

Office on Violence Against Women

Frequently Asked Questions (FAQs) About STOP Formula Grants

Updated February 2014

FREQUENTLY ASKED QUESTIONS ABOUT STOP FORMULA GRANTS

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NOTE: These FAQs have been updated to reflect changes made by the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). These changes took effect on October 1, 2014, with the Fiscal Year 2014 grants. If the funding involved is from FY 2013 or earlier, please refer to the FAQs updated January, 2013.

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.” 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, funding may only be directed to projects with a primary focus of combating 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, 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

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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.”

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.

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

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

Yes. 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, indicates 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.

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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. 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

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reasonable transportation costs that would enhance a woman's safety. Please see [question 17](#) 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 are part of a graduated range of sanctions that use the coercive power of the criminal justice system to hold abusers accountable for their criminal actions and for changing their behavior. However, couples counseling or any intervention that requires participation by a victim or that is not designed to hold offenders accountable for their violent behavior cannot be supported with STOP dollars.

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

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

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.

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. Please keep in mind,

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however, that prevention programs are limited to 5 percent of the state's total STOP award for the year.

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

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

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 need to have specialized sexual assault forensic exam training, but the specific nature and form of that training is not defined by statute. States can determine the most appropriate training for the needs of their states. The National Training Standards for Sexual Assault Medical Forensic Examiners (available at <http://www.ncjrs.gov/pdffiles1/ovw/213827.pdf>) provides recommendations on training for medical providers performing forensic examinations.

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

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their own state as to the most appropriate allocation. As discussed above, this only applies starting with FY 2007 funds.

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?

No. Substance abuse counseling would not fit within the definition of “victim services,” so would not be covered by STOP.

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FINANCIAL ISSUES

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

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

2. Can STOP funds be used to purchase automobiles?

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

3. Can STOP funds be used to purchase food?

Yes, in some instances. The provision of food and beverages at training events or conferences is governed by the OVW Grants Financial Management Guide. (See <http://www.ovw.usdoj.gov/docs/gfmd-financial-grants-management-guide.pdf>). Please review the requirements carefully in determining if food provision at a particular event is acceptable and contact the state's grant manager 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 prosecutors, law enforcement officers, or judges being paid are handling cases involving violence against women. If they are not working full time on violence against women cases, their time must be prorated.

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

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

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

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

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

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

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

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

Yes. “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.

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.

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13. Can unused administrative money be reallocated to fund subgrants?

If the state does not need the full 10 percent, these funds should be used to support subgrants.

14. Can a subgrantee charge a fee for counseling (therapy) of sexual assault victims?

Yes, at the discretion of the state administering agency. This income, however, should be treated as program income. See the OVW Grants Financial Management Guide (<http://www.ovw.usdoj.gov/docs/gfmd-financial-grants-management-guide.pdf>) and [question 9](#), above, for more details on the allowable uses for program income.

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

OVW strongly discourages the use of gift cards, because oversight of expenditures is very difficult to manage and there is a 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 16](#), 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 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.

16. Can STOP funds be used to purchase groceries?

Yes. STOP funding may be used to purchase groceries as part of victim services that subgrantees provide to victims. Grantees and subgrantees need to have a process in place to ensure that all items purchased are allowable, reasonable and necessary under applicable state and federal statutes and regulations 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.

17. 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.

FREQUENTLY ASKED QUESTIONS ABOUT STOP FORMULA GRANTS

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

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

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

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

STOP award \$1,000,000

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

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

20. 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 substance abuse counseling, 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.

FREQUENTLY ASKED QUESTIONS ABOUT STOP FORMULA GRANTS

MATCH

A. Statute

1. What is the statutory language regarding match?

42 U.S.C. § 13925 (b)(1) provides:

Match.—No matching funds shall be required for any grant or subgrant made under [the Violence Against Women Act] for—

(A) any tribe, territory, or victim service provider; or

(B) any other entity, including a state, that—

- i. petitions for a waiver of any match conditions imposed by the Attorney General or the Secretaries of Health and Human Services or Housing and Urban Development; and
- ii. whose petition for waiver is determined by the Attorney General or the Secretaries of Health and Human Services or Housing and Urban Development to have adequately demonstrated the financial need of the petitioning entity.

42 U.S.C. § 3796gg-1(f) provides:

The federal share of a grant made under [the STOP Formula Program] may not exceed 75 percent of the total costs of the projects described in the application submitted, 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 (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 42 U.S.C. § 13925(b)(1)?

Under VAWA 2005, matching funds cannot be required for a grant or subgrant for any tribe, territory, or victim service provider.

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.

FREQUENTLY ASKED QUESTIONS ABOUT STOP FORMULA GRANTS

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.

C. General Issues

6. 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

FREQUENTLY ASKED QUESTIONS ABOUT STOP FORMULA GRANTS

employee to answer the hotline. For more information and specific examples, please see http://www.usdoj.gov/ovw/docs/match_requirement.pdf.

7. Do the match funds need to follow the allocation formula (i.e., 25 percent law enforcement, 25 percent prosecution, 5 percent courts, 30 percent victim services)?

No, they do not. For example, a state could use match provided by its law enforcement and courts subgrantees to match its entire award.

D. Waiver

8. Who is eligible to submit a request for a match waiver?

For the purpose of requesting a waiver through OVW's STOP Formula Program, eligible recipients are states. Territories do not need to request a waiver because they are automatically exempted from match under other laws.

9. How does a state request a match waiver?

An eligible applicant should formally request a match waiver by submitting a request letter addressed to the Director of the Office on Violence Against Women. Please submit the state's waiver request and supporting documentation via grant adjustment notice in the Grants Management System.

10. When should a state administrator make a request for a match waiver?

As a general rule, a state has three months from the date of its most recent award to make a waiver request for that award year.

11. 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.

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

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

FREQUENTLY ASKED QUESTIONS ABOUT STOP FORMULA GRANTS

13. What should a waiver application include?

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

- i. The sources of non-federal funds available to the state for match and the amount available from each source, including in-kind match and match provided by subgrantees or other entities;
- ii. Efforts made by the state to obtain the matching funds, including, if applicable, letters from other state agencies stating that the funds available from such agencies may not be used for match;
- iii. The specific dollar amount or percentage waiver that is requested;
- iv. Cause and extent of the constraints on the historical and projected ability to raise violence against women matching funds; and
- v. Specific evidence of economic distress, such as documentation of high unemployment rates, poverty rates, and designation as a FEMA disaster area, and how this affects the state's ability to provide violence against women matching funds. For example, if a state shows that across the board budget cuts have directly reduced funding for violence against women programs by 20 percent, that state would be considered for a 20 percent waiver, not a full waiver. Reductions in federal funds are not relevant to state match unless the state can show that the reduced federal funding directly reduced available state funds to support violence against women programs. The state would need to provide attachments to demonstrate this effect, such as portions of the state budget demonstrating shifts in funding or a letter from the Governor's office.

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

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

15. What if OVW denies the waiver request?

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

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

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

FREQUENTLY ASKED QUESTIONS ABOUT STOP FORMULA GRANTS

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:

- 1) A copy of their solicitation
- 2) Documentation on how the solicitation was distributed, including all outreach efforts to entities from the allocation in question
- 3) An explanation of their selection process
- 4) A list of who participated in the selection process (name, title, and employer)
- 5) Number of applications that were received for the specific allocation category
- 6) 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
- 7) 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)
- 8) 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 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/ta-providers.html>; for more information on the Resource Centers, please see <http://www.acf.hhs.gov/programs/fysb/programs/family-violence-prevention-services/programs/centers>)

Although OVW approval is not required prior to reallocation, we encourage states to reach out to their grant managers 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 one automatic extension not to exceed 12 months and, in extraordinary circumstances, a second extension beyond 12 months as outlined in the OVW Financial Grants Management Guide. The state should contact its OVW Program Specialist if seeking a second extension.

FREQUENTLY ASKED QUESTIONS ABOUT STOP FORMULA GRANTS

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 should ensure that the correct type of agency will benefit from the funds. For example, if a state coalition applies for law enforcement funds to train police, the application should include a Memorandum of Understanding or other documentation from police agencies indicating that they agree to attend the training and will be involved in the development of the training.

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

The 30 percent is "for victims 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 fifteen percent discretionary funding.

FREQUENTLY ASKED QUESTIONS ABOUT STOP FORMULA GRANTS

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:

- (A) focuses primarily on domestic violence, dating violence, sexual assault, or stalking;
- (B) has established a specialized culturally specific program that addresses domestic violence, dating violence, sexual assault, or stalking;
- (C) has a primary focus on underserved populations (and includes representatives of these populations) and domestic violence, dating violence, sexual assault, or stalking; **or**
- (D) obtains expertise, or shows demonstrated capacity to work effectively, on domestic violence, dating violence, sexual assault, and stalking through collaboration;

and:

- (E) is primarily directed toward racial and ethnic minority groups; ***and***
- (F) 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

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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 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 and LGBT victims, 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,

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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 new 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 2 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 other than victim services, courts, law enforcement, or prosecution, it will not count toward the set aside.

FREQUENTLY ASKED QUESTIONS ABOUT STOP FORMULA GRANTS

SUBGRANT MANAGEMENT ISSUES

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

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

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

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

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

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

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VAWA 2013 QUESTIONS

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

The changes take 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.

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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 have 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 [question17](#), 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 2 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.”

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

States have until March 7, 2015 to implement the sexual assault set aside.

11. How can states ensure that the projects funded under the set aside “meaningfully” address 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. Such coalitions and service providers can provide assistance like 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 only count subgrants toward the set aside that are truly dedicated to sexually assault, rather than subgrants that are really more focused on domestic violence and have added sexual assault without having a substantive understanding of the issue. OVW has experienced this in administering discretionary programs with sexual assault set asides. OVW encourages states to assess the extent to which existing subgrantees are 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 which 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 more on this).
- 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 describing the need for the grant funds, the intended use of the grant funds, the expected result of the grant funds, and the demographic characteristics of the population to be served, including age, disability, race, ethnicity, and language background. This is not a new requirement, but it used to be part of the application rather than the implementation plan. This can still take the form of letters from each of the four listed categories— either from current grantees or from statewide organizations representing the category of grantee (for example a state law enforcement or prosecutors association) that can comment on the need for grant funds and the other required information.
- The plan needs to include a description of how the state will ensure that subgrantees will consult with victim service providers during the course of developing their grant applications in order to ensure that the proposed activities are designed to promote the safety, confidentiality, and economic independence of victims. This is similar to a requirement that was previously part of the application. Formerly, it was a requirement for letters on how the subgrantees already consulted with victim service provider. Now

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the state is required to provide descriptive information on how it will ensure that the subgrantees will consult with victim service providers. For example, states could describe whether they will require letters of support or memoranda of understanding as part of the subgrant applications to demonstrate such consultation.

- 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 requirements to give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence, dating violence, sexual assault and stalking programs; 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 17](#)).

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?

The purposes of this coordination process are to provide greater diversity of projects funded and leverage efforts under the various funding streams. Because states structure these programs differently and house them in different offices, there is no single way to meet the requirement. Options to meet the requirement include convening a meeting of the various program administrators to discuss the different plans and priorities, having a shared implementation planning process or meeting, having the different program administrators attend each other's implementation planning meetings, reading and commenting on each of the other plans, and sharing the STOP plan with the administrators for the other programs for their feedback on how it complements their programs. It may be possible to combine the plans, as long as the required elements for each are addressed. OVW hopes a side benefit of improved coordination might be more consistent policy in overall administration of the programs, such as coordinated terms and conditions or monitoring. States will be required to include in their implementation plans information on the process for how they are coordinating their plans and the impact of that process on the contents of the plans.

14. What entities need to be represented on the planning committee?

1. The state sexual assault coalition
2. The state domestic violence coalition
3. Law enforcement entities within the state
4. Prosecution offices

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5. State and local courts
6. Tribal governments in states with state or federally recognized Indian tribes
7. Representatives from underserved populations, including culturally specific populations
8. Victim service providers
9. Population specific organizations

15. 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 checklist documenting the type and extent of each member’s participation in the planning process (the planning committee must include a representative of each entity listed in 42 USC 3796gg-1(c)(2)), 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/territory should retain documentation regarding attendees at all planning meetings. The type of documentation for meetings depends on the form of the meeting:

- For in person meetings: use and retain a sign-in sheet with name, title, organization, phone number, email address, and signature
- For phone or online meetings: attendees should “sign-in” by emailing or faxing that they are on the call and administrators should retain these emails and/or faxes

Second, the STOP state administrator should create a summary of major concerns that are raised during the development process and how they are addressed, or why they are not addressed. This should be sent to the planning committee along with any draft implementation plan and with the final plan.

Third, the state should also keep track of any method of document review that occurred outside the context of a meeting, i.e., the state should record who the draft implementation plan was sent to, how it was sent (for example by email versus mail), and who responded. Although states/territories 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 should be added to the summary of major concerns described above. For remote areas with limited internet connectivity, it may be necessary to consider blast faxes as a way to reach groups such as tribes and population specific organizations.

Finally, the state/territory must create and submit to OVW a *checklist* for each participant that documents, at a minimum, whether they were informed of 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 checklist should also include space for participants to include any major concerns that they have with the final plan. Each participant should check the appropriate categories on the checklist, sign the form, and return it to the STOP state administrator, who will attach the checklists to the plan when submitting the plan to OVW.

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Only the checklists will need to be sent to OVW with the implementation plans. The remaining documentation described above should be kept on file.

16. 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 are sent a written document (which can be via email) to comment on or that they are invited to a meeting or conference call. Regardless of format, states should make sure to give sufficient notice to tribes and should 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 which can facilitate communication with the tribes in the state.

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

First, states need to provide whatever statistics are available on the rates of domestic violence homicides within their states. As part of their consultation with law enforcement, prosecution, and victim services, they should discuss and document the perceived accuracy of these statistics and the best ways to address domestic violence homicide. The plan should identify specific goals and objectives for reducing domestic violence homicide, based on these discussions, which includes 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 they are including with a purpose of reducing domestic violence homicides. In plans subsequent to the 2014 plan, they should include any changes in the statistics since the previous plan.

18. When is the implementation plan due?

It is due with the application.

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CERTIFICATION QUESTIONS

A. Judicial Notification

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

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

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

No. This would not qualify as “judicial” notice.

B. Forensic Examinations

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

Under 42 U.S.C. § 3796gg-4, a state is not entitled to funds under the STOP Program unless the state or another governmental entity "incurs the full out-of-pocket cost of forensic medical exams . . . for victims of sexual assault" and “coordinates with health care providers in the region to notify victims of sexual assault of the availability of rape exams at no costs 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 sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law.

The examination should include at a minimum:

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

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

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

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

- (A) provides such exams to victims free of charge to victims; or
- (B) 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 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.

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

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

- training for SANE/SAFE personnel
- expert testimony of SANE/SAFE personnel
- forensic evidence collection kits ("rape kits")
- equipment, such as colposcopes, swab dryers, and lights
- outreach efforts to inform victims about available services
- victim advocate personnel to accompany victims through the forensic examination process
- on-going counseling services for victims
- on-call time of the SANE/SAFE personnel

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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 they are not using STOP Program funds to pay for the cost of the forensic exam. Under the definition of "full out-of-pocket costs," states can require that victims submit claims to their personal insurers. However, any expenses not covered by the insurer must be covered by the state or other governmental entity and cannot be billed to the victim. This includes any deductibles or denial of claims by the insurer. We urge states to keep in mind that, in some cases, insurance billing can present a hardship for victims. For example, a victim of spousal rape may not want her husband to find out that she got a forensic exam. If the victim is forced to submit the claim to her insurance company and she is on her husband's insurance, he may receive a statement from the insurance indicating that she got the exam. For this reason, OVW strongly encourages states to not require victims to 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 with this provision and will be ineligible for STOP Program funds if the victim is required to cooperate with law enforcement or participate in the criminal justice system in order to receive an exam, payment for the exam, or both. Some victims are unable or unready to decide whether they want to cooperate with law enforcement in the immediate aftermath of the assault. Because evidence is lost as time progresses, such victims should be encouraged to have the evidence collected immediately and decide about reporting the crime at a later date. If local jurisdictions have policies or practices that 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,

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go to http://www.ovc.gov/voca/pdf/voca_guidelines2001.pdf . If the state has further questions about the use of crime victim compensation funding for forensic exam payment, please contact the Office for Victims of Crime at (202) 307-5983.

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.

C. Fees and Costs

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

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

16. 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.

17. 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.

18. 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.

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19. 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.

20. 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.

21. 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 (or will meet in certain cases as described in the answer regarding timing of compliance above) the filing fee requirement. This certification is a prerequisite for receiving grant funds. Program funds may not be used to pay these fees and costs, as Congress instructed grantees to certify that victims are not bearing these costs prior to receiving grant funds.

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

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

23. 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.

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

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

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25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

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

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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

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

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

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

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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 grant program specialist soon as possible so he/she can explain how to submit a Grant Adjustment Notice (GAN) for this purpose. 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 change the project start date of the grant?

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