



FY 2023 OVC Crime Victims Fund Tribal Set-Aside Formula Program Tribal Consultation Framing Paper

Since the first Tribal Set-Aside from the Crime Victims Fund (CVF) in Fiscal Year (FY) 2018, the Office for Victims of Crime (OVC) has encouraged applicants to its Tribal Victim Services Set-Aside Formula Grant Program (TVSSA Program) to think expansively and creatively about how to best use TVSSA Program award funds. On November 9, 2022, OVC will host a virtual Tribal Consultation on the administration of the TVSSA Program for FY 2023. This Framing Paper outlines three issues for which OVC is seeking additional feedback from Tribal leaders:

1. Enhancing the FY 2023 TVSSA Program application process;
2. Improving outcomes for projects that include major renovation and construction; and
3. Strengthening services for families of Missing or Murdered Indigenous Persons (MMIP).

ISSUE #1: ENHANCING THE FY 2023 TVSSA APPLICATION PROCESS

Background

OVC remains steadfast in its goal of ensuring that the funds from the set-aside are used to maximize the benefit to federally recognized Tribes by using the majority of the set-aside to make direct awards to Tribes, Tribal consortia, and organizations acting as the authorized designee of a Tribe.ⁱ Because Congress has not yet passed an FY 2023 appropriations bill for the Department, for planning purposes, OVC is assuming that Congress will again carve out a set-aside for Tribes as part of its annual allocation of Crime Victims Fund (CVF) receipts in FY 2023. The set-aside may be greater or less than the set-asides from previous Fiscal Years.

In FY 2023, OVC is proposing to retain many of the TVSSA program features that have come to define the program over the last four FYs including:

- Awarding TVSSA funds using a noncompetitive application process that allocates the funds based on the total number of applicants and the population to be served by each applicant's proposed project.
- Using a two-phase process, which requires all interested and eligible applicants to submit a Population Certificate, via email to OVC, to signal their intent to participate in the program in winter 2023 and submit a program narrative or checklist (or interview with OVC in lieu of a narrative) and budget, via JustGrants, in spring or summer 2023.
- Allocating any unclaimed TVSSA funds to applicants who complete the application process, and/or Tribal applicants to other OVC discretionary programs so that the funds are not at risk of being de-obligated and returned to the CVF.

In January 2022, OVC received Population Certifications from 194 Tribes, signaling their intent to apply for TVSSA Program fundingⁱⁱ, but by July 2022, 21 Tribes had either withdrawn or did not complete an application. In August and September 2022, OVC conducted outreach to these Tribes to learn why they did not apply. Some of the Tribes realized the new funding was not

needed. Other Tribes mentioned other reasons for not applying, such as turnover in staff or Tribal leadership; not enough time to develop the application; or lack of communication or confusion about the application process. The questions below are intended to gather information from Tribal leaders about what OVC could do to support Tribes through the application process:

Questions for Issue #1

1. What additional technical assistance can OVC offer to support applicants through the application process?
2. What additional (or different) methods could OVC use to increase outreach efforts and build awareness about Tribal set-aside funding – particularly to Tribes that have not historically applied for OVC funding?

ISSUE #2: IMPROVING OUTCOMES FOR PROJECTS INCLUDING MAJOR RENOVATION AND CONSTRUCTION

Background

Among the allowable expenses under the TVSSA Program, applicants may request funding for minor renovations, maintenance, and repair to existing structures (e.g., painting, replacing windows, doors, or flooring), as well as other activities such as remodeling existing buildings or the purchase and shipping costs of mobile homes/trailers or modular buildings necessary for the victim service project and the associated site preparation (e.g., grading the site, installing a foundation, utility hook-up) necessary for the safe use of the building.

In Fiscal Year 2021, OVC reassessed its policy of restricting TVSSA Program grant recipients from using grant funds to pay for major renovations or new construction. Based on this review, OVC determined it would be possible to permit major renovations to existing structures and new construction with TVSSA Program funds in future years, as long as certain supports addressing National Environmental Policy Act (NEPA) review requirements are put in place for TVSSA Program grantees.

Any TVSSA grantee with a project involving construction or renovations must comply with the Department of Justice procedures for implementing NEPAⁱⁱⁱ and all other construction-related conditions on the award prior to actual construction, renovation, or remodeling^{iv}. To assist grantees in meeting these requirements, OVC has hired two technical assistance providers, using TVSSA Program funds, to support grantees through an assessment of their projects and, if necessary, to assist the grantee(s) in the NEPA review.

In FY 2021, OVC received 14 applications under the TVSSA Program that involved projects ranging from minor remodeling and renovations projects to purchase and installation of trailers or modular buildings that would be used for victim service programming. The costs of the projects outlined in the original applications ranged from \$48,000–\$750,000. Many applicants incorporated renovation or construction projects within their plans to use funds to provide direct services to victims. Most of the projects identified a victim service program director to

oversee the entire award, including the portion of the award related to renovation/construction. This person often did not have experience with managing construction-related projects or NEPA requirements. Many applications lacked specifics about what was being renovated or constructed and some grantees had not secured approval from their Tribal leadership regarding where the new modular building was going to be placed.

As of September 2022, almost one year after the project start date, only four FY 2021 grantees are actively engaged with the technical assistance contractors to move through the assessment process to determine if a formal NEPA review is necessary. Some grantees have found that they did not include adequate funding in their projects to support the construction or renovation project, which has created some implementation challenges and, in some cases, will necessitate major changes to the planned construction projects. Other factors beyond the grantee's control contributed to these challenges, including rising inflation, and COVID-19-induced supply chain issues.

In FY 2022, OVC received 17 new applications that include renovation or construction costs. These projects generally have start dates of either October 1, 2022 or January 1, 2023, and each of these new awards will have similar partial holds placed on them until the assessment process is completed to determine if the project needs a formal NEPA review. They will also have access to the technical assistance contractors. Many of these new projects face similar challenges and obstacles as previously described.

In FY 2023, OVC plans to implement a more intentional and thoughtful focus on and process for this important issue. As a matter of federal law, awards that include construction require a different set of special conditions, and different grant monitoring, than non-construction awards. As such, OVC plans to allow TVSSA applicants to submit separate, noncompetitive applications, if they wish to use some (or all) of their Set-Aside Formula Program allocation for projects related to renovation and construction, including installation of trailers or modular buildings, to support victim service programming. The questions below will help guide OVC in the implementation of this separate noncompetitive funding opportunity using Set-Aside Funds.

Questions for Issue #2

1. For those Tribes who in the future will use TVSSA grant funds to support construction, renovation, or purchase of modular buildings, how can OVC support you in completing this noncompetitive, dual application process?
2. For those Tribes who currently have funds to support construction, renovation, or purchase of modular buildings, what additional assistance can OVC offer to support your project?
3. What kind of technical assistance might applicants need to prepare a TVSSA Program application related to constructing, renovating, or expanding victim services program facilities?

ISSUE #3: STRENGTHENING SERVICES FOR FAMILIES OF MISSING OR MURDERED INDIGENOUS PERSONS (MMIP)

Background

The Biden Administration has made addressing MMIP a priority (See [Executive Order 14053](#)). Through consultation, Tribal leaders have conveyed to OVC that it is imperative that American Indian and Alaska Native (AI/AN) communities have flexibility in designing and implementing victim services programs to support the families of MMIP, especially in cases that involve women and children.

While TVSSA funding has always been available to provide services to families of homicide victims, in response to the recommendations of Tribal leaders at the FY 2022 OVC Tribal Consultation, OVC has broadened the scope of the TVSSA Program to allow grantees to use their funds to address the needs of families of missing persons too. We believe this change creates an opportunity for Tribal communities to direct much needed funding toward meeting the needs of the loved ones of MMIP, generating awareness of MMIP, and creating systemic change that can help remove barriers to helping victims of MMIP and their loved ones find justice and healing.

In FY 2022, OVC expanded the allowable uses of TVSSA grant funds to support victim services in MMIP cases^v when:

- the missing individual is known to be the victim of kidnapping, or human trafficking (or was being groomed by a trafficker);
- the individual's disappearance is the subject of a law enforcement investigation;
- the individual is feared by family members or loved ones to be missing as a result of any form of criminal victimization; or
- the missing individual is known to have a prior history of crime victimization and the victimization may be directly or indirectly linked to their status as a missing person.

In FY 2022, OVC received a number of applications where applicants stated their intent to use their award funds to address MMIP. However, most of these applicants did not describe specific activities related to MMIP, nor did they include specific line items in their budgets to support costs related to MMIP activities. This has led OVC staff to want to explore this issue further through consultation with Tribal leaders.

Questions for Issue #3

1. What can OVC do to help support Tribes who are interested in using their TVSSA funds to support MMIP activities but are uncertain how to do so?
2. What should OVC keep in mind as it works to strengthen services available to support families and loved ones of homicide victims in Tribal communities?

ⁱ For more detailed information about the implementation of the TVSSA Program in FY 2022, please see the [FY 2022 Report](#) that was submitted as a resource document for the FY 2023 OVC Tribal Consultation.

ⁱⁱ Population Certifications are used to determine formula award amounts for each applicant. Those applicants are then invited to submit a full application under a subsequent solicitation later in the year. For more information see <https://ovc.ojp.gov/program/tribal/fy-2022-tvssa-flier-508.pdf>.

ⁱⁱⁱ Department of Justice Procedures for Implementing the National Environmental Policy Act can be found at 28 C.F.R. Part 61.

^{iv} In addition to the NEPA Special Condition, which holds back funds related to the renovation or construction project, other special conditions placed on awards include requirements to submit information to demonstrate that the project is feasible and that buildings being renovated are viable and safe structures for the intended use; that there is appropriate project insurance and bonding to cover construction activities; and that the grantee has planned for and secured adequate funding to complete the construction and support ongoing operation and maintenance of the proposed facility.

^v For more detailed information about allowable and unallowable costs related to addressing MMIP, please see the [FY 2022 Report](#) that was submitted as a resource document for the FY 2023 OVC Tribal Consultation.