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**Consultation Question: Do tribes support creating a separate process under the Office on Violence Against Women's (OVW) Tribal Jurisdiction Program, in addition to the current one, to award a portion of the appropriated funds specifically for basic costs associated with the implementation of Special Domestic Violence Criminal Jurisdiction, for those tribes that are already exercising the jurisdiction?**

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## **BACKGROUND**

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) recognized the authority of participating tribes to exercise "special domestic violence criminal jurisdiction" (SDVCJ) over certain defendants, regardless of their Indian or non-Indian status, who commit crimes of domestic violence or dating violence or violate certain protection orders in Indian country. VAWA 2013 also authorized an OVW grant program to support tribes in exercising this jurisdiction, commonly referred to as the Tribal Jurisdiction Program. These grant funds may be used to strengthen tribal criminal justice systems, provide indigent criminal defense, conduct jury trials, and provide services and applicable rights to crime victims. Congress first appropriated funds for this grant program in fiscal year (FY) 2016, allocating \$2.5 million, and increased that amount to \$4 million each year for FY 2017 through FY 2020.

In several of these fiscal years, OVW has had to extend the application deadline for this program to get more applications, and still the funding available for the program often exceeds the number of applications received. At the 2018 consultation, OVW specifically requested input on how to encourage more tribes to apply and expend unobligated funds under the program. In response to tribal leaders' testimony, OVW made a number of changes to the program, including simplifying the application, allowing grant funds to be used for minor renovations, and removing the requirement to submit and receive approval of the SDVCJ questionnaire prior to using funds to prosecute cases or incarcerate defendants. Even with these changes, OVW has had trouble attracting sufficient numbers of applicants to award all available funds for this program.

OVW has heard from tribes that are already exercising the jurisdiction that they would like to receive funding to support discrete costs such as incarceration, medical care, and indigent defense without all the trappings of a "project." Tribes that have recently planned and implemented the changes in their justice system to implement and exercise SDVCJ are unlikely to need to expend time or funds to plan and implement a grant project involving multiple tribal partners or additional changes to their code and criminal justice system. They have already completed this work. Instead, they need funds to support the exercise of the SDVCJ and technical assistance support for training and peer-to-peer networking opportunities.

To meet the needs of tribes currently exercising SDVCJ, while still funding tribes that are making changes in their justice systems to exercise SDVCJ, OVW is considering providing two different and separate application processes under the Tribal Jurisdiction Program. First would be the regular solicitation for tribes interested in comprehensive projects, and second would be a new process for tribes currently exercising SDVCJ to request financial support for anticipated costs associated with



exercising the jurisdiction. OVW would then allocate the funds appropriated for the Tribal Jurisdiction Program depending on the number of successful applicants under the regular solicitation and the number of eligible implementing tribes that request funds for expenses associated with exercising SDVCJ. OVW is consulting with tribes to determine whether to implement this new second process under the program. OVW also is requesting tribal input on the proposed parameters of the potential separate process for implementing tribes. For example, OVW might:

- Solicit statements of interest from tribes that wish to apply for these funds and are currently exercising SDVCJ but not have an open Tribal Jurisdiction Program award.
- Invite eligible tribes to apply non-competitively for a share of available funds.
- Require only a brief project narrative and budget from the invited tribes, similar to the applications for OVW's Violence Against Women Tribal Special Assistant U.S. Attorney Program (TSAUSA).

## **QUESTIONS**

1. Do tribes support the concept of a separate, simplified process for awarding grants to tribes interested in funding to support expenses associated with exercising SDVCJ?
2. Do tribal leaders have any suggestions as to how OVW might administer these separate funds? Would tribal leaders support the simplified application process described above? Please keep in mind that the Tribal Jurisdiction Program statute does not authorize OVW to reimburse past expenses related to the exercise of SDVCJ, only to issue grants to tribes to cover future expenses.
3. Do tribal leaders have any additional recommendations for ensuring that all Tribal Jurisdiction Program funds are expended each year?