victims of Crime Act Victim Compensation Grant Program, go to www.ovc.gov/voca/pdf/voca_guidelines2001.pdf. States with questions about the use of crime victim compensation funding for forensic exam payment should contact the Office for Victims of Crime at (202) 307-5983.

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

The certification applies only to adult and youth victims of sexual assault.

15. What should states do when the victim is raped in one state but gets the medical forensic exam in another?

Some states have laws or policies such that they pay for forensic exams only when the rape took place in the state. Others will pay only when the exam took place in the state. Thus, if the victim gets the exam in state A but was raped in state B, state A may refuse to pay on the grounds that the rape did not occur in their state. State B may refuse to pay because the exam did not take place there. States in such situations need to work together to ensure that the victim is not billed for any out of pocket costs.

C. Fees and Costs

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

The fees and cost certification is required under two grant programs:

- STOP Violence Against Women Formula Grant Program
- Grants to Encourage Arrest Policies and Enforcement of Protection Orders (Arrest Program)

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 are affected.

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, dating violence, sexual assault, or stalking offense, or in connection with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, dating violence, sexual assault, or stalking, 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, modification, enforcement, dismissal, withdrawal 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.

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. 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, dating 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.

22. 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 certification because grantees are not entitled to funds unless they first certify that they have met 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 the statute instructs grantees to certify that victims are not bearing these costs prior to receiving grant funds.

23. 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.

24. 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.

25. 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” from the time they pay the fees until they receive the reimbursement, which is not permitted by the statute.

26. 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 cannot be charged in such cases. However, the statute does not specify which jurisdiction is required to cover the fees in such a case.

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

The requirement specifically applies to an order “to protect a victim of domestic violence, dating 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.

28. 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, dating 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, dating violence, sexual assault, or stalking.” Jurisdictions may charge for general protection orders when the applicant is not a victim of these crimes.

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

“Modification” of orders is expressly covered by the certification, so the victim could not be charged for this.

30. 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, dating 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, dating violence, sexual assault, or stalking and denies the order based on that finding.

31. 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.

D. Polygraphing

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

The polygraph testing prohibition at 34 U.S.C. § 10451 [formerly 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. Can universities be STOP subgrantees?

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

2. 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.

3. Is it possible to change the project period or end date of the grant?

Yes. The state should contact its OVW grant program specialist as soon as possible to learn how to submit a Grant Adjustment Notice (GAN) to change the end date of the grant. The state 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.

4. Is it possible to change the project start date of the grant?

Yes, but only prior to the award being issued or in special circumstances after the award is issued but prior to any funds being drawn down on the award. States must contact their OVW grant program specialist to make the request.

###