

#### § 90.54

the incident that is the subject of the arrest or criminal prosecution, or

(2) Assures that its laws, policies and practices will be in compliance with these requirements by September 13, 1996. (Section 2006.)

#### § 90.54 Allocation of funds.

(a) 4% of the total amounts appropriated for this Program under section 2002(b) shall be available for grants directly to Indian tribal governments.

(b) Indian tribal governments may make individual applications, or apply as a consortium.

(c) Funding limits the number of awards. The selection process will be sensitive to the differences among tribal governments and will take into account the applicants' varying needs in addressing violence against women.

#### § 90.55 Matching requirements.

(a) A grant made to an Indian tribal government under this subpart C may not be expended for more than 75% of the total costs of the individual projects described in the application. Section 2002(g). A 25% non-Federal match is required. This 25% match may be cash or in-kind services. Applicants are expected to submit a narrative that identifies the source of the match.

(b) In-kind match may include donations of expendable equipment, office supplies, workshop or classroom materials, work space, or the monetary value of time contributed by professional and technical personnel and other skilled and unskilled labor if the services they provide are an integral and necessary part of a funded project. The value placed on loaned or donated equipment may not exceed its fair rental value. The value placed on donated services must be consistent with the rate of compensation paid for similar work in the organization or the labor market. Fringe benefits may be included in the valuation. Volunteer services must be documented and, to the extent feasible, supported by the same methods used by the recipient organization for its own employees. The value of donated space may not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately owned building in

#### 28 CFR Ch. I (7-1-03 Edition)

the same locality. The basis for determining the value of personal services, materials, equipment, and space must be documented.

(c) The match expenditures must be committed for each funded project and may be derived from funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands. Nonprofit, nongovernmental victim services programs funded through subgrants are exempt from the matching requirement; all other subgrantees must provide a 25% match and reflect how the match will be used.

(d) All funds designated as match are restricted to the same uses as the Violence Against Women Program funds and must be expended within the grant period. The applicant must ensure that match is identified in a manner that guarantees its accountability during an audit.

#### § 90.56 Non-supplantation.

Federal funds received under this part shall be used to supplement, not supplant funds that would otherwise be available to State and local public agencies for expenditure on activities described in this part.

#### § 90.57 Application content.

(a) *Format.* Applications from the Indian tribal groups for the Indian Tribal Governments Discretionary Grants Program must, under this subpart, be submitted on Standard Form 424, *Application for Federal Assistance*, at a time specified by the Office of Justice Programs.

(b) *Programs.* (1) Applications must set forth programs and projects for a one year period which meet the purposes and criteria of the grant program set out in section 2001(b) and § 90.12.

(2) Plans should be developed by consulting with tribal law enforcement, prosecutors, courts, and victim services, to the extent that they exist, and women in the community to be served. Applicants are also encouraged to integrate into their plans tribal methods of addressing violent crimes against women. Additionally, tribes may want to develop a domestic violence code, if

one is not already in place, to facilitate the implementation of strategies which have reduced violence against women in other court systems.

(c) *Requirements.* Applicants in their applications shall at the minimum:

(1) Describe the project or projects to be funded.

(2) Agree to cooperate with the National Institute of Justice in a Federally-sponsored evaluation of their projects.

(d) *Certifications.* (1) As required by section 2002(c) each Indian tribal government must certify in its application that it has met the requirements of this subpart regarding the use of funds for eligible purposes (§90.52); and non-supplantation (§90.56).

(2) A certification that all the information contained in the application is correct, that all submissions will be treated as a material representation of fact upon which reliance will be placed, that any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

#### §90.58 Evaluation.

The National Institute of Justice will conduct an evaluation of these programs.

#### §90.59 Grantee reporting.

(a) Upon completion of the grant period under this part, an Indian tribal grantee shall file a performance report with the Assistant Attorney General for the Office of Justice Programs explaining the activities carried out, including an assessment of the effectiveness of those activities in achieving the purposes of this subpart. Section 2002(h)(1).

(b) The Assistant Attorney General shall suspend funding for an approved application if:

(1) An applicant fails to submit an annual performance report;

(2) Funds are expended for purposes other than those described in this subchapter; or

(3) A report under this section or accompanying assessments demonstrate to the Assistant Attorney General that the program is ineffective or financially unsound.

### Subpart D—Arrest Policies in Domestic Violence Cases

SOURCE: 61 FR 40733, Aug. 6, 1996, unless otherwise noted.

#### §90.60 Scope.

This subpart sets forth the statutory framework of the Violence Against Women Act's sections seeking to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law.

#### §90.61 Definitions.

For purposes of this subpart, the following definitions apply.

(a) *Domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the eligible State, Indian tribal government, or unit of local government that receives a grant under this subchapter.

(b) *Protection order* includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

(c) *Unit of local government* means any city, county, township, town, borough, parish, village, or other general-purpose political subdivision of a State; an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement