



Consultation Question: Do tribes have recommendations to improve the Office on Violence Against Women's (OVW) Tribal Jurisdiction Program's Standard and Targeted Support for Exercising Tribes solicitations and make awards under the program more responsive to the needs of tribes that are currently exercising the jurisdiction or planning to exercise it in the future?

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. The current 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. 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 2021.

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. OVW has consulted several times regarding how to encourage more tribes to apply; how to expend unobligated funds under the program; and how to make the program more responsive to needs of tribes. In response to tribal leaders' testimony, OVW made a number of changes to the program, including: simplifying the application; reducing the number of documents that are required at the time of application; keeping the solicitation open for a longer period than the standard OVW practice of 7-8 weeks; making the awards as grants instead of cooperative agreements; making initial awards for 36 months with the option to apply non-competitively for an additional 24 months of funding for a total project period of up to 60 months; allowing grant funds to be used for minor renovations; removing the requirement to submit and receive approval of the SDVCJ questionnaire prior to using funds to prosecute cases or incarcerate defendants; and, in FY 2021, issuing a separate targeted solicitation for tribes currently exercising the jurisdiction with even fewer requirements. Even with these changes, OVW has had trouble attracting sufficient numbers of applicants to award all available funds for this program. In FY 2021, OVW received only two applications for the standard solicitation and no applications for the targeted solicitation, despite extending the due date by an additional four weeks (16 weeks total open solicitation period) and reaching out directly to exercising tribes.



Currently, the OVW Tribal Jurisdiction program is structured as follows:

Standard Tribal Jurisdiction Solicitation		Targeted Support for Exercising Tribes Tribal Jurisdiction Solicitation
Type	Competitive	Competitive
Eligibility	Federally recognized tribes with jurisdiction over Indian Country. (Eligible applicants include tribes that are currently exercising SDVCJ and those that plan to implement SDVCJ.)	Federally recognized tribes that are currently exercising SDVCJ.
Award Period and Suggested Budget Caps	New: 36 months up to \$450,000. Continuation: Non-competitive for an additional 24 months and \$300,000.	24 months up to \$200,000.
Purpose Area(s)	In addition to all the purposes under the Targeted solicitation, funds may be used for planning activities such as revising tribal constitutions and codes, modifying jury practices, and implementing mechanisms for providing indigent defense.	Funds under the targeted solicitation may be used to defray costs resulting from a tribe's exercise of SDVCJ, including costs associated with law enforcement, prosecution, trial and appellate courts, probation systems, detention and correction facilities, alternative rehabilitation, culturally appropriate assistance for victims and their families, providing defense counsel to indigent criminal defendants, and empaneling juries.
Mandatory Program Requirements	<ul style="list-style-type: none"> • OVW training and technical assistance (T/TA) – including participation in Inter-tribal TA Working Group on SDVCJ (ITWG). • Planning Period – submission of documents not required at the time of application. • SDVCJ Readiness Certification prior to using award funds to support prosecution or incarceration of non-Indians. • MOU/IMOU demonstrating required partners' participation in the project. Required partners: Tribal Leadership; Judge; Prosecutor's Office; Tribal Attorney/In-house Counsel; Law Enforcement; and Victim Services. 	<ul style="list-style-type: none"> • OVW T/TA – including ITWG
Documents Required at Time of Application	<ul style="list-style-type: none"> • Proposal Narrative* • Budget Detail Worksheet and Narrative* • Document Demonstrating Authority to Apply (Resolution or Letter demonstrating the tribe's determination to implement SDVCJ) • SF-424 and SF-LLL* • Abstract (template provided) * 	<ul style="list-style-type: none"> • Proposal Narrative* • Budget Detail Worksheet and Narrative* • Exercising SDVCJ Certification (Certifying that the tribe's exercise of SDVCJ is in compliance with the Indian Civil Rights Act, as amended. Template provided.) • SF-424 and SF-LLL* • Abstract (template provided) *
Documents Required Prior to Award	<ul style="list-style-type: none"> • Pre-Award Risk Assessment* • Data Requested with Application* • Applicant Disclosure of Duplication in Costs* 	<ul style="list-style-type: none"> • Pre-Award Risk Assessment* • Data Requested with Application* • Applicant Disclosure of Duplication in Costs*
Documents Required Post-Award	<ul style="list-style-type: none"> • MOU/IMOU (template provided) • Letters of Non-Supplanting (template provided) * • Confidentiality Acknowledgement Form* • Indirect Cost Rate Agreement* 	<ul style="list-style-type: none"> • Letters of Non-Supplanting (template provided) * • Confidentiality Acknowledgement Form* • Indirect Cost Rate Agreement*

Items marked in **bold*** are documents for which OVW has little or no discretion. These documents are required to be part of each grant file for OVW grant programs.



Keeping in mind 1) that the current Tribal Jurisdiction Program statute does not authorize OVW to reimburse past expenses related to the exercise of SDVCJ, only to issue grants to cover future expenses; 2) the changes OVW has already made to the program in response to earlier consultations; and 3) that the grant administration and management systems (Grants.gov, JustGrants, and ASAP) and most of the application required documents are outside the discretion of OVW, please respond to the following consultation questions:

QUESTIONS:

1. If your tribe is currently exercising SDVCJ, in regard to the Tribal Jurisdiction Targeted Support for Exercising Tribes solicitation and awards:
 - What are the costs associated with exercising SDVCJ that your tribe has experienced? Of those costs, which, if any, currently are not covered as an allowable cost under the Tribal Jurisdiction Program?
 - Are the current award lengths and suggested award caps in the Targeted solicitation sufficient to support the discrete costs of exercising SDVCJ you have experienced to date? If not, what is the recommended award length? What is the total suggested amount per 12 months?
 - Do you have recommendations to enhance the comprehensive training and technical assistance currently available to tribes exercising SDVCJ, which includes the ITWG?
 - Would you recommend that exercising tribes be able to apply to the Targeted solicitation noncompetitively and on a rolling basis throughout a fiscal year?
 - Do you have any additional recommendations for ensuring that the Tribal Jurisdiction Program's Targeted solicitation and awards made under it are accessible and responsive to the needs you are experiencing as a result of exercising SDVCJ?
 2. If your tribe is currently not exercising SDVCJ, is your tribe considering implementing SDVCJ in your tribal justice system?
 - If yes,
 - What is the estimated cost of activities leading to implementation and are you interested in grant funding to support these costs?
 - What is the estimated cost of activities associated with exercising SDVCJ for the first five years?
 - Do you anticipate any needs that are not currently covered as an allowable cost under the Tribal Jurisdiction Program?
 - What training and technical assistance do you need to prepare for, plan, implement, and exercise SDVCJ?
 - If no,
 - Are there specific reasons why not (such as current capacity of the tribal court, lack of incarceration facilities, concerns with future on-going costs)?
 - Is there any training or technical assistance OVW or our comprehensive TA
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provider could assist with to mitigate any of the specific concerns?

3. Legislation passed by the House of Representatives authorizes a separate program to reimburse tribal governments for expenses incurred in exercising SDVCJ (or the jurisdiction as expanded by the bill).
 - If your tribe is currently exercising SDVCJ or expects to do so in the future, do you have specific recommendations for the administration of this potential new program, including how to make it accessible to tribes that have not sought grant funding under the existing program?
 - Based on your experience with other federal funding, are there specific policies and procedures that would be effective for disbursing these funds and ensuring that they meet the needs of tribes?
 - Should the funds be disbursed on a first come, first served basis until they run out, or should they be prioritized in some way over the course of the fiscal year?