



U.S. Department of Justice
OVW
Office on Violence Against Women
Working Together to End the Violence

Frequently Asked Questions:
State Consultation and Coordination with Tribes
as Required for STOP Violence Against Women
Grant Program Implementation Planning under
34 U.S.C. 10446(c)(2)(F)

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Q: What is the requirement for state consultation and coordination with tribes under the STOP Program statute?

A: The statute governing the STOP Violence Against Women Grant Program (STOP Program) (34 U.S.C. 10446(c)(2)) requires that states develop a plan for implementation of STOP Program funding and “consult and coordinate” with a list of different entities. Subparagraph (F) specifically provides that such entities include “[t]ribal governments in those States with State or federally recognized Indian tribes.” *Id.* at 10446(c)(2)(F).

Q: What tribal entities must be consulted?

A: The STOP Program’s implementing regulation, 28 CFR 90.12(b)(3), provides that states must invite *all* state or federally recognized tribes to participate in the planning process. Tribal coalitions (i.e., nonprofit membership organizations that comprise tribal advocates and service providers) and state or regional tribal consortia may help the state to reach out to the tribes, but the regulations do not authorize coalitions or consortia to be used as a substitute for consultation with all tribes. 28 CFR 90.12(b)(3).

Q: How can states meet the mandate to “consult and coordinate” with tribes under the STOP Program statute?

A: OVW recommends that the state enter into a meaningful dialogue with the tribes that provides a real opportunity for tribes to offer their opinions regarding a proposed STOP implementation plan and to influence the shape of the final state plan. Mere notice to tribes of a state’s intended use of STOP Program funds, without allowing for input by the tribes, does not meet the mandate to “consult and coordinate” with tribes (and other entities). 42 U.S.C. 10446(c)(2). OVW recommends that all tribes should have a genuine opportunity to shape the direction of the entire plan, including the priority areas and plans for meeting the allocation categories (prosecution, law enforcement, courts, victim services, and culturally specific services).

Q: Why is it important to consult and coordinate with tribes?

A: Consultation and coordination with tribes is valuable because a state’s STOP implementation plan is intended to address the needs of all victims within the state, including tribal victims. Each tribe is unique, so it is important to hear from all of them. 28 CFR 90.12(b)(3) and (8). States should be aware that tribes may be interested in providing input about the implementation plan, and may have useful information for states about serving tribal survivors, even if the tribes are not seeking or relying upon STOP funding.

Q: Does the STOP Program statute require that a state’s STOP Program implementation planning process include consultation equivalent to Federal consultation under E.O. 13175?

A: No, it does not. E.O. 13175 addresses consultation between the federal government and Indian tribes and discusses the government-to-government relationship between the federal government and tribes. States do not have the same unique legal relationship with tribes that the federal government does. In addition, the STOP statute uses the term “consult” to apply to the full list of participants that must be involved in the planning process, not just the tribal ones. 42 U.S.C. 10446(c)(2).

Q: What documentation must the state create, retain, and provide to OVW as to its consultation and coordination with tribes?

A: The STOP Program regulation explains a state STOP Administrators’ documentation obligations under the STOP Program. 28 CFR 90.12(c). Certain documentation must be retained regarding all parties consulted, including tribes, and additional documentation regarding all members of the planning committee must be submitted to OVW as part of the implementation plan. *Id.* Among other things, a state must retain information on to whom the draft plan was sent, how it was sent, and who responded. *Id.* at (c)(1). In addition, for states with state or federally recognized Indian tribes, the plan must include a description of efforts to reach tribes. *Id.* at (c)(2)(iii).

To meet these regulatory requirements, OVW recommends that implementation plans include information on:

- how the state communicated with each tribe (e.g., email, phone, etc.);
- the name(s) and position(s) of the person(s) who were involved from each tribe;
- what the state learned from the process, including any significant concerns that were expressed;
- how that communication shaped the final implementation plan; and
- the state’s plans for future and ongoing communication with tribes.

Q: What form should state consultation and coordination with tribes take?

A: A state has some discretion to identify an effective method to consult and coordinate with tribes in the state. The states could provide written documents for the tribes to comment on or invite the tribes to join meetings or conference calls. Some examples of meaningful consultation with tribes include listening tours and regional calls or meetings with tribal leaders: however, this is not an exhaustive list. States should reach out to tribal leaders as well as victim service providers, keeping in mind that tribal representatives may need authorization from tribal leaders to participate in the planning process. Regardless of format, states should make sure to give sufficient notice to tribes and keep records of who was invited, how and when they were invited (e.g., email), who invited them, and whether and how they participated.

Q: What is the role of tribal coalitions in state consultation and coordination with tribes?

A: At present, there are 18 tribal coalitions in 15 states. Tribal coalition staff have an understanding of the dynamics of domestic violence, dating violence, sexual assault, and stalking against Indian women and the needs of Native victims. They may be able to help facilitate states’ communication with tribes.

28 CFR 90.12(b)(3). The OVW website at <https://www.justice.gov/ovw/local-resources> includes contact information for tribal coalitions.

Q: Are there other entities that can assist with state consultation and coordination with tribes?

A: Yes, there are. For example:

- Many states or regions have intertribal councils or related groups that can facilitate communication with the tribes in the state or region and help document tribal views and concurrence. The National Congress of American Indians has a list of regional tribal organizations: <http://www.ncai.org/tribal-directory/tribal-organizations>.
- State governments may have designated tribal liaisons who can assist. States may also have existing tribal consultation processes for other federal or state programs, such as Medicaid, that STOP administrators can use or build upon for the STOP implementation plan. For example, the Centers for Medicare and Medicaid Services requires states to consult with tribes regarding Medicaid issues that affect tribes. State plans for conducting this consultation are available at <https://www.cms.gov/Outreach-and-Education/American-Indian-Alaska-Native/AIAN/StateTribal-RelationsonHealthcare.html#bookmark3>.

Q: How often should states engage with tribes?

A: OVW recommends that states engage in ongoing communication with tribes, not just every four years when the implementation plan is due. This kind of communication will help build relationships based on collaboration and trust and identify emerging trends and victim needs.

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This document is intended to provide information on state consultation and coordination with tribes as required for STOP Violence Against Women Grant Program implementation planning under 34 U.S.C. 10446(c)(2)(F). OVW has issued this document (1) to educate OVW grantees, subgrantees, and potential grantees and subgrantees through plain-language restatements of existing legal requirements; and (2) to provide non-binding advice on technical issues through examples or practices to guide the application or interpretation of statutes and regulations. The document itself is not binding, has no force or effect of law, does not create or affect any rights or obligations binding on persons or entities outside the federal government, and may be rescinded or modified in OVW's complete discretion. To the extent that this document uses terms such as "shall" or "must," it is restating legal requirements from existing statutes or regulations, as identified in the document. To the extent that the document uses terms such as "should" or "may," OVW is making recommendations and compliance with those standards is voluntary and therefore noncompliance will not, in itself, result in any enforcement action.