

May 28: USET SPF Action Alert: Urge Full Distribution of VOCA Set Aside

Dear USET SPF Membership,

We write to update you on the Victims of Crime Act (VOCA) Tribal Set-Aside Program for Fiscal Years (FYs) 2019 and 2020 as administered by the Department of Justice (DOJ). Although hundreds millions of dollars have been set aside for Tribal Nations by law through the Congressional appropriations process, DOJ's mishandling of the distribution of these monies has resulted in unobligated funds being returned to the U.S. Treasury. The agency's poor outreach to Tribal Nations, arbitrary caps, onerous application and reporting requirements, and lack of effort to reallocate remaining dollars stand to jeopardize continued program funding.

Background

In 1984, the VOCA established the Crime Victims Fund, which awards grants to thousands of victim assistance programs across the country, as well as compensation to victims for losses related to crime. After years of advocacy from Tribal Nations, Congress enacted a 3% (or \$133 million) Tribal Set-Aside in FY 2018 within the Crime Victims Fund for the very first time.

Indian Country currently faces an epidemic of crime, with Tribal citizens 2.5 times more likely to become victims of violent crime and Native women, in particular, subject to higher rates of domestic violence and abuse. And yet, until FY 2018 appropriations were enacted, Tribal Nations did not have direct access to funding that would allow us provide victim services to our citizens.

Out of the 3% FY 2018 set-aside, \$110 million was made available to Tribal Nations and Tribal organizations through grants with a cap of \$720,000 per Tribal Nation, and with discretion for DOJ to include increases. While DOJ consulted with Tribal Nations on the distribution of these dollars and USET SPF urged maximum flexibility [comments linked], the agency's outreach, solicitation, and grant requirements did not reflect this guidance. Moreover, DOJ opted not to fund a full 20% of applicants—with only 154 out of 195 receiving grant awards of just \$88 million. Rather than find a way to distribute remaining funds, DOJ returned \$24 million to Treasury in unobligated dollars. There have been no efforts on the part of DOJ to reissue these funds to Tribal Nations.

Availability of Grant Dollars for FY 2019

In February 2019, Crime Victims Tribal Set-Aside funding for FY 2019 was provided in the amount of \$167.5 million (a 5% increase from FY 2018) under the Coordinated Tribal Assistance Solicitation (CTAS). Despite the increase in funding, DOJ sought to cap funding for each application at \$500,000. Due to the short deadline, stringent eligibility requirements, and small funding cap, many Tribal Nations did not seek this funding. As a result, only 59 Tribal Nations applied. With the cap of \$500,000 imposed by DOJ, that means only up to \$29 million (likely less) of the \$167.5 million set-aside has been distributed to Indian Country.

We have been informed that an additional funding opportunity will be announced soon by DOJ for the remainder of FY 2019. USET SPF is deeply concerned that if DOJ again fails to obligate the entirety of funding and returns dollars to Treasury, Congress will be lead to believe that the set aside is unnecessary. **That is why USET SPF is encouraging interested member Tribal Nations to take advantage of the additional funding opportunity for FY 2019.** In the short-term, a surge in applications from Tribal Nations will underscore the importance of the set aside in Indian Country, as well as provide DOJ with an opportunity to obligate the total funding available. We will forward the solicitation when it becomes available.

Tribal Set-Aside for FY 2020 and Beyond

In the long-term, DOJ must be required to change its distribution methods in accordance with Tribal Nation guidance. On May 17th, 2019, the House Appropriations Committee approved a draft FY 2020 Commerce-Justice-Science appropriations bill. However, due to input from DOJ, the draft bill includes language that the OVC shall distribute a 5% Crime Victims Tribal Set-Aside via grants. Now is a critical moment to influence the distribution process going forward, with both the legislative and executive branches.

On May 15th, 2019, the Senate Committee on Indian Affairs (SCIA) held an [oversight hearing](#) on the President's FY 2020 budget request for DOJ. Testimony for the record of the hearing is due Wednesday, May 29th to testimony@indian.senate.gov. **USET SPF encourages member Tribal Nations to submit testimony for the record urging Congress to ensure DOJ takes the appropriate steps to distribute the total set aside in Indian Country as intended.**

In addition, DOJ issued a Dear Tribal Leader Letter ([attached](#)) on April 2nd initiating consultation on how potential future Tribal set-aside funding from the Crime Victims Fund should be distributed. **USET SPF recommends member Tribal Nations submit comments to DOJ directing the agency to determine a funding mechanism that ensures that critical funding is fully distributed to Indian Country.** USET SPF has consistently advocated that federal funding for Indian programs must be delivered via contracts and compacts, as Tribal Nations should not be subject to onerous application and reporting requirements of grant-based funding. Comments are due July 1st, at 5:00p.m. EST.

The VOCA set aside was designed to provide Tribal Nations and Tribal organizations, in parity with states, resources to deliver comprehensive services and compensation to crime victims within Tribal communities. However, since 2018, \$162.5 million in Tribal set aside funding has not been allocated to Tribal Nations. As an agency of the federal government, DOJ has a trust obligation to ensure Tribal Nations have access to resources to address crime in Indian Country. The failure in ensuring these critical funds are delivered to Tribal Nations is a violation of that obligation.

Thank you for your time and attention to this matter. As always, please feel free to reach out with any questions or concerns.

Sincerely,

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"The United States expects all nations to live up to their treaty obligations; it should live up to its own."
– U.S. Commission on Civil Rights briefing report, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*

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