INTRODUCTION

The Department of Justice (the Department) and the Biden-Harris Administration have a long-standing commitment to improve services for victims of crime in American Indian and Alaska Native communities. In November 2022, the Department will consult with Tribal leaders about “Tribal Set-Aside” funding administered by the Office for Victims of Crime (OVC) from the Crime Victims Fund (CVF). The Department presents this paper to help educate Consultation participants about the history of OVC’s Tribal Set-Aside, and inform them about how the funds were used in Fiscal Year (FY) 2022.

HISTORY AND RESULTS OF THE OVC TRIBAL SET-ASIDE PROGRAM

FY 2018-2019: Creation of the Tribal Set-Aside, Competitive Award Process

A 1988 amendment to the Victims of Crime Act of 1984 (VOCA) created OVC as part of the Department’s Office of Justice Programs. An important part of OVC’s mission is to administer grant awards that are funded by the CVF, which primarily includes criminal fines and fees paid by persons convicted in federal courts. Each year Congress authorizes OVC to use the CVF to support grant programs for victim services. In the FY 2018 budget, Congress created the first Tribal Victim Services Set-Aside from the CVF. The amount of the first set-aside was 3 percent, totaling about $133 million “available to the Office for Victims of Crime for grants, consistent with the requirements of the Victims of Crime Act, to Indian tribes to improve services for victims of crime.” In the FY 2019 budget, Congress authorized a Tribal Set-Aside of $167.65 million (5 percent), for the same purposes. OVC distributed the FY 2018 and FY 2019 set-asides as competitive discretionary grant award programs with a 36-month project period to all eligible applicants, which included federally recognized Indian tribal governments, legal entities acting as the authorized designees of federally recognized Indian tribes, and tribal consortia made up of two or more federally recognized Indian tribes.

FY 2020: Introduction of the Tribal Set-Aside Formula

Congress authorized a 5 percent Tribal Set-Aside from the CVF for FY 2020, resulting in a total of $132.05 million for distribution to eligible applicants. Based on feedback received from Tribal leaders and representatives at tribal consultations and Federal Advisory Committee meetings, OVC collaborated with the Bureau of Justice Statistics to create an interim, population-based formula to distribute the set-aside funds for FY 2020. (See Appendix A for a flow chart, which outlines the formula allocation process.)

In FY 2020, OVC introduced a noncompetitive two-phase application process. In phase one, all eligible applicants were required to submit a declaration of the size of the population that would be served by its proposed project. OVC used the data included in these declarations to distribute the available set-aside funds among all eligible applicants who submitted a timely declaration. OVC then informed each phase one applicant about their total share of the formula allocation for FY 2020. In phase two, OVC invited these applicants to submit a full application for their allocation amount, including a program narrative and budget. OVC permitted each phase two
applicant the flexibility to select their own award period of 12−60 months.

Some applicants participated in phase one but not phase two, and some phase two applicants submitted applications that totaled less than their formula allocation amount. OVC ultimately made 133 awards, totaling $112.6 million to eligible applicants under the FY 2020 TVSSA Program. OVC redistributed the unclaimed set-aside funds to other eligible tribal governments and organizations who submitted applications for funding to OVC’s other FY 2020 discretionary grant programs.

FY 2021: Tribal Set-Aside Results

Congress authorized a 5 percent Tribal Set-Aside from CVF receipts in FY 2021, resulting in a total set-aside of $100.75 million. As in FY 2020, OVC invited all federally recognized tribes to apply for set-aside funding, regardless of whether they received funding in the past, and regardless of the unobligated (unexpended) balance or time remaining in the award period for their previous Tribal Set-Aside awards. A streamlined, noncompetitive two-phase application process was used. OVC made 142 TVSSA awards in FY 2021 totaling $90,321,186. Remaining funds supported training and technical assistance projects to help Tribes implement their victim services projects, creation of a map of all available victim service projects, support for Victim Service Specialists to assist victims with federal cases, planning for the December 2022 Indian Nations Conference, and support for the Tribal Assistance Program to connect tribes to federal criminal justice databases.

FY 2022: Tribal Set-Aside Results

As part of the FY 2022 budget Congress authorized a 5 percent Tribal Set-Aside from CVF receipts, resulting in a total set-aside of $130 million. As in FY 2021, in FY 2022 OVC invited all federally recognized tribes to apply for set-aside funding, regardless of whether they received funding in the past, and regardless of the unobligated (unexpended) balance or time remaining in the award period for their previous Tribal Set-Aside awards.

On January 14, 2022, OVC invited all eligible applicants to submit a population certificate by February 15, 2022 to signal their intent to participate in the FY 2022 Tribal Victim Services Set-Aside (TVSSA) Formula Grant Program. OVC hosted a webinar to provide a program overview and technical assistance to potential applicants on how to complete and submit the required population certificate. OVC enlisted the assistance of multiple agencies and organizations to promote these webinars to tribes, including the Office on Violence Against Women, the Office of Tribal Justice, and its tribal training and technical assistance providers. OVC received 194 population certificates from eligible applicants, including those Tribes participating in consortia. OVC applied a minimum award of $300,000 to each participating Tribe, and then applied the same formula that was used in FY 2021 to allocate the FY 2022 available funds. On April 20, 2022, OVC sent a letter, and a list of the FY 2022 formula allocation amounts, to all eligible Tribes who had submitted Population Certifications, inviting them to submit a noncompetitive application into the Department’s online JustGrants system no later than June 23, 2022 to receive their formula-allocated funds.

Applicants were provided the option of completing their application program description in one of three formats: (1) as a traditional program narrative not to exceed 20 pages; (2) as a checklist
using the format provided within the solicitation; or (3) via an interview with OVC staff who would document the information about the planned project into a checklist that the grantee would submit with their application. As a result, 58 applicants requested the option of developing the program narrative via an interview with OVC staff.

OVC staff hosted webinars to provide guidance and technical assistance to applicants on the application requirements and submission process and to answer their questions. OVC posted the webinar recording, presentation materials, and transcript on its website. Because some applicants had difficulty submitting their applications by the deadline, OVC extended the deadline until July 7th and then re-opened JustGrants again on July 13th and 14th to accept the applications of all Tribes who planned to apply.

Twenty-one Tribes either withdrew or did not complete the application process in FY 2022. The formula allocations for these 21 Tribes were re-allocated to participating Tribes using the same Tier-structure of the original formula. In August and September 2022, OVC conducted outreach to those that did not apply to learn why. Some of the Tribes realized new funding was not needed. Other Tribes mentioned turnover in staff or Tribal leadership; not enough time to develop the application; or lack of communication or confusion about the application process.

OVC made 169 TVSSA awards in FY 2022, totaling $116,260,509. (See Appendix B for a list of the FY 2022 TVSSA Program allocations.) Remaining funds supported:

- training and technical assistance projects to support Tribes in implementing their victim services projects,
- delivering the December 2022 Indian Nations Conference,
- hiring Victim Service Specialists to assist victims with federal cases, and
- providing funding to Tribes participating in Project Beacon: Increasing Access to Services for Urban American Indian and Alaska Native Victims of Human Trafficking Program and in the Coordinated Tribal Assistance Solicitation program (see Appendix C).

**OVC’s Modifications to the TVSSA Program in Response to Feedback from Tribes**

OVC has made changes to the TVSSA program over the years in response to feedback from Tribal leaders received in Consultations, listening sessions, and Federal Advisory Committees. For example:

- Establishing a Tribal Division with staff dedicated to administering the TVSSA formula grant program, and other tribal grant programs.
- Implementing a formula for disbursing Tribal Set-Aside funds, in response to past tribal consultations, Federal Advisory Committee hearings, and listening sessions, where Tribal leaders expressed a strong preference that the Tribal Set-Aside funding from the Crime Victims Fund be distributed using a formula rather than as a competitive program.
• Offering TVSSA program applicants the flexibility to choose an award period between 12–60 months, an option that is unique among OVC’s discretionary grant programs, and that is designed to address Tribal leaders’ concerns that a 36-month award period did not adequately meet the needs of their communities.

• Simplifying the TVSSA program application process, eliminating the requirement for project abstracts, and offering tribal applicants the choice between developing a project narrative, simply completing a checklist, or having a conversation with OVC staff to document their project design plans.

• Utilizing a two-stage formula allocation to divide unclaimed TVSSA funds among participating tribes.

• Clarifying the allowability of certain expenses related to culturally specific victim services: Consuming indigenous foods, and the ceremonial and communal preparation and sharing of food, which reinforces social and familial bonds, and preserves indigenous culture. In some circumstances, native tradition calls for the preparation and sharing of food in a community setting as a part of a ceremonial healing response to an individual who has undergone trauma and seeks to become realigned with the community and restored to health and balance.

• Clarifying how construction costs might be supported with TVSSA formula grants.

• Expanding the allowable uses of TVSSA grant funds to support victim services in Missing or Murdered Indigenous Person (MMIP) cases. In May 2022, OVC conducted a webinar to highlight that the funds can be used when:

  o the missing individual is known to be the victim of kidnapping or human trafficking (or was being groomed by a trafficker);

  o the individual’s disappearance is the subject of a law enforcement investigation;

  o the individual is feared by family members or loved ones to be missing as a result of any form of criminal victimization; or

  o the missing individual is known to have prior history of crime victimization and the victimization may be directly or indirectly linked to their status as a missing person.

• For MMIP, applicants may also use TVSSA funds to:

  o Develop response protocols among a multi-disciplinary, inter-jurisdictional group of agencies and organizations responsible for responding to cases of MMIP.

  o Educate the community about what to do when a loved one goes missing.

  o Educate the community about the intersection of MMIP and other crimes by integrating MMIP issues into existing awareness events (e.g., awareness month
activities for domestic violence, sexual assault, stalking, human trafficking),
and/or awareness activities about National Missing and Murdered Indigenous
Women’s Day.

- Promote community awareness of grant-funded services available to the family
  and loved ones of MMIP.
- Help raise awareness of missing individuals from the communities that they serve,
  when the circumstances of their disappearance are consistent with any of the four
  circumstances outlined above, by renting billboards, printing placards, leaflets,
  and other display materials, or hosting awareness walks or other commemorative
  events.

**FY 2022 Changes to OVC’s Training and Technical Assistance to Tribes**

The number of OVC tribal grantees has risen exponentially since 2018 and with that growth, so
has the need for capacity building and technical assistance to support those grantees. In
alignment with OJP policy to fund large technical assistance projects under contracts instead of
cooperative agreements, OVC facilitated a competitive procurement process in 2022, which
resulted in the awarding of a new, 5-year contract to provide capacity building support and
technical assistance of OVC tribal grantees. This effort is called the Tribal Victim Services
Capacity Building and Technical Assistance Program (“CTAP”). The staff who will work on the
CTAP program are located throughout the lower 48 and Alaska, and have experience working
with tribal communities. The CTAP partnership is comprised of Booz, Allen, Hamilton; Tribal
Tech; Unapologetically Rez; RurAL CAP; and the National Center for Victims of Crime.
Experts from various disciplines and tribally focused organizations will be hired as consultants,
as needed, to meet Tribes’ needs for technical assistance. The benefits of funding technical
assistance under a contract are: 1) the project period can be 5 years; and 2) OJP can direct the
contractors to hire staff with particular expertise and backgrounds (e.g., staff who live and work
in Alaska); and 3) under the contract OVC can retain other experts as consultants as needed to
meet Tribes’ needs.

**ANTICIPATING THE FY 2023 TRIBAL SET-ASIDE**

OVC anticipates that Congress will again carve out a set-aside for tribes as part of its annual
allocation of Crime Victims Fund receipts in FY 2023. The set-aside may be greater or less than
the set-asides from previous years, which will impact the amount of money available for TVSSA
formula awards next year.

OVC is proposing to retain many the TVSSA program features that have come to define the
program 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 to signal their intent to participate in the program in winter 2023
and a program narrative or checklist (or interview with OVC in lieu of a narrative) and budget 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 addition to this report, OVC has issued a framing paper, which outlines issues for discussion at the November 2022 consultation.
APPENDIX A

TVSSA Program Formula
Allocation Process Flow Chart
Tribes, tribal designees, and tribal consortia ("applicants") submit a population certification signifying their intent to participate in the TVSSA formula program.

OJP sorts the applicants into tiers based on population.

OJP sets a minimum award amount, the "base" award.

OJP calculates each tier's share of the overall tribal population by summing the individual populations for each tribe within a given tier and dividing the result by the total population of all tiers.

This process is repeated until all funds are expended and no awards are above the cap.

OJP assigns the minimum award amount to each tribe, then adds to that base award a bonus amount based on their tier's share of the population calculated in previous step.

OVC notifies applicants of their formula award amount.

Based on the number of awards to be made, OJP sets the "cap" on the maximum award.

Each award amount is compared against the award cap.

If the total award is above the cap, the applicant is assigned an award of the maximum amount and any funds allocated to that award above the cap are redistributed as additional funds to applicants whose initial awards are below the cap.

If there are unclaimed funds (e.g., because a tribe submitted a population certification but not a full application), OJP may allocate any remaining formula funds to other applicants using a population tier based formula.

Applicants submit applications with project narrative and budget for their allocated award amount in JustGrants.

OVC awards TVSSA Program grants.
APPENDIX B

FY 2022 Final TVSSA Formula Allocations
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APPENDIX C

Non-Formula Program Allocations
from the FY 2022 TVSSA
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<tr>
<th>Purpose of Funding</th>
<th>Amount</th>
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<tr>
<td>Planning and conducting the 19th National Indian Nations Conference</td>
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<td>Tribal Financial Management Center</td>
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<td><strong>Purpose Area 2 Grantees and Purpose Area 6 Grantees:</strong></td>
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<td>• Scotts Valley Band Of Pomo Indians</td>
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<td>• The Pinoleville Pomo Nation</td>
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<tr>
<td>• Penobscot Indian Nation</td>
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<tr>
<td>• Kalispel Tribe Of Indians</td>
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<td><em>(Other Tribes listed below were awarded CTAS Purpose Area 6 awards funded with Children’s Justice Act Funds.)</em></td>
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<td>BIA positions in Oklahoma City, Anadarko, Mountain Ute Tribe, and Winnebago</td>
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<td>BIA Victim Specialists, BIA Victim Assistance Program Manager position</td>
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<td>The National Park Service Victim Assistance Program</td>
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<td><strong>Project Beacon Increasing Access to Services for Urban American Indian and Alaska Native Victims of Human Trafficking</strong></td>
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<td>• The Nebraska Urban Indian Health Coalition, Inc.</td>
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<td>• All Nations Community Health Center, Inc.</td>
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<td>• The Gerald L. Ignace Indian Health Center</td>
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<td>• The Dallas Inter-Tribal Center</td>
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<tr>
<td>• The Minnesota Indian Women’s Sexual Assault Coalition</td>
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*CTAS Purpose Area 6 Awards funded with Children’s Justice Act Funds:
- The Chippewa Cree Tribe of the Rocky Boy Reservation
- Alaska Native Justice Center Inc.
- Kenaitze Indian Tribe
- Central Council Tlingit and Haida Indian Nation
- Salt River Pima- Maricopa Indian Community
- Swinomish Indian Tribal Community