

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### 45 CFR Part 1370

RIN 0970-AC62

### Family Violence Prevention and Services Programs

**AGENCY:** Family and Youth Services Bureau (FYSB), Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Administration for Children and Families proposes to revise regulations applying to the Family Violence Prevention and Services Programs. These proposed revisions would update existing rules to reflect statutory changes, would update procedures for soliciting and awarding grants, and would make other changes to increase clarity and reduce potential confusion over statutory and regulatory standards. The proposed revisions would codify standards already used by the program in the Funding Opportunity Announcements and awards, in technical assistance, in reporting requirements, and in sub-regulatory guidance.

**DATES:** In order to be considered, comments on this proposed rule must be received on or before December 14, 2015. Current Family Violence Prevention and Services regulations remain in effect until this NPRM becomes final.

**ADDRESSES:** You may submit comments, identified by [docket number and using/ or RIN number], by any of the following methods: (1) Electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> or (2) by mail to the Associate Commissioner, Family and Youth Services Bureau, Administration for Children and Families, 1250 Maryland Ave. SW., Washington, DC 20024.

**Instructions:** All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to [www.regulations.gov](http://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the

**SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

#### I. Statutory Authority

This proposed regulation is published under the authority granted to the Secretary of Health and Human Services by the Family Violence Prevention and Services Act (FVPSA), 42 U.S.C. 10404(a)(4), as most recently amended by the Child Abuse Prevention and Treatment (CAPTA) Reauthorization Act of 2010 (Public Law (Pub. L.) 111-320).

#### II. Public Participation

Pursuant to the Administrative Procedure Act, the Department allows a period of time for members of the public to comment on proposed rules. In this case we will allow 60 days for comments. In making any modifications to this notice of proposed rulemaking, we are not required to consider comments received beyond the 60-day comment period. To make sure your comments are addressed fully, we suggest the following:

- Be specific;
- Address only issues raised by the proposed rule, not the provisions of the law itself;
- Explain reasons for any objections or recommended changes;
- Propose appropriate alternatives; and
- Reference the specific section of the notice of the proposed rulemaking being addressed.

#### III. Organization of the NPRM

The preamble to this proposed rule is organized as follows:

- Background;
- Consultation and the development of the NPRM;
- Scope of the proposed rule; and
- Section-by-section discussion of the regulatory provisions.

The use of the word(s) "propose" or "we propose" throughout the NPRM is meant to remind readers that this document is proposed as revised regulatory guidance. The language used should not be construed to mean that statutory definitions and provisions are being changed but rather more fully explained and clarified within the context of the programming and services laid out in the statute, and to ensure

consistency with definitions used by other HHS components.

The section-by-section analysis is organized to follow the framework of 45 CFR part 1370. It proposes revisions or additions to the current rule in the following areas:

- Stated purposes of the program;
- significant terms used in the program;
- other Federal requirements;
- requirements that apply to all family violence prevention and services grants;
- eligibility for grants;
- application procedures; and
- other issues that may arise in the administration of the FVPSA program.

In addition to program-wide standards, specific standards are proposed for each of the major grant programs authorized under the Family Violence Prevention and Services Act.

#### IV. Background

As the President proclaimed during the 2014 National Domestic Violence Awareness Month, "Domestic violence affects every American. It harms our communities, weakens the foundation of our Nation, and hurts those we love most . . . we acknowledge the progress made in reducing these shameful crimes, embrace the basic human right to be free from violence and abuse, and recognize that more work remains until every individual is able to live free from fear."<sup>1</sup> Programs and services funded by the Family Violence Prevention and Services Act ("FVPSA") are critical pieces in the Administration's fight to end domestic violence.

FVPSA authorizes three formula grant programs and other discretionary grant programs administered by the Family and Youth Services Bureau (FYSB), Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), in the Department of Health and Human Services (HHS). These programs comprise the primary Federal funding stream dedicated to the support of emergency shelter and supportive services for victims of family violence, domestic violence, or dating violence, and their dependents. The FVPSA also authorizes additional activities conducted through grants, including but not limited to grants for research, evaluation, and service projects; grants for a national domestic violence hotline, including evaluation; grants for specialized services to abused parents and their children; grants for State

<sup>1</sup> <https://www.whitehouse.gov/the-press-office/2014/09/30/presidential-proclamation-national-domestic-violence-awareness-month-2014>.

resource centers to reduce disparities in domestic violence in States with high proportions of Indian (including Alaska Native) or Native Hawaiian populations; and, grants for national and special issue resource centers and technical assistance and training relating to family violence, domestic violence, and dating violence. The Formula Grants to States Program (hereafter referred to as the State Grant Program) awards grants to States, the Grants for Indian Tribes Program (hereafter referred to as the Tribal Grant Program) awards grants to Tribes or Tribal organizations and Alaska Native Villages, and the Grants to State Domestic Violence Coalitions Program (hereafter referred to as Coalitions Grant Program) awards grants to statewide, nongovernmental, nonprofit 501(c)(3), private, domestic violence organizations. The proposed rule covers all of these activities.

The National and Special Issue Resource Centers and Training and Technical Assistance Centers' Programs (hereafter referred to as Resource Centers, Special Issue Resource Centers and Culturally-Specific Special Issue Resource Centers) provide resource information, training, and technical assistance to improve the capacity of individuals, organizations, governmental entities, and communities to prevent family violence, domestic violence, and dating violence and to provide effective intervention services.

The CAPTA Reauthorization Act of 2010 reauthorized and made a number of changes to the FVPSA (see also 42 U.S.C. 10401 *et seq.*). These changes include:

(1) Expanded purpose areas to include family violence, domestic violence and dating violence (42 U.S.C. 10401(b));

(2) an expanded definitions section to clarify statutory language (42 U.S.C. 10402);

(3) expanded authority of the Secretary to promulgate regulations and guidance as necessary and updated the Secretary's authority to coordinate programs across the Department and with other Federal agencies, provide for and coordinate research and evaluation, and develop effective policies to address the needs of adult and youth victims of family violence, domestic violence and dating violence (42 U.S.C. 10404(a) and (b));

(4) a new State Formula grant requirement to provide specialized services for children exposed to family violence, domestic violence, or dating violence, underserved populations, and victims who are members of racial and ethnic minority populations (42 U.S.C. 10406(a)(3));

(5) nondisclosure of confidential or private information provisions that are consistent with the provisions of the Violence Against Women Act (VAWA) (42 U.S.C. 10406(c)(5));

(6) requirement that a Tribally designated official be named in Tribal applications for administration of grant programs (42 U.S.C. 10407(a)(1));

(7) clarification that administrative costs are limited to no more than 5% of State formula grants (42 U.S.C. 10407(a)(2)(B)(i));

(8) additional requirements to strengthen the consultation between States and State Domestic Violence Coalitions (42 U.S.C. 10407(a)(2)(D));

(9) changes to statutory language in the State grants and sub-grants section that requires funds to be used for providing immediate shelter and supportive services for adult and youth victims of family violence, domestic violence, or dating violence (and their dependents), and that may provide prevention services (42 U.S.C. 10408(a) and (b));

(10) expanded eligibility of the types of nonprofit private organizations that may receive State sub-grants to include community-based organizations and Tribal organizations, in addition to faith-based and charitable organizations, and voluntary associations (42 U.S.C. 10408(c)(1));

(11) a new provision that expands entities eligible for State formula sub-grantee funding to include partnerships of two or more agencies or organizations that have a documented history of effective work concerning family violence, domestic violence, or dating violence and an agency or organization that has a demonstrated history of serving populations in their communities, including providing culturally appropriate services (42 U.S.C. 10408(c)(2));

(12) clarification that the receipt of supportive services must be accepted voluntarily and that no condition may be applied for the receipt of emergency shelter (42 U.S.C. 10408(d)(2));

(13) a new requirement for Federal consultation with Tribal governments in the planning of grants for Indian Tribes (42 U.S.C. 10409(a));

(14) a requirement for two national resource centers on domestic violence, including one national Indian resource center to address domestic violence and safety for Indian women (42 U.S.C. 10410);

(15) a requirement for at least seven special issue resource centers including three focused on enhancing domestic violence intervention and prevention efforts for victims of domestic violence who are members of racial and ethnic

minority groups to enhance the cultural and linguistic relevancy of service delivery (42 U.S.C. 10410);

(16) a provision giving the Secretary the discretionary authority to award grants to State resource centers to reduce Tribal disparities in domestic violence in eligible States (42 U.S.C. § 10410);

(17) clarification of the activities of State Domestic Violence Coalitions (42 U.S.C. 10411);

(18) new opt-out provisions for certain coalition activities if annual assurances are provided by Coalitions that the activities are being provided and coordinated under other specific Federal funding streams (42 U.S.C. 10411(e));

(19) a requirement that the Secretary establish a new program for specialized services for abused parents and their children with discretionary authority to make grants (42 U.S.C. 10412); such specialized services may include but are not limited to: providing direct counseling that is developmentally and age appropriate and culturally and linguistically appropriate to victims and their children, including services that are coordinated with services provided by the child welfare system; and, to provide services for non-abusing parents to support those parents' roles as caregivers and their role in responding to the social, emotional, and developmental needs of their children;

(20) clarification that a grant to one or more private entities may be made for ongoing operation of the National Domestic Violence Hotline that serves adult and youth victims of family violence, domestic violence, or dating violence (42 U.S.C. 10413(a)); including, allowing the provision of hotline services to youth victims of domestic violence or dating violence who are minors through a national teen dating violence hotline (42 U.S.C. 10413(d)(2)(G)). This notice of proposed rulemaking would revise regulations applying to the Family Violence Prevention and Services Programs, except for the Domestic Violence Prevention Enhancement and Leadership Through Alliances Program (DELTA) contained in Section 314 of the Family Violence Prevention and Services Act (FVPSA—codified in 42 U.S.C. 10414), which is separately funded and administered by the Centers for Disease Control and Prevention, Division of Violence Prevention.

While we have already implemented most of these provisions through the Funding Opportunity Announcements, technical assistance and training, and Information Memoranda issuances, this proposed rule would allow us to

integrate these legislative requirements into our codified rules. In addition, it would bring our codified regulations, last updated on February 22, 1996 (61 FR 6791), into conformity with the administrative and managerial procedures we already use in compliance with FVPSA. We do not propose to codify every provision of the statute. Finally, the proposed rule identifies a number of important linkages between the FVPSA programs and those programs conducted by the Department of Justice and authorized by VAWA. For example, both statutes contain strict prohibitions against disclosure of confidential or private information to ensure the safety of persons receiving services.

#### V. Consultation and the Development of the NPRM

It is our intent in this section of the NPRM preamble to highlight the various meetings and consultations, among many other activities we conducted, that assisted in the development of the NPRM. To support our statutory responsibilities for administering the State and Coalition formula grants, contingent upon available funding, we host either an annual or bi-annual, joint grantee meeting of the State FVPSA funding administrators and the State Domestic Violence Coalitions. The grantee meeting facilitates partnership building between the respective State and Coalition cohorts and across all States and Coalitions, shares and promotes best practices related to the provision of prevention and intervention services for victims of family, domestic, and dating violence (with speakers, lecturers, and facilitators on a broad range of issues in the field), and provides program guidance on implementing the statutory requirements of the FVPSA. These meetings provide important opportunities for Federal, State, and private staff to engage with each other to learn about and address issues of intersecting importance, including issues such as protecting victim/survivor confidentiality that are addressed in this proposed rule.

The National Resource Centers, Special Issue Resource Centers, and Culturally-Specific Special Issue Resource Centers comprise what is known as the FVPSA Domestic Violence Resource Network (DVRN). The DVRN convenes every one to two years to share and promote evidence-informed and best practices about prevention and intervention services for victims of family, domestic, and dating violence. Expert speakers and lecturers present on a broad range of subject matter

important to the field. ACF also provides program guidance on implementing statutory requirements at the meetings.

ACF funded Tribal administrators, advocates, and leaders also are convened annually, contingent upon funding. The Tribal grantee meeting allows grantees to provide and receive technical assistance and training. Issues addressed and best practices shared are most commonly related to service delivery; new initiatives; business needs; funding issues; information exchange; collaborations ranging from service delivery models to police response; cultural sensitivity; advocacy; and the statutory requirements of the FVPSA.

ACF also hosts annual Tribal consultations. Tribal consultations discuss ACF programs and Tribal priorities and to build meaningful relationships with Federally recognized Tribes. The consultations solicit recommendations and/or mutual understanding from Tribal government leaders on issues ranging from funding availability to departmental priorities.

In addition, ACF staff participates in annual Tribal consultations sponsored by the Department of Justice Office on Violence Against Women. The purpose of those consultations is to engage in a government-to-government dialogue between the United States Government and the leaders from Indian Tribal governments on how to best enhance the safety of Alaska Natives and American Indians and reduce domestic violence, dating violence, sexual assault, and stalking committed against them. The consultations also solicit recommendations from Tribal government leaders on administering grant funds.

Finally, development of the NPRM included ongoing analyses of formula and discretionary grantees' annual performance reports as well as site visit reports and desk reviews. Information gleaned from these sources helped to identify grantees' successes and challenges implementing FVPSA requirements and, therefore, informed the NPRM development process.

#### VI. Scope of the Proposed Rule

This rule proposes to revise existing regulatory standards to help improve the administration of the FVPSA, to provide greater clarity and transparency to ACF's implementation of the statute, and to bring the program regulation into conformance with statutory provisions.

All grantees will be expected to comply with standards and other requirements upon the final rule's effective date. To assist grantees with

compliance, we will provide guidance on best practices for implementing the standards and revised requirements. We also plan to conduct technical assistance to help grantees understand and implement changes.

This proposed rule also makes technical changes to existing program rules to correct outdated provisions. It proposes to revise our regulatory provisions on making awards to reflect current program priorities and onsite review and monitoring procedures.

#### VII. Section-by-Section Discussion of the Regulatory Provisions

We propose to revise 45 Part 1370 to add a Subpart A for general provisions, add a Subpart B for State and Indian Tribal grants, add a Subpart C for State Domestic Violence Coalition grants, and add a Subpart D for Discretionary grants and contracts. We also propose to add a new table of contents to this part.

##### Subpart A—General Provisions

###### *Section 1370.1 What are the purposes of the Family Violence Prevention and Services Act programs?*

We propose to add § 1370.1 under new Subpart A, and to revise it to reflect the statute's current purposes found at 42 U.S.C. 10401(b). One major difference from the existing regulation is new language expanding purpose areas to include family violence, domestic violence, and dating violence. Specifically, the new purposes are: assist States and Indian Tribes in efforts to increase public awareness about, and primary and secondary prevention of, family violence, domestic violence, and dating violence; assist States and Indian Tribes in efforts to provide immediate shelter and supportive services for victims of family violence, domestic violence, or dating violence, and their dependents; provide for a national domestic violence hotline; and provide for technical assistance and training relating to family violence, domestic violence, and dating violence programs to States and Indian Tribes, local public agencies (including law enforcement agencies, courts, and legal, social service, and healthcare professionals in public agencies), nonprofit private organizations (including faith-based and charitable organizations, community-based organizations and voluntary associations), Tribal organizations, and other persons seeking such assistance and training.

###### *Section 1370.2 What definitions apply to these programs?*

We propose to add § 1370.2 under new Subpart A and revise it to include

definitions of significant terms found in the statute at 42 U.S.C. 10402 and used in current operating practices. The definitions are intended to reflect important terms in the statute and important practices in the administration of the program. In some instances, we do not repeat the statutory definition verbatim but rather propose a regulatory definition that we believe is fully consistent with the statutory definition, but will provide clarity to the field and other interested stakeholders. The definitions section applies to all grants and contracts under the FVPSA. We welcome comments on all proposed definitions; however, we are constrained by the statutory definitions in the FVPSA. Note that many of these are longstanding definitions resulting from FVPSA reauthorization in 2010 and are already included in the Funding Opportunity Announcements.

We propose to include the statutory definition of “dating violence,” an important addition to the scope of persons protected under the FVPSA. The statute defines it as “violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.” This definition reflects the definition also found in Section 40002(a) of VAWA (as amended), as required by FVPSA. Dating violence may also include violence against older individuals and those with disabilities when the violence meets the applicable definition.

We propose to include the statutory definition of “domestic violence.” Section 10402(3) of the FVPSA defines “domestic violence” as felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by 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 person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction. This definition also reflects the statutory definition of “domestic violence” found in Section 40002(a) of VAWA (as amended). Older

individuals and those with disabilities who meet these criteria are also included within this term’s definition.

We also propose that the definition of “domestic violence” will also include, but will not be limited to, acts or acts constituting intimidation, control, coercion and coercive control, emotional and psychological abuse and behavior, expressive and psychological aggression, harassment, tormenting behavior, and disturbing or alarming behavior. The Centers for Disease Control and Prevention (CDC) in its *National Intimate Partner and Sexual Violence Survey, 2014 Report* (Breiding, M.J., Chen J., & Black, M.C. (2014), *Intimate Partner Violence in the United States-2010*. Atlanta, GA: National Center for Injury Prevention) describes intimate partner violence, which is commonly used interchangeably with the term “domestic violence,” to include psychological aggression and expressive aggression (such as name calling, insulting or humiliating an intimate partner) and coercive control, which includes behaviors that are intended to monitor, control or threaten an intimate partner.

Moreover, several states have broadened their definitions of “domestic violence” or similar terms to describe a range of behaviors commonly understood as abusive behavior within spousal and intimate partner relationships. For example, Maine legislatively defines “abuse” within family, household, or dating partner relationships to include (among other factors), threatening, harassing or tormenting behavior.” ME. Rev. Stat. Ann. tit. 19–A § 4002 (2009). The state also defines other behavior as “abuse” such as following the plaintiff/[alleged victim] repeatedly and without reasonable cause; or, being in the vicinity of the plaintiff’s home, school, business or place of employment both repeatedly and without reasonable cause. *Id.* In *Cole v. Cole*, 2008 ME 4, 940 A.2d 194, 2008 Me, *Lexus 6* (2008), a District court issued a protection from abuse order to the wife and the parties’ child, pursuant to Me. Rev. Stat. Ann. tit. 19–A, § 4002(C), because the husband had a longstanding pattern of controlling, intimidating, and threatening conduct toward his wife.

The State of New Hampshire includes “harassment” in the definition of “abuse”, by including (among other factors) when a person: (a) Makes a telephone call, whether or not a conversation ensues, with no legitimate communicative purpose or without disclosing his or her identity and with a purpose to annoy, abuse, threaten, or alarm another; or (b) makes repeated

communications at extremely inconvenient hours or in offensively coarse language with a purpose to annoy or alarm another; or (c) insults, taunts, or challenges another in a manner likely to provoke a violent or disorderly response. N.H. Rev. Stat. Ann. § 173–B:1(I)(g); 644:4 (2009).

Another State, Hawaii, provides as one definition of “domestic abuse” within the context of a romantic or intimate relationship (among others) as “extreme psychological abuse” mean[ing] an intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose. HAW. REV. STAT. § 586–1(1) (2009).

Given the continuum of behaviors constituting “domestic violence” identified in FVPSA, and the broader protections embodied in State and other jurisdictional law, ACF will interpret “domestic violence” as inclusive of additional acts recognized in other Federal, State, local, and tribal laws, as well as acts in other Federal regulatory and sub-regulatory guidance. Note that this definition is not intended to be interpreted more restrictively than FVPSA and VAWA but rather to be inclusive of other, more expansive definitions.

We propose to include the statutory definition of “family violence” found at Section 10402(4) of the FVPSA. “Family violence” means any act or threatened act of violence, including any forceful detention of an individual, that results or threatens to result in physical injury and is committed by a person against another individual (including an older individual), to or with whom such person is related by blood or marriage, or is or was otherwise legally related, or is or was lawfully residing. We would note that since 2013, the Funding Opportunity Announcements have included LGBTQ individuals as an underserved population with no reference to marital status. For the last nine years and pursuant to the FVPSA definition of family violence, ACF has required grantees, sub-grantees, and contractors to provide services to LGBTQ individuals regardless of marital status. Additionally, defining family violence to encompass same-sex spouses is consistent with the Supreme Court’s decision in *Obergefell v. Hodges*, which held that same-sex marriages are entitled to equal treatment under the law. All FVPSA-funded grantees and contractors are required to serve program recipients regardless of whether an individual may be married to a person of the opposite or same sex.

Please note that this guidance is not a change in previous grantee guidance as survivors of intimate partner violence, regardless of marital status, have always been eligible for FVPSA-funded services and programming.

Further, “family violence” has become a term used interchangeably with “domestic violence” by both the field, and Congress, when describing the violence experienced between intimate partners and the programs and services utilized by those impacted by such violence. In 1984 when FVPSA was first named and authorized, the term “family violence” was commonly used as synonymous with “domestic violence” (violence between intimate partners). However, “family violence” is still often used more broadly to encompass the diverse forms of violence that occur within families, including child maltreatment, “domestic violence” and elder abuse. For clarity and in keeping with the historical FVPSA “family violence” interpretation, the term will continue to be used more narrowly and as interchangeable with “domestic violence.”

Additionally, the legislative history of the 2010 FVPSA Reauthorization is replete with descriptive language citing “domestic violence,” “domestic violence service providers,” and “domestic violence victims” while only briefly referencing “family violence” in the Senate Committee’s legislative explanation. CAPTA Reauthorization Act of 2010, 111 S. Rpt. 378 Title IV—Family Violence Prevention and Services Act, 17–19 (December 18, 2010). The Committee Report discusses multiple FVPSA sections using only the term “domestic violence” when describing, for example, the role of religious and faith-based communities in working with domestic violence service providers to support victims. *Id.* at 111 S. Rpt. 378, 17. In discussing the role of a coordinated community response, the report states “the committee intends that “coordinated community response” means an organized effort, such as a task force, (or) coordinating council . . . representing an array of service providers responding to the needs of domestic violence populations in such area.” *Id.* at 111 S. Rpt. 378, 18. The Committee Report goes on to estimate FVPSA costs and primarily focuses on “domestic violence” by reporting that “[FVPSA] would help States prevent domestic violence, provide services to people who have suffered from such violence, and assist with technical assistance and training at the State and Local levels.” *Id.* at 111 S. Rpt. 378, 20. In the same paragraph and in the

context of discussing domestic violence, the report also cites the Congressional Budget Office’s estimation of total costs and references “family violence prevention” only once as compared to the repeated use of “domestic violence” throughout the report.

Moreover, the Catalogue of Federal Domestic Assistance (CFDA) has historically described FVPSA grant programs as “Family Violence Prevention and Services/Battered Women’s Shelters—Grants to States and Indian Tribes” (93.671) and “Family Violence Prevention and Services/Battered Women’s Shelters—Grants to State Domestic Violence Coalitions” (93.591). “Battered Women’s Shelters” has been a commonly used term since the 1970’s to identify safe housing and refuge for victims of domestic violence. Recently, however, the CFDA program descriptions were approved to more clearly reflect the continuing intent to fund domestic violence programs with FVPSA funding. Accordingly, the CFDA descriptions are now: “Family Violence Prevention and Services/Domestic Violence Shelter and Supportive Services” (93.671); “Family Violence Prevention and Services/State Domestic Violence Coalitions” (93.591); and, “Family Violence Prevention and Services/Discretionary” (93.592). Additionally, the ACF Congressional Justification uses the same “Battered Women’s Shelters” nomenclature and describes that FVPSA-funded services are used to support “domestic violence” programs and services even though the term “family violence” also is interchangeably used in the description of programming. Therefore, the definition of family violence proposed here reflects the definition long used by the Department and indicated by its interchangeable use in the FVPSA statute and by the domestic violence field and Congress.

A very important requirement in the current statute revolves around protecting victims of violence from further abuse through non-disclosure of “personally identifying information.” We propose to define the term using the statutory definition in FVPSA Section 10402(7), which references and incorporates the VAWA definition. Personally identifying information is proposed to be defined as individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including, (A) a first and last name; (B) a home or other physical

address; (C) contact information (including a postal, email or Internet protocol address, or telephone or facsimile number); (D) a social security number, driver license number, passport number, or student identification number; and (E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual. Note that information remains personally identifying even if physically protected through locked filing cabinets or electronically protected through encryption.

Additionally, there are FVPSA-specific waiver and consent requirements for the non-disclosure of confidential or private information as well as provisions for the release of information to law enforcement, child welfare agencies, aggregate data releases by grantees, and for the release of personally identifying information of victims who also are minors (42 U.S.C. 10405(c)(5)). All grantees are required to comply with these requirements which are included in this NPRM in Section 1370.4.

Primary prevention was included as a statutory purpose for the first time in the 2010 amendments to the FVPSA statute but not defined. Primary prevention focuses on strategies to stop both first-time perpetration and first-time victimization. Primary prevention also is defined by the CDC as “stopping intimate partner violence before it occurs” (<http://www.cdc.gov/violenceprevention/deltafocus/>). Primary prevention may work by modifying the events, conditions, situations, or exposure to influences that result in the initiation of intimate partner violence and associated injuries, disabilities, and deaths. Examples of primary prevention could include: “school-based violence prevention curricula, programs aimed at mitigating the effects on children of witnessing intimate partner violence, community campaigns designed to alter norms and values conducive to intimate partner violence, worksite prevention programs, and training and education in parenting skills and self-esteem enhancement.” 61 FR 27879 (1996), Coordinated Community Responses to Prevent Intimate Partner Violence; Notice of Availability of Funds for Fiscal Year 1996 (HHS/CDC). Therefore, we propose to use the CDC definition of “primary prevention” to mean strategies, policies, and programs to stop both first-time perpetration and first-time victimization. Primary prevention is stopping intimate partner violence before it occurs.

We propose to define “primary-purpose domestic violence provider” as one that operates a project of demonstrated effectiveness carried out by a nonprofit, nongovernmental, private entity, Tribe, or Tribal organization, that has as its project’s primary-purpose the operation of shelters and supportive services for victims of domestic violence and their dependents; or provides counseling, advocacy, or self-help services to victims of domestic violence. Territorial Domestic Violence Coalitions may include government-operated domestic violence projects as “primary-purpose” providers for complying with the membership requirement, provided that Territorial Coalitions can document providing training, technical assistance, and capacity-building of community-based and privately operated projects to provide shelter and supportive services to victims of family, domestic, or dating violence, with the intention of recruiting such projects as members once they are sustainable as primary-purpose domestic violence service providers. This definition is not in FVPSA, however, we propose to describe the undefined term in FVPSA Section 10402(11)(A), based upon program experience and consistent with the priority for State formula funding provided in FVPSA Section 10407(a)(2)(B)(iii).

‘Secondary prevention’ was also added to the purpose of the FVPSA statute but not defined. The World Health Organization’s World Report on Violence and Health, 2002:1–21, describes “secondary prevention” as approaches that focus on the more immediate responses to violence. The HHS CDC’s Division of Violence Prevention also uses this definition in practice and incorporates both risk and protective factors to promote the efficacy of secondary prevention efforts. Therefore, we propose to include the CDC’s definition of “secondary prevention” that means identifying risk factors or problems that may lead to future family violence, domestic violence, or dating violence, and taking the necessary actions to eliminate the risk factors and the potential problem. The objective is to create opportunities to identify potential problems and to intervene as soon as possible to prevent the problem from recurring or progressing. Services for children exposed to domestic violence exemplify one type of secondary prevention. By developing targeted strategies for children who have been exposed to violence, secondary prevention efforts can reduce the likelihood of such

children becoming victims or perpetrators of future violence.

Among the most important services under these programs is the provision of shelter to victims of family, domestic, and dating violence. We propose to use the statutory definition of “shelter,” which is the provision of temporary refuge and supportive services in compliance with applicable State law or regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and supportive services to victims of family violence, domestic violence, or dating violence, and their dependents. We also propose to include in this definition emergency shelter and immediate shelter, which may include scattered-site housing, which is defined as property with multiple locations around a local jurisdiction or state. Temporary refuge is not defined in FVPSA and we propose that it includes residential services, including shelter and off-site services such as hotel or motel vouchers, which is not transitional or permanent housing. Should other jurisdictional laws conflict with this definition of temporary refuge, the definition which provides more expansive housing accessibility governs.

Under the FVPSA, grants are made to States and U.S. Territories. We propose to include the definition of “State” as defined in the statute. FVPSA defines “State” as each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands. The statute makes one exception to this definition for State formula grants, and provides for a different allotment of funds for Guam, American Samoa, the United States’ Virgin Islands, and the Commonwealth of the Northern Mariana Islands. These four territories receive a smaller share of funding because of their relatively small populations.

The purpose of State Domestic Violence Coalitions is to provide education, support, and technical assistance to domestic violence service providers in their respective States to enable the providers to establish and maintain shelter and supportive services for victims of domestic violence and their dependents (including multi-generational families, e.g. grandparents or others impacted by witnessing the violence and dependent on the victim); and serve as information clearinghouses, primary points of contact, and resource centers on domestic violence for the States and support the development of policies, protocols, and procedures to enhance domestic violence intervention and

prevention in the States. One grant is awarded to one HHS-designated Coalition in each State and Territory each year. It should be noted that the identified Territories in this section also are designated one Coalition per Territory. We propose to include a definition of and to define a State Domestic Violence Coalition (Coalition) as: A statewide, nongovernmental, nonprofit 501(c)(3) organization whose membership includes a majority of the primary-purpose domestic violence service providers in the State; whose board membership is representative of these primary-purpose domestic violence service providers, and which may include representatives of the communities in which the services are being provided in the State; that provides education, support, and technical assistance to such service providers; and that serves as an information clearinghouse, primary point of contact, and resource center on domestic violence for the State and supports the development of policies, protocols and procedures to enhance domestic violence intervention and prevention in the State/Territory.

FVPSA provides for supportive services targeted directly to the needs of victims for safety and assistance in reclaiming their agency, autonomy and well-being. We propose to include a definition of “supportive services,” which we define as services for adult and youth victims of family violence, domestic violence, or dating violence, and their dependents that are designed to meet the needs of such victims and their dependents for short-term, transitional, or long-term safety and recovery. Our proposed definition includes those services identified in FVPSA Section 10408(b)(1)(G), but is not limited to: Direct and/or referral-based advocacy on behalf of victims and their dependents, counseling, case management, employment services, referrals, transportation services, legal advocacy or assistance, child care services, health, behavioral health and preventive health services, culturally appropriate services, and other services that assist victims or their dependents in recovering from the effects of the violence. Supportive services may be directly provided by grantees and/or by providing advocacy or referrals to assist victims in accessing such services.

Another important program focus is on “underserved populations,” which we propose to use the FVPSA definition in Section 10402(14), specifically referencing and incorporating the VAWA definition, to define as populations who face barriers in accessing and using victim services, and

populations underserved because of geographic location, religion, sexual orientation, gender identity, underserved racial and ethnic populations, and populations underserved because of special needs including language barriers, disabilities, immigration status, and age. Note that regarding age, the FVPSA-defined terms of family violence, domestic violence, and dating violence do not impose age limitations on victims or their dependents that may be served in FVPSA-funded programs; elders and adolescents are also included in these definitions and we do not propose to place age limits in these categories. We also propose to include in this definition individuals with criminal histories due to victimization and individuals with substance abuse and mental health issues based on program experience and victims' needs identified by grantees. The proposed definition also includes, as allowed by FVPSA, other population categories determined by the Secretary or the Secretary's designee to be underserved.

We welcome comments on all these definitions and on ways to clarify any ambiguities or improve any elements. We are, however, constrained substantially by the FVPSA in departing significantly from most of the wording we propose because the proposed regulatory definitions come from the FVPSA and best practices identified from the field.

*Section 1370.3 What government-wide and HHS-wide regulations apply to these programs?*

The current rule contains no list of the other rules and regulations that apply to recipients of program funds. These applicable rules include, for example, regulations concerning civil rights obligations of grant recipients and regulations concerning fraud, waste, and abuse by grant recipients. We propose to revise § 1370.3 under new subpart A to include a list of those rules that most commonly apply to grantees and contractors under all or most HHS programs, including FVPSA. This new list does not attempt to list all of the Federal laws and regulations (e.g., provisions of the Internal Revenue Code regarding non-profit status) that pertain to organizations that may be grant awardees. The provisions we list here are not all administered through ACF (though the agency may in some instances assist in their enforcement), but are for the most part administered by other HHS components or by other Federal agencies that set the conditions and enforcement mechanisms that apply to those provisions, and that determine

whether and in what circumstances grant-related penalties may apply.

*Section 1370.4 What confidentiality requirements apply to these programs?*

We propose to add § 1370.4 under Part A and revise it to include language regarding confidentiality requirements that apply to all FVPSA programs. The essential purpose of these requirements, which are in the FVPSA (42 U.S.C. 10406(c)(5)) and in VAWA (42 U.S.C. 13925(a)(20) and (b)(2)) is to protect victims of domestic violence from being identified, located, or harmed by the perpetrators of violence and others working to assist perpetrators in gaining access to victims. These protections are robust. Grantees and subgrantees are directly prohibited from disclosing any personally identifiable information (as defined in this NPRM Section 1370.2). We propose to use the FVPSA requirements for the non-disclosure of confidential or private information. In paragraph (a), we propose that in order to ensure the safety of adult, youth, and child victims of family violence, domestic violence, or dating violence, and their families, grantees and subgrantees under this title shall protect the confidentiality and privacy of such victims and their families.

In paragraph (a), we propose that grantees and subgrantees shall not: (1) Disclose any personally identifying information collected in connection with services requested (including services utilized or denied), through grantees' and subgrantees' programs; or (2) reveal personally identifying information without informed, written, reasonably time-limited consent by the person about whom information is sought, whether for this program or any other Federal or State grant program.

In paragraph (b), we propose that consent shall be given by the person, except in the case of an unemancipated minor, the minor and the minor's parent or guardian or in the case of an individual with a guardian, the individual's guardian. Consent may not be given by the abuser or suspected abuser of the minor or individual with a guardian, or the abuser or suspected abuser of the other parent of the minor.

In paragraph (c), we propose that if release of information described in paragraphs (a) and (b) is compelled by statutory or court mandate grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the release of the information and grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

In paragraph (d), we propose that grantees and subgrantees may share: (1) Nonpersonally identifying information, in the aggregate, regarding services to their clients and demographic nonpersonally identifying information in order to comply with Federal, State, or tribal reporting, evaluation, or data collection requirements; (2) court-generated information and law enforcement-generated information contained in secure, governmental registries for protective order enforcement purposes; and (3) law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.

To further explain, in meeting reporting, evaluation, or data collection requirements, grantees may not disclose individual data, but only non-identifying aggregate data. If the release of information is compelled by statutory or court mandate, grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the release of the information and grantees and sub-grantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information. Service providers, including those in co-located facilities such as Family Justice Centers, can share information about a client upon her/his request if the client signs a waiver that is limited in time and scope, reasonably responsive to individual circumstances, to coordinate and execute a specific service or request. A reasonably time-limited release is determined by an individual's safety and other needs as identified by the individual. Reasonably time-limited releases may be loosely standardized if grantees are addressing the similar needs of victims who are similarly situated; however, standardization should be rare since individual victims' circumstances are the guiding factor when determining the reasonableness and time limitations of required written releases. For example, victims residing in shelter are often receiving the services of other providers and/or are being referred by shelters to other providers. To ensure coordinated services, FVPSA-funded shelter grantees have been known to standardize form releases under such circumstances between organizations to help support efficiency and staff work flow. However, even this kind of standardization often includes and requires additional individualized instructions and limitations depending upon a victim's safety and other needs.

Funders and licensing agencies (i.e., fire code inspectors, state licensing inspectors, etc.) reviewing shelter

performance or operations cannot view identifying client files. Any information shared must have all personally identifying information redacted. HHS will continue to offer technical assistance to States who are seeking a balance between oversight and confidentiality. These requirements directly track the statute (42 U.S.C. 10406(c)(5)) and there is very little discretion available to the Department, or to grantees or subgrantees. There are also additional provisions in the regulatory text which mirror statutory requirements for the consent of unemancipated minors. In this regard, consent shall be given by the person, except in the case of an unemancipated minor it shall be given by both the minor and the minor's parent or guardian; or in the case of an individual with a guardian it shall be given by the individual's guardian. A parent or guardian may not give consent if: he or she is the abuser or suspected abuser of the minor or individual with a guardian; or, the abuser or suspected abuser of the other parent of the minor. We also propose along these lines that reasonable accommodation be made to those who may be unable, due to disability or other functional limitation, to provide consent in writing. This slightly varies the statutory definition, though it is not intended as a substitution, to ensure that those with disabilities have a meaningful alternative to providing informed consent if they are otherwise incapacitated. If additional clarification would be useful in the rule, we welcome suggestions. We will issue guidance addressing any future situations that may present problems of interpretation. We also will use National Resource Centers, State Domestic Violence Coalitions, and Training and Technical Assistance Grants to assist service providers in meeting these requirements and in dealing with other Federal, State, Tribal or local agencies that may seek protected information. These regulations do not supersede stronger protections that may be provided by Federal, State, Tribal or local laws.

Pursuant to FVPSA Section 10406(c)(5)(H), we note that our proposed language also protects the addresses of shelter facilities with confidential locations, except with written authorization of the person or persons responsible for operation of the shelter. To date there have been no issues reported to FYSB regarding this requirement except when Tribal nations are geographically isolated thereby making confidentiality nearly

impossible. Tribal leaders often utilize FVPSA funds to transport victims from isolated to more populated areas where victims have greater access to necessary services especially when confidentiality cannot be maintained within very confined and remote areas. In these circumstances, it is not uncommon that a Tribe may utilize most of its FVPSA grant on transportation. We welcome comments especially from Tribes and tribal organizations, as well as concerned others, about how confidentiality may be more effectively maintained given these very challenging situations.

*Section 1370.5 What additional non-discrimination requirements apply to these programs?*

We propose to add § 1370.5 under new Subpart A and revise it to include non-discrimination requirements that apply uniquely to FVPSA programs. These are in addition to broad government-wide or HHS-wide civil rights protections in regulations concerning discrimination on the basis of race, color, national origin, disability, and age that apply to all HHS grantees, including FVPSA grantees (see the list of other regulations that apply to these programs in § 1370.3 of this proposed rule). FVPSA contains broad prohibitions against discrimination on the basis of sex or religion in FVPSA programs, and we propose to codify in regulation these prohibitions. The HHS Office for Civil Rights (OCR) enforces FVPSA's broad prohibitions against discrimination, including on the basis of sex or religion, under delegated authority from the Secretary. In addition, our proposed language says that FVPSA State and Tribal Formula grant-funded services must be provided without imposing eligibility criteria, and without requiring documentation for eligibility (see the Domestic Violence Fact Sheet on Access to HHS-Funded Services for Immigrant Survivors of Domestic Violence, at <http://www.hhs.gov/ocr/civilrights/resources/specialtopics/origin/domesticviolencefactsheet.html>). Our proposed language also includes the FVPSA's prohibition against placing conditions on receipt of emergency shelter or requiring participation in supportive services.

*Prohibition Against Discrimination on the Basis of Sex or Religion*

In paragraph (a), we propose to codify in regulation FVPSA's broad prohibitions against discrimination on the basis of sex or religion. Under its delegated authority, OCR enforces these prohibitions. Consistent with the usual

approaches to defining civil rights obligations in Federal regulations, we do not propose to elaborate in regulatory text all the situations to which the FVPSA's protections against discrimination on the basis of sex or religion might apply. However, consistent with our longstanding policy in Funding Opportunity Announcements and reliance on regulatory guidance issued by the Department of Housing and Urban Development amending 24 CFR parts 5, 200, 203, 236, 400, 570, 574, 882, 891, and 982, published in the **Federal Register**/Vol. 77, No. 23/Friday, February 3, 2012, we interpret the prohibition against discrimination on the basis of sex as also prohibiting discrimination on the basis of gender identity.

As a result, FVPSA grantees must provide comparable services to victims regardless of sex or gender. This includes not only providing access to services for male victims of family, domestic, and dating violence, but also making sure not to limit services for victims with adolescent sons (up to the age of majority), and LGBTQ victims. Victims and their sons must be sheltered or housed together unless they request otherwise. Historically, most services have been provided to women because they are the overwhelming majority of victims, are more likely to suffer serious injuries and other impacts of the violence, and have been the primary demographic seeking services. As such, services have been mostly tailored to address the unique needs of female survivors. However, there are male victims of these crimes who deserve access to safety from their offenders and services to help them rebuild their lives free from violence. FVPSA states, "no person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity in whole or in part with funds made available under this chapter. Nothing in this chapter shall require any such program or activity to include any individual in any program or activity without taking into consideration that individual's sex in those certain instances where sex is a bona fide occupational qualification or programmatic factor reasonably necessary to the normal or safe operation of that particular program or activity" (42 U.S.C. § 10406(c)(2)(B)). For clarification, we propose that the "normal and safe operation" of a program or activity be that which is essential and safe for operations.

This statutory directive should not be interpreted to eliminate programming or services tailored to the unique needs of individuals served by FVPSA grantees, sub-grantees, contractors and/or vendors provided they are not based on illegal sex classifications. Moreover, programmatic access must be assured for *all* victims of family, domestic, and dating violence, and responses to individual victims should be trauma-informed, victim-defined, and culturally relevant, which may involve providing specialized services and supports. We do not propose to define in regulation what is or is not allowed in precise circumstances.

If a shelter can reasonably separate the sexes in a manner which allows for single sex bedrooms and bathrooms and the essential and safe operation of the particular program is not substantially compromised, it is reasonable to provide such separation. Essential services are those required by the grant, which are funded to support the long-term social and emotional well-being of victims and their dependents. If the essential or safe operation of the program or activity would be substantially compromised, alternative, equivalent shelter and services should be offered as practicable. For instance, a male victim could be offered a hotel placement and provided supportive services at the shelter.

Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) individuals must also have access to FVPSA-funded shelter and non-residential programs. LGBTQ survivors face unique challenges accessing programs due to victimization often resulting from the intersection of bias and multiple oppressions as well as the limited understanding of providers in delivering welcoming and culturally-appropriate services. Examples include those of gay men who may have difficulty accessing shelter services because domestic violence shelters were founded and grew within the framework of the battered women's movement. Trans-women face service barriers because providers are often confounded by an individual's apparent biological sex which may contradict perceived or actual gender. Programmatic accessibility for transgender survivors must be afforded to meet individual needs like those provided to all survivors. For the purpose of assigning a beneficiary to sex-segregated or sex-specific services, the recipient should ask a transgender beneficiary which group or services the beneficiary wishes to join. The recipient may not, however, ask questions about the beneficiary's anatomy or medical history or make

inappropriate demands for identity documents. ACF requires that a FVPSA grantee, subgrantee, contractor, or vendor that makes decisions about eligibility for or placement into single-sex emergency shelters or other facilities place a potential victim (or current victim/client seeking a new assignment) in a shelter or other appropriate placement that corresponds to the gender with which the person identifies, taking health and safety concerns into consideration. A victim's/client's or potential victim's/client's own views with respect to personal health and safety must be given serious consideration in making the placement. For instance, if the potential victim/client requests to be placed based on his or her sex assigned at birth, ACF requires that the provider place the individual in accordance with that request, consistent with health, safety, and privacy concerns. ACF also requires that a provider not make an assignment or re-assignment based on complaints of another person when the sole stated basis of the complaint is a victim/client or potential victim/client's non-conformance with gender stereotypes.

Additionally, LGBTQ individuals seeking refuge at domestic violence shelters may experience homophobia or bias or may confront the invisibility of their experiences in the form of advertising and resource materials that only address heterosexual domestic violence. Therefore, programmatic accessibility for LGBTQ survivors must be afforded to meet individual needs like those provided to all other survivors.

With respect to religion, the religion, religious beliefs or religious practices of a client should not be a relevant factor in providing or denying services. Religious practices must not be imposed upon victims. Dietary practices dictated by particular religious beliefs may require some reasonable accommodation in cooking or feeding arrangements for particular clients as practicable.

#### *Prohibition Against Requiring Documentation for Eligibility*

In paragraph (b), we propose a prohibition against requiring documentation for eligibility. Battered immigrants face unique challenges accessing services and often face conflicting eligibility requirements in FVPSA-funded programs as noted at <http://www.hhs.gov/ocr/civilrights/resources/specialtopics/origin/domesticviolencefactsheet.html>. Pursuant to HHS guidance originally published in 2001 and updated in August, 2012, recipients of Federal

financial assistance must ensure that their programs and activities normally provided in English are accessible to Limited English Proficient persons and do not discriminate on the basis of national origin in violation of Title VI of the Civil Rights Act of 1964 (see also § 1370.3, Executive Order 13166). Battered immigrant victims and survivors of domestic violence must not face additional burdens to accessing FVPSA-funded services when they often lack knowledge of, or receive misinformation, of U.S. laws. They also are often isolated from family and community and face significant employment and economic challenges. Programs must ensure that battered immigrants, for example, are not required to provide documentation because FVPSA has no immigration restrictions and its services do not qualify as a Federal public benefit pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Public Law 104-193 (August 22, 1996), as amended by the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996," Public Law 104-208 (September 30, 1996).

#### *Other FVPSA Programmatic Accessibility Guidance*

Human trafficking often simultaneously occurs in the context of intimate relationships between perpetrators of trafficking/domestic/intimate partner violence and those who are victimized by such crimes. In the spirit of the *Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States 2013-2017*, FVPSA-funded programs are strongly encouraged to safely screen for and identify victims of human trafficking who are also victims or survivors of intimate partner/domestic violence and provide services that support their unique needs. FVPSA services can also support trafficked victims who are not experiencing domestic or intimate partner violence as long as victims and survivors of domestic/intimate partner violence are prioritized first by FVPSA grantees.

Additionally, covered entities should be aware of additional non-discrimination grant conditions that may be applicable under the Violence Against Women Reauthorization Act of 2013. For more information on these requirements, please see the Department of Justice's April 2014 document, "Frequently Asked Questions: Nondiscrimination Grant Conditions in the Violence Against Women Reauthorization Act of 2013," April 2014, available at: <http://>

[www.justice.gov/sites/default/files/ovw/legacy/2014/06/20/faqs-ngc-vawa.pdf](http://www.justice.gov/sites/default/files/ovw/legacy/2014/06/20/faqs-ngc-vawa.pdf).

#### *Voluntary Services*

This new section also contains proposed language in paragraph (c) from FVPSA (section 308(d)) prohibiting grantees or subgrantees either from imposing any conditions on the receipt of emergency shelter, or from requiring the acceptance of supportive services. All such services must be voluntarily accepted by program participants. The prohibition on imposing “conditions” is intended to prohibit shelters from applying inappropriate screening mechanisms, such as criminal background checks or sobriety requirements. Similarly, the receipt of shelter should not be conditioned on participation in other services, such as counseling, parenting classes, or life-skills classes. We do not intend these provisions to preempt State law, in any case where a State may impose some legal requirement to protect the safety and welfare of all shelter residents. In the case of an apparent conflict with State or Federal laws, case-by-case determinations will be made. In general, when two or more laws apply, a grantee must meet the highest standard in any of those laws. Nor are these provisions intended to deny a shelter the ability to manage its services and secure the safety of all shelter residents should, for example, a client become violent or abusive to other clients. We welcome comments on this provision.

#### *Enforcement*

OCR is charged with enforcing the prohibitions against discrimination on the basis of sex and religion in FVPSA. We note that under Federal civil rights laws administered by the Department, OCR uses a variety of techniques, including conducting investigations, negotiating agreements with covered entities, and issuing violation letters of findings where warranted, to enforce applicable civil rights laws, with the aim of achieving voluntary compliance. We would expect that similar practices will be used for investigating any complaints made under these proposed requirements.

For situations that fall outside of the authority of OCR, we intend to handle exceptional situations, in cases where service providers cannot directly and easily solve the problem, through informal guidance and, as appropriate, case-specific advice. FVPSA does provide, however, for more severe remedies including withholding FVPSA grant awards until the problem is resolved or denying future Federal funding. We also would expect to use

National/Special Issue Resource Centers and Culturally-Specific Special Issue Resource Centers, State Domestic Violence Coalitions, and Training and Technical Assistance Grants to provide advice to service providers on dealing with any patterns of problems that may emerge. We welcome comments on these proposals.

#### *Section 1370.6 What requirements for reports and evaluations apply to these programs?*

We propose to add to new Subpart A a new section (§ 1370.6) explicitly requiring any recipient of grants or contracts under the FVPSA to provide performance reports to the Secretary. Such reports are already required and the proposed regulatory text merely confirms the important role they play in evaluating grantee performance. In order to clarify requirements that have been questioned in the past, we propose to require that American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands follow all reporting requirements applicable to the States and Tribes, Puerto Rico, and the District of Columbia and to provide required reports directly to the Division of Family Violence Prevention and Services within FYSB, unless otherwise communicated to the grantees. These requirements supplement, and do not replace the Territorial reporting requirements of the ACF Office of Community Services in its administration of Consolidated Block Grants as part of the Social Services Block Grants program.

#### **Subpart B—State and Indian Tribal Grants**

#### *Section 1370.10 What additional requirements apply to State and Indian Tribal grants?*

The existing rule at § 1370.2 contains a brief paragraph stating that State and Tribal grantees “must meet the statutory requirements of the Act and all applicable regulations.” We propose to add a new Subpart B addressing the formula grants awarded to States and Tribes. Under Subpart B, we propose to add § 1370.10 which would include the most important requirements applicable to these formula grants. These proposals track the statute. However, they do not contain all of the specific detail of FVPSA, but simply describe the basic purposes, procedures, and activities that are expected for State and Tribal grantees, respectively. They also describe the information expected in grant applications. Because there are important differences between State and

Tribal grants, we have described them separately.

Importantly, these proposed provisions focus on planning, consultation, and coordinating activities that we expect of these grantees and which are statutory priorities in FVPSA Sections 10407, 10408, and 10409. They focus on protection, and require documentation of the law or procedures (typically restraining orders or orders of protection) by which the State or Tribe has implemented for the eviction of an abusive spouse or intimate partner from a shared household. In addition to the FVPSA requirement we propose to require that such procedures must include not only family violence, but also domestic or dating violence, an expansion of scope met by most but not all existing State statutes. In order to allow States time to modify existing statutes, we propose that the effective date for this provision be two legislative sessions after these proposed rules are made final (all other provisions would be effective sixty days after issuance of the final rule.) As currently indicated in the Funding Opportunity Announcements we also propose to specifically require documentation of policies and procedures to ensure the confidentiality of client records. Finally, these provisions provide for the use of the Funding Opportunity Announcements and other program guidance to provide additional details and procedures that apply to these grants. We welcome comments on these proposed provisions.

In paragraph (a), consistent with FVPSA, we propose requiring that States consult with and provide for the participation of Coalitions in the planning and monitoring of the distribution and administration of subgrant programs and projects; active Coalition participation is envisioned in these processes. States and Coalitions have complementary roles within the FVPSA framework because States use FVPSA funds to support programs and projects often carried out by a significant portion of the memberships of Coalitions. Coalitions’ FVPSA-mandated roles include training and technical assistance that frequently mirror the support needed to effectively manage FVPSA-funded programs and services as found in FVPSA Section 10408. States, by virtue of their roles as funders, must both ensure that subgrantees comply with Federal laws, regulations and guidance as well as promote programming that effectively supports the safety, security and social and emotional well-being of victims and their dependents; Funding Opportunity Announcements have for several years

identified these requirements. To support the requirements in FVPSA Section 10407(a)(2)(D) Coalitions are critical to supporting States' roles as funders and must effectively participate in subgrantee award processes and States' planning processes to fully understand States' expectations and subgrantee requirements. At a minimum to further FVPSA requirements, we expect that States and Coalitions will work together to determine grant priorities based upon jointly identified needs; to identify strategies to address needs; to define mutual expectations regarding programmatic performance and monitoring; and to implement an annual collaboration plan that incorporates concrete steps for accomplishing these tasks. All of these requirements are either found in the Funding Opportunity Announcements dating back to FVPSA reauthorization in 2010 or have been discussed in grantee meetings and other informal communications via FYSB listservs. We welcome comments on these requirements.

The FVPSA includes Tribes in these proposed processes but this rule is not intended to encroach upon Tribal sovereignty. We, however, envision similar processes for Tribes, States, and Coalitions that support coordination and collaboration when feasible and appropriate. We especially welcome comments from Tribes and Coalitions about this provision.

Pursuant to FVPSA Section 10411, one role of Coalitions is to identify statewide gaps in services and the most effective way to meet identified gaps and other problems is by conducting needs assessments. We propose that States and Coalitions must work closely to undertake joint planning so that funding is leveraged successfully to implement FVPSA requirements in Sections 10407 and 10411. We also propose that Tribal and other underserved populations are invited and encouraged to participate in State planning and Coalition needs assessments. It is essential that the full spectrum of domestic violence service providers, including Tribes, Tribal organizations and other culturally-specific, community-based organizations have significant input into decision-making processes that support State planning and Coalition needs assessments as found in FVPSA Sections 10407, 10408, and 10411. So that States are continually aware of subgrantees' training and technical assistance needs as well as intersecting systems challenges impacting service provision, they must involve Coalitions in program planning and subgrantee

monitoring. We expect that States and Coalitions will meet regularly to coordinate training and technical assistance; to address ongoing programmatic challenges; and to implement best practices in victim services. We encourage pre- and post-award meetings to substantively address and respond to States' identified priorities; to assess systems and programmatic impacts as a result of States' priorities and funding decisions; and to assess subgrantee performance. We propose these additional requirements to complement those in FVPSA. We invite public comment on these areas.

FVPSA also requires that States and Tribes involve community-based organizations that primarily serve culturally-specific, underserved communities and determine how such organizations can assist the States and Tribes in serving the needs of all communities. To fulfill these obligations, we expect and propose that States and Tribes will encourage the participation of underserved communities, including older individuals and those with disabilities, in planning. If States and Tribes use special councils, committees or other mechanisms to accomplish planning, we also propose that they identify and invite underserved, culturally specific organizations and/or community representatives to participate in these bodies to fully embrace both specific FVPSA-requirements (sections 10407, 10408, and 10409) and the spirit of the law. Emphasis also should be placed on building the capacity of culturally specific organizations to assist in both providing services and in identifying the needs of underserved populations. We envision that States will involve Coalitions in this planning as they routinely engage in community organizing and partner with organizations that support both the identification and leadership of underserved communities. We invite Tribes to partner with Coalitions to help in this capacity as well. We encourage public comment and advice on what mechanisms States and Tribes might use to accomplish these purposes, to describe any successful models they have identified to achieve these purposes, and to advise us on how best accomplish these goals. We particularly seek input from Tribes on how best to address underserved communities within the Tribe, and what types of processes would be helpful. Tribes are themselves considered underserved, culturally specific communities, and we do not interpret FVPSA as infringing

upon Tribal sovereignty or as intending to create burdensome or meaningless requirements on the Tribes.

Additionally, in paragraph (a), to complement FVPSA requirements to build capacity in culturally-specific organizations, we expect that specialized services will be available to support the specific needs of their communities. While traditional/mainstream FVPSA-funded programs are generally accessible to all people in compliance with Federal, State, and local law, unique expertise regarding the needs of underserved and historically marginalized populations lies within those communities. We propose to require States, in their funding processes, to address the needs of underserved, racial and ethnic minorities including Tribal populations, and people with disabilities and their families, with an emphasis on funding organizations that can meet unique needs including culturally relevant and linguistically appropriate services. These requirements have both been addressed in the Funding Opportunity Announcements as well as grantee meetings within the last 5 years. Jointly using multiple Federal and State funding streams may accomplish these purposes and we expect that States will make significant efforts to create awareness of FVPSA funding for culturally-specific communities and Tribes, including training and technical assistance that supports organizations serving those communities in the FVPSA application and grant award processes. FVPSA funding is not intended to just support traditionally-funded organizations. However, it is intended to support core shelter and supportive services (see FVPSA section 10401). It is not the intent of these regulations to change this important priority. The needs of culturally specific organizations and communities, including Tribes, are not, however, mutually exclusive from the need for core services; they are complementary. Moreover, providing truly accessible services to culturally-specific communities often means that the leadership, management and staff of FVPSA funded, subgrantee programs should reflect the diversity of the populations seeking services, including people with disabilities and their families, and other underserved populations. We therefore propose, pursuant to FVPSA Sections 10407 and 10408, that States take steps to address these priorities and specifically describe them in their annual applications. Partnering with Coalitions and culturally-specific community based

organizations in these areas is especially critical. Public comment is welcome on these issues.

#### State Applications

Requirements for applications made by States are outlined under proposed 1370.10 section (b). As required in FVPSA Section 10407(a)(1), a State application must be submitted by the Chief Executive of the State and signed by the Chief Executive Officer or the Chief Program Official designated as responsible for the administration of FVPSA.

Under paragraph (b)(1), and as indicated in the Funding Opportunity Announcements as well as to fulfill FVPSA requirements, we propose that the State application include the name of the State agency, the name and contact information for the Chief Program Official designated as responsible for the administration of funds under FVPSA and coordination of related programs within the State, and the name and contact information for a contact person if different from the Chief Program Official.

Under proposed paragraph (b)(2), pursuant to the Funding Opportunity Announcements and to fulfill FVPSA requirements, the State application must include a plan describing in detail how the needs of underserved populations will be met. This includes, under proposed paragraph (b)(2)(i), identification of which populations in the State are underserved, a description of those that are being targeted for outreach and services, and a brief explanation of why those populations were selected to receive outreach and services. As States undertake the process of identifying underserved, culturally-specific communities in their respective State, we expect that they will consult data generated from Federal and State census counts as well as other demographic information. Information on specific details will be provided in FOAs and other guidance. In addition, this paragraph includes a requirement regarding how often the State revisits the identification and selection of the populations to be served with FVPSA funding (not to exceed three years). For example, we propose that at least every three years States must identify population shifts or changes to assist in meaningful delivery of culturally-specific services and the involvement of potential new planning partners or explain why these steps are unnecessary. State applications must document this process. We strongly encourage that State plans be reassessed on a triennial basis or that an explanation be included in the State's

application regarding why reassessment is unnecessary. These requirements are proposed to fulfill FVPSA and the Funding Opportunity Announcements to support the provision of services to underserved populations. We welcome comments on these provisions.

Under proposed paragraph (b)(2)(ii), we also propose in order to fulfill FVPSA requirements and those found in the Funding Opportunity Announcements that the State application's plan describing how the needs of underserved populations will be met include a description of the outreach plan, including the domestic violence training to be provided, the means for providing technical assistance and support, and the leadership role played by those representing and serving the underserved populations in question.

Under proposed paragraph (b)(2)(iii), we also include a requirement for a description of the specific services to be provided or enhanced, such as new shelters or services, improved access to shelters or services, or new services for underserved populations, as defined in this NPRM Section 1370.2, such as victims from communities of color, immigrant victims, victims with disabilities, or older individuals. This proposed requirement is intended to fulfill FVPSA requirements and reflect provisions in the Funding Opportunity Announcements.

Finally, under proposed paragraph (b)(2)(iv) to fulfill FVPSA requirements and those found in the Funding Opportunity Announcements, we propose that the State application's plan describing how the needs of underserved populations will be met include a description of the public information component of the State's outreach program, including the elements of the program that are used to explain domestic violence, the most effective and safe ways to seek help, and tools to identify available resources.

In subsection 1370.10(b)(3), we propose to fulfill FVPSA requirements and the provisions in the Funding Opportunity Announcements that each State application contain a description of the process and procedures used to involve the State Domestic Violence Coalition, knowledgeable individuals, and interested organizations, including those serving or representing underserved communities in the State planning process.

In paragraph (4) of this subsection, we propose to fulfill FVPSA requirements and those found in the Funding Opportunity Announcements by requiring that each State application contain documentation of planning,

consultation with and participation of the State Domestic Violence Coalition in the administration and distribution of FVPSA programs, projects, and grant funds awarded to the State.

In paragraph (5) pursuant to FVPSA Section 10407(a)(2)(c) we propose that a description of the procedures used to assure an equitable distribution of grants and grant funds within the State and between urban and rural areas, as defined by the Census Bureau, within the State. The U.S. Census Bureau (USCB) defines (and FYSB defers to and incorporates this definition) two types of "urban" areas: (1) Urbanized areas of 50,000 or more people; and (2) "urban clusters" of at least 2,500 and less than 50,000 people. The USCB explains that "rural" encompasses all population, housing, and territory not included within an "urban" area as "rural". The plan should describe how funding allocations will address the needs of underserved communities. Other Federal, State, local, and private funds may be considered in determining compliance. We also propose to require States, in their funding processes, to address the needs of underserved, racial and ethnic minorities including Tribal populations, and people with disabilities and their families, with an emphasis on funding organizations that can meet unique needs including culturally relevant and linguistically appropriate services.

In paragraph (6) we propose in order to fulfill FVPSA requirements that a State's application include: A description of how the State plans to use the grant funds including a State plan developed in consultation with State and Tribal Domestic Violence Coalitions and representatives of underserved and culturally specific communities; a description of the target populations; of the number of shelters to be funded; of the number of non-residential programs to be funded; of the services the State will provide; and of the expected results from the use of the grant funds. To fulfill these requirements, it is critically important that States work with Coalitions and Tribes to solicit their feedback on program effectiveness which may include recommendations such as establishing program standards and participating in program monitoring.

In paragraph (7) we propose pursuant to FVPSA Section 10407(a)(2)(F) to require that State applications include a copy of the law or procedures, such as a process for obtaining an order of protection that the State has implemented for the eviction of an abusive spouse or other intimate,

domestic, or dating partner from a shared household or residence.

In paragraph (8) we propose pursuant to FVPSA Section 10408(b)(2) to require that State applications include an assurance that not less than 70 percent of the funds distributed by a State to sub-recipients shall be distributed to entities for the primary purpose of providing immediate shelter and supportive services to adult and youth victims of family violence, domestic violence, or dating violence, and their dependents, and that not less than 25 percent of the funds distributed by a State to sub-recipients shall be distributed to entities for the purpose of providing supportive services and prevention services (these percentages may overlap with respect to supportive services but are not included in the 5 percent cap applicable to State administrative costs). No grant shall be made under this section to an entity other than a State unless the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the program or project for which the grant is awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions in an amount that is not less than \$1 for every \$5 of Federal funds provided under the grant. The non-Federal contributions required under this paragraph may be in cash or in kind.

In paragraph (9) pursuant to FVPSA Section 10406(c)(5) we propose requiring that State applications include documentation of policies, procedures and protocols that ensure individual identifiers of client records will not be used when providing statistical data on program activities and program services or in the course of grant monitoring, that the confidentiality of records pertaining to any individual provided family violence prevention or intervention services by any program or entity supported under the FVPSA will be strictly maintained, and the address or location of any shelter supported under the FVPSA will not be made public without the written authorization of the person or persons responsible for the operation of such shelter.

Our final proposed requirement, in paragraph (10), would require that State applications include additional agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

State Coalitions and Tribal Coalitions are specifically designated statutory participants pursuant to FVPSA Section 10407(b)(3) in determining

whether State grantees and subgrantees are fulfilling the goals and activities in their respective State applications/plans and complying with FVPSA grant conditions. To fulfill these requirements, it is critically important that States work with Coalitions and Tribes to solicit their feedback on program effectiveness which may include recommendations such as establishing program standards and participating in program monitoring. Public comment is invited on the best way to fulfill these statutory requirements.

#### Tribal Applications

Finally, we note that there are some proposed regulatory provisions that are specific to Tribes and we have outlined these in proposed § 1370.10(c). In paragraph (c), we propose that the application from a Tribe or Tribal Organization be signed by a Tribally Designated Official, such as the Tribal Chairperson or Chief Executive Officer, as required in FVPSA Section 10410 and applicable Funding Opportunity Announcements. We also propose in paragraph (c)(1) to require that applications from Tribal Consortia or other joint Tribal applications include a copy of a current Tribal resolution or an equivalent document that verifies Tribal approval of the application being submitted as also required in the Funding Opportunity Announcements. We propose that the resolution or other document should state that the designated organization or agency has the authority to submit an application on behalf of the individuals in the Tribe(s) and to administer programs and activities funded pursuant to the FVPSA. We also propose that the resolution or equivalent document must specify the name(s) of each Tribe and, if Tribal resolutions are the vehicles to support applications from Tribal Consortia or other joint Tribal applications, that a representative of each Tribe signs the resolution. We also propose to require that the service areas proposed by Tribes in their applications, be specifically delineated.

In proposed paragraph (c)(2) we propose as indicated in the Funding Opportunity Announcements requiring that each Tribal application also contain a description of the procedures designed to involve knowledgeable individuals and interested organizations in providing services under the FVPSA. For example, knowledgeable individuals and interested organizations may include Tribal officials or social services staff involved in child abuse or family violence prevention, Tribal law enforcement officials, representatives of

Tribal or State Domestic Violence Coalitions, and operators of domestic violence shelters and service programs.

Proposed paragraph (c)(3) requires that Tribal applications pursuant to the current Funding Opportunity Announcement also include a description of the applicant's operation of and/or capacity to carry out a family violence prevention and services program. Ways this information can be demonstrated include evidence of: (i) The current operation of a shelter, safe house, or domestic violence prevention program; (ii) the establishment of joint or collaborative service agreements with a local public agency or a private, non-profit agency for the operation of family violence prevention and intervention activities or services; or (iii) the operation of social services programs as evidenced by receipt of grants or contracts awarded under Indian Child Welfare grants from the Bureau of Indian Affairs; Child Welfare Services grants under Title IV-B of the Social Security Act; or Family Preservation and Family Support grants under Title IV-B of the Social Security Act.

Proposed paragraph (c)(4), pursuant to the current Funding Opportunity Announcement, would require Tribal applications to include a description of the services to be provided, how the applicant organizations plans to use the grant funds to provide the direct services, to whom the services will be provided, and the expected results of the services.

Proposed paragraph (c)(5) pursuant to FVPSA Section 10407(a)(2)(H) would require Tribal applications to include documentation of the law or procedure which has been implemented for the eviction of an abusing spouse or other intimate, domestic, or dating partner from a shared household or residence.

Proposed paragraph (c)(6) pursuant to FVPSA Section 10406(c)(5) would require Tribal applications to include documentation of the policies and procedures developed and implemented, including copies of the policies and procedures, to ensure that individual identifiers of client records will not be used when providing statistical data on program activities and program services or in the course of grant monitoring and that the confidentiality of records pertaining to any individual provided domestic violence prevention or intervention services by any FVPSA-supported program will be strictly maintained. If a FVPSA grantee or subgrantee fails to comply with these requirements, additional programmatic support and technical assistance will be provided by the FYSB program staff and FVPSA-

funded technical assistance providers to avoid an interruption or defunding. As identified in section 1370.4, Tribes often have significant confidentiality challenges due to geographic isolation and, therefore, we welcome comments from Tribes on this section.

The final requirement for Tribal applications, proposed paragraph (c)(7), would require such applications to include agreements, assurances, and information, in such form, and submitted in such manner, as the Funding Opportunity Announcement and related program guidance prescribe.

We do not believe that these provisions impose any additional burden on Tribes, but welcome comments.

### Subpart C—State Domestic Violence Coalition Grants

#### *Section 1370.20 What additional requirements apply to State Domestic Violence Coalitions?*

The current rule, in § 1370.3, contains provisions for Coalition Grants. Each State and Territory has a domestic violence Coalition that receives FVPSA funding as the HHS-designated statewide domestic violence Coalition. These Coalitions provide an essential role in the domestic violence field, and only one per State can be funded under the FVPSA. We propose to add § 1370.20 under new Subpart C. Our proposed provisions focus in more detail than the current rule on the planning, consultation, and coordinating activities than the statute now expects of these grantees. In particular, in paragraph (b)(1), pursuant to FVPSA we propose to require that membership include representatives of a majority of the primary-purpose domestic violence service providers operating within the State or Territory (see the proposed definition of primary-purpose discussed earlier in this preamble). In paragraph (b)(2) we propose that Coalitions' Boards of Directors also must be representative of the membership comprised of the primary-purpose domestic violence service providers in their respective States and Territories and also may include community members. Boards of Directors composed of member representatives and community members are highly encouraged so that Coalition boards have the cross-sector expertise to ensure Coalitions have strong organizational infrastructures, including Boards of Directors that support the long-term programmatic and financial sustainability of Coalitions. Financial sustainability of Coalitions, as independent, autonomous non-profit

organizations, also must be supported by their membership comprised of the primary-purpose domestic violence service providers in the respective States and Territories, including those member representatives on the Coalitions' Boards of Directors. Coalitions' financial sustainability also is critical to the programmatic and fiscal success of their members and these priorities should not be interpreted to conflict with the same or complimentary priorities of their domestic violence service provider member constituents.

State and Territorial Domestic Violence Coalitions play a unique role in assisting Federal, State and local governments, victim service providers, including Tribes and Tribal organizations, and the private sector in coordinating and developing policies and procedures, conducting outreach and public awareness, and providing training and technical assistance. We, therefore, propose in section (c) that Coalitions demonstrate in the annual application their competencies in provision of programming and other functions necessary under FVPSA (42 U.S.C. 10402(11) and 10411). Coalitions also would be required to collaborate with Indian Tribes and Tribal organizations (and corresponding Alaska Native and Native Hawaiian groups or communities) to address the needs of American Indian, Alaska Native, and Native Hawaiian victims of family violence, domestic violence, or dating violence, if such Tribes and organizations exist within a given State and are willing to work with the Coalition. It is, therefore, especially important that Coalitions include Tribes and Tribal organizations in their membership structures where possible.

As outlined in proposed (c)(1)(i)–(viii), Coalitions also are required to have demonstrated capacity to coordinate with multiple systems to encourage appropriate and comprehensive responses that promote the support and safety needs of adult and youth victims of family, domestic, or dating violence. Demonstrated capacity may include but is not limited to: Identifying successful efforts that support child welfare agencies' identification and support of victims during intake processes; creation of membership standards that enhance victim safety and fully require training and technical assistance for compliance with federal housing, disability, and sex discrimination laws and regulations; and, training judicial personnel on trauma-informed courtroom practice. Such systems include but are not limited to: Public and mental health;

law enforcement; courts/judiciary; child protective services, to include custody and visitation issues impacting victims within child welfare systems; protection and advocacy systems; housing; social welfare; private enterprise; and, aging and disability systems to develop appropriate responses for older individuals and individuals with disabilities. Under proposed paragraph (c)(1), Coalitions also must, in the annual applications for funding, have documented experience in administering Federal grants supporting these programmatic areas or have a documented history of active participation in the respective statutory program areas enunciated in 42 U.S.C. 10411(c)(1) and (2)(A) and (B). If a Coalition receives VAWA STOP (Services, Training, Officers, Prosecutors grant program—42 U.S.C. 3796gg(c)(1)) funding for Coalitions and utilizes that funding for programming and activities to address domestic violence and law enforcement, the courts/judiciary, and/or child protective services, including child custody and visitation in child welfare cases, it does not have to spend FVPSA funds on these activities. Instead, in its annual application, it must provide an annual assurance that such activities are conducted with VAWA STOP Coalition funding and such activities must be described in the application.

Under proposed paragraph (d), we outline that nothing in this section limits the ability of a Coalition to use non-Federal or other Federal funding sources to conduct required functions, provided that if the Coalition uses funds received under section 2001(c)(1) of the Omnibus Crime Control and Safe Streets Act of 1968 to perform the functions described in subsections (2)(iv) and (v) in lieu of funds provided under the FVPSA, it shall provide an annual assurance to the Secretary that it is using such funds, and that it is coordinating the activities conducted under this section with those of the State's activities under Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

#### Coalition Designation

In paragraph (e) we propose that in cases in which two or more organizations seek designation, the designation of each State's and Territory's individual Coalition is within the exclusive discretion of HHS. The Department will determine which applicant best fits statutory criteria, with particular attention paid to the applicant's documented history of effective work, support of primary-purpose programs and programs that

serve racial and ethnic minority populations and underserved populations (including but not limited to those representing older individuals and people with disabilities, LGBTQ populations, and the Limited English Proficient), coordination and collaboration with the State or Territorial government, and capacity to accomplish the FVPSA mandated role of a Coalition. As of the publication of this rule, Coalitions for all 56 State and Territorial Coalitions have been HHS designated.

In paragraph (f), we propose that if a Coalition becomes financially insolvent, ceases to represent the majority of primary purpose programs, is disbarred from receiving Federal funding, or can no longer meet the statutory requirements of the FVPSA despite technical assistance provided, the Department may reopen the application process for that State's Coalition designation. Because Coalitions are intended to effectively represent diverse victims and service providers in their States, HHS would engage with domestic violence service providers and State leaders to inform their decision about which alternative organizations could be considered eligible.

As described in Subpart B, we propose that Coalitions be required to identify gaps in services and the most effective ways to meet identified gaps and other problems. We also propose that Coalitions participate in planning and monitoring of the distribution of subgrants within the States and in the administration of grant programs and projects. In conducting needs assessments, we propose to require that Coalitions and States work in partnership on the statutorily required FVPSA State planning process to involve representatives from underserved and racial and ethnic minority populations to plan, assess, and voice the needs of the communities they represent. Coalitions are expected to assist States in identifying underrepresented communities and culturally-specific community based organizations in State planning and to work with States to unify planning and needs assessment efforts so that comprehensive and culturally-specific services are provided. We also propose through the inclusion of the populations targeted to place emphasis on building the capacity of culturally-specific services and programs.

#### **Subpart D—Discretionary Grants and Contracts**

The existing rule contains brief paragraphs on two types of discretionary grants (information and

technical assistance and public information campaign grants), in § 1370.4, and § 1370.5. We propose to add a new Subpart D covering all discretionary grants and contracts. This new subpart would address separately National Resource Centers and Training and Technical Assistance Grants (§ 1370.30), grants for State resource centers to reduce disparities in domestic violence in States with high proportions of American Indian (including Alaska Native) or Native Hawaiian population (§ 1370.30), grants for specialized services for abused parents and their children (§ 1370.31), and the National Domestic Violence Hotline (§ 1370.32). These new sections primarily reflect statutory requirements, the evolution of the program and the focus of FVPSA.

These proposed provisions also focus on the unique planning, consultation, and coordinating activities that we expect of each type of grantee. Finally, these provisions provide for the use of the Funding Opportunity Announcements and other program guidance to provide additional details and procedures that apply to these grants. We welcome comments on these provisions.

We propose adding a new heading to be titled “Subpart D—Discretionary Grants and Contracts”.

#### *Section 1370.30 What National Resource Centers and Training and Technical Assistance grant programs are available and what requirements apply?*

We propose to add § 1370.30 to Subpart D. National Resource Centers and Training and Technical Assistance Center grants, pursuant to FVPSA Section 10410, are to provide resource information, training, and technical assistance to improve the capacity of individuals, organizations, governmental entities, and communities to prevent family violence, domestic violence, and dating violence and to provide effective intervention services. They fund national, special issue, and culturally-specific resource centers addressing key areas of domestic violence intervention and prevention, and may include State resource centers to reduce disparities in domestic violence in States with high proportions of Native American (including Alaska Native or Native Hawaiian) populations and to support training and technical assistance that address emerging issues related to family violence, domestic violence, or dating violence, to entities demonstrating expertise in these areas. Grants may be made for five specific grants.

The first is the National Resource Center on Domestic Violence which offers a comprehensive array of technical assistance and training resources to Federal, State, and local governmental agencies, domestic violence service providers, community-based organizations, and other professionals and interested parties, related to domestic violence service programs and research, including programs and research related to victims and their children who are exposed to domestic violence as well as older individuals and those with disabilities. The grantee also will maintain a central resource library in order to collect, prepare, analyze, and disseminate information and statistics related to the incidence and prevention of family violence and domestic violence; and the provision of shelter, supportive services, and prevention services to adult and youth victims of domestic violence, including older individuals and those with disabilities (including services to prevent repeated incidents of violence).

The second grant is for a National Indian Resource Center Addressing Domestic Violence and Safety for Indian Women which offers a comprehensive array of technical assistance and training resources to Indian Tribes and Tribal organizations, specifically designed to enhance the capacity of the Tribes and Tribal organizations to respond to domestic violence and increase the safety of Indian women. The grantee also will enhance the intervention and prevention efforts of Indian Tribes and Tribal organizations to respond to domestic violence and increase the safety of Indian women, and coordinate activities with other Federal agencies, offices, and grantees that address the needs of American Indians, Alaska Natives, and Native Hawaiians that experience domestic violence.

The third grant is for special issue resource centers to provide national information, training, and technical assistance to State and local domestic violence service providers. Each special issue resource center shall focus on enhancing domestic violence intervention and prevention efforts in at least one of the following areas: (1) Response of the criminal and civil justice systems to domestic violence victims, which may include the response to the use of the self-defense plea by domestic violence victims and the issuance and use of protective orders; (2) response of child protective service agencies to victims of domestic violence and their dependents and child custody issues in domestic violence cases; (3) response of the

interdisciplinary health care system to victims of domestic violence and access to health care resources for victims of domestic violence; (4) response of mental health systems, domestic violence service programs, and other related systems and programs to victims of domestic violence and to their children who are exposed to domestic violence.

The fourth grant is for Culturally-Specific Special Issue Resource Centers that enhance domestic violence intervention and prevention efforts for victims of domestic violence who are members of racial and ethnic minority groups; and will enhance the cultural and linguistic relevancy of service delivery, resource utilization, policy, research, technical assistance, community education, and prevention initiatives.

The fifth grant is for State resource centers to provide statewide information, training, and technical assistance to Indian Tribes, Tribal organizations, and local domestic violence service organizations serving Native Americans (including Alaska Natives and Native Hawaiians) in a culturally sensitive and relevant manner. These centers shall: (1) Offer a comprehensive array of technical assistance and training resources to Indian Tribes, Tribal organizations, and providers of services to Native Americans (including Alaska Natives and Native Hawaiians) specifically designed to enhance the capacity of the Tribes, organizations, and providers to respond to domestic violence; (2) coordinate all projects and activities with the National Indian Resource Center Addressing Domestic Violence and Safety for Indian Women, including projects and activities that involve working with State and local governments to enhance their capacity to understand the unique needs of Native Americans (including Alaska Natives and Native Hawaiians); and (3) provide comprehensive community education and domestic violence prevention initiatives in a culturally sensitive and relevant manner. Eligibility for the State resource center grant program is contingent upon being located in a State with high proportions of Indian or Native Hawaiian populations. Eligible entities shall be located in a State in which the population of Indians (including Alaska Natives) and Native Hawaiians exceeds 10 percent of the total population of the State; or, be an Indian Tribe, Tribal organization or a Native Hawaiian organization that focuses primarily on issues of domestic violence among Indians or Native Hawaiians; or, be an

institution of higher education; and, demonstrate the ability to serve all regions of the State, including underdeveloped areas and areas that are geographically distant from population centers. Additionally, eligible entities shall offer training and technical assistance and capacity-building resources in States where the population of Indians (including Alaska Natives) and Native Hawaiians exceeds 2.5 percent of the total population of the State.

Under section (f), we propose that other discretionary grants may be awarded to support training and technical assistance that address emerging issues related to family violence, domestic violence, or dating violence, to entities demonstrating related experience.

Under section (g) we propose that, to receive a grant under any part of this section, an entity shall submit an application that shall meet such eligibility standards as are prescribed in the FVPSA and contains such agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

Under section (h), we propose that all grant recipients should create a plan to ensure effective communication and meaningful access to domestic violence program services for victims of domestic violence with Limited English Proficiency (LEP), which should include: How to respond to individuals with LEP, and how to use appropriate interpretation and translation services, including best practices for using taglines. Taglines are short statements in non-English languages informing persons with LEP how to access language assistance services; how to respond to individuals with communication-related disabilities and how to provide appropriate auxiliary aids and services, including qualified interpreters and information in alternate formats, to people with disabilities. The use of the term "Limited English Proficient" is not meant to be interpreted as a substitution for the statutory language "non-English" speaking individuals but rather to be consistent with HHS Office for Civil Rights guidance applicable to all HHS-funded programs. Please see <http://www.hhs.gov/ocr/civilrights/resources/specialtopics/lep/index.html>.

*Section 1370.31 What additional requirements apply to grants for specialized services for abused parents and their children?*

We propose to add new § 1370.31 to Subpart D. Consistent with 42 U.S.C. 10412, grants provided for specialized services for abused parents and their children are intended to expand the capacity of family violence, domestic violence, and dating violence service programs and community-based programs to prevent future domestic violence by addressing, in an appropriate manner, the needs of children exposed to family violence, domestic violence, or dating violence. To be eligible an entity must be a local agency, a nonprofit private organization (including faith-based and charitable organizations, community-based organizations, and voluntary associations), or a Tribal organization, with a demonstrated record of serving victims of family violence, domestic violence, or dating violence and their children.

Consistent with 42 U.S.C. 10412(c), in paragraph (b)(1) we propose that, in order to be eligible to receive a grant under this section, an entity shall submit an application that includes a complete description of the applicant's plan for providing specialized services for abused parents and their children. This should include descriptions of how the entity will prioritize the safety of, and confidentiality of information about victims of family violence, victims of domestic violence, and victims of dating violence and their children. It also should address how the entity will provide developmentally appropriate and age-appropriate services, and culturally and linguistically appropriate services, to the victims and children. Finally, it should describe how the entity will ensure that professionals working with the children receive the training and technical assistance appropriate and relevant to the unique needs of children exposed to family violence, domestic violence, or dating violence.

Consistent with 42 U.S.C. 10412(d), in paragraph (b)(2), we propose that the application should demonstrate that the applicant has the ability to provide direct counseling, appropriate services, and advocacy on behalf of victims of family violence, domestic violence, or dating violence and their children, including coordination with services provided by the child welfare system.

In paragraph (b)(3), we propose that the application also should demonstrate that the applicant can effectively provide services for non-abusing parents

to support those parents' roles as caregivers and their roles in responding to the social, emotional, and developmental needs of their children.

Consistent with 42 U.S.C. 10412(d)(2), in paragraph (c) we propose that eligible applicants may use funds under a grant pursuant to this section that: (1) Demonstrates a capacity to provide early childhood development and mental health services; (2) shows the ability to coordinate activities with and provide technical assistance to community-based organizations serving victims of family violence, domestic violence, or dating violence or children exposed to family violence, domestic violence, or dating violence; and (3) shows the capacity to provide additional services and referrals to services for children, including child care, transportation, educational support, respite care, supervised visitation, or other necessary services.

Finally, in paragraph (c)(4), we propose that the application must contain such agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

If Congressional appropriations in any fiscal year for the entirety of programs covered by this proposed rule (exclusive of the National Domestic Violence Hotline which receives a separate appropriation) exceed \$130 million, not less than 25 percent of such excess funds shall be made available to carry out this grant program. If appropriations reach this threshold, HHS will specify funding levels in future Funding Opportunity Announcements.

*Section 1370.32 What additional requirements apply to National Domestic Violence Hotline grants?*

We propose to add new § 1370.32 to Subpart D. Consistent with 42 U.S.C. 10413, the National Domestic Hotline grants are for one or more private entities to provide for the ongoing operation of a 24-hour, national, toll-free telephone hotline to provide information and assistance to adult and youth victims of family violence, domestic violence, or dating violence, family and household members of such victims, and persons affected by the victimization.

We propose to add a definition of "telephone" as used in the context of "telephone hotline" so that the term appropriately reflects evolving technological advances impacting telephone usage and the multiple ways in which telephone hotlines operate and are most responsive to hotline callers or users. According to the Pew Research

Internet and American Life Project "some 83% of American adults own cell phones and three-quarters of them (73%) send and receive text messages. Young adults are the most avid texters by a wide margin. Cell owners between the ages of 18 and 24 exchange an average of 109.5 messages on a normal day—that works out to more than 3,200 texts per month—and the typical or median cell owner in this age group sends or receives 50 messages per day (or 1500 messages per month)." We therefore propose to add a definition of "telephone" as used in the context of "telephone hotline" so that the term appropriately reflects evolving technological advances impacting telephone usage and the multiple ways in which telephone hotlines operate and are most responsive to hotline callers or users. We propose "telephone" to be defined as a communications device that permits two or more callers or users to engage in transmitted analog, digital, short message service (SMS), cellular/wireless, laser, cable/broadband, internet, voice-over internet protocol (IP) or other communications, including telephone, smartphone, chat, text, voice recognition, or other technological means which connects callers or users together. The traditional analog telephone may soon become outdated technology that does not provide appropriate and safe services for callers or users, nor does it reflect that users may not be "calling" telephone hotlines as traditionally understood. As a result, current FVPSA language may prevent grantees responsible for operating emerging or changing technologies that serve victims of family, domestic, and dating violence from incorporating cutting-edge software and hardware that simultaneously advance with technology trends and user interfaces.

Under proposed paragraph (c), to be consistent with 42 U.S.C. 10413(d), we propose that in order to be eligible to receive a grant under this section, an entity shall submit an application that includes a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of:

(1) The training program for hotline personnel, including technology training to ensure that all persons affiliated with the hotline are able to effectively operate any technological systems used by the hotline, and are familiar with effective communication and meaningful access requirements, to ensure access for all, including people who are Limited English Proficient and people with disabilities;

(2) the hiring criteria and qualifications for hotline personnel;

(3) the methods for the creation, maintenance, and updating of a resource database;

(4) a plan for publicizing the availability of the hotline;

(5) a plan for providing service to Limited English Proficient callers, including service through hotline personnel who are qualified to interpret for Limited English Proficient individuals;

(6) a plan for facilitating access to the hotline by persons with disabilities, including persons with hearing impairments; and

(7) a plan for providing assistance and referrals to youth victims of domestic violence and for victims of dating violence who are minors, which may be carried out through a national teen dating violence hotline.

The application also must demonstrate:

(1) That the applicant has recognized expertise in the area of family violence, domestic violence, or dating violence and a record of high quality service to victims of family violence, domestic violence, or dating violence, including a demonstration of support from advocacy groups and State Domestic Violence Coalitions;

(2) that the applicant has the capacity and the expertise to maintain a domestic violence hotline and a comprehensive database of service providers;

(3) the applicants' ability to provide information and referrals for callers, directly connect callers to service providers, and employ crisis interventions meeting the standards of family violence, domestic violence, and dating violence providers;

(4) that the applicant has a commitment to diversity and to the provision of services to underserved populations, including to ethnic, racial, and Limited English Proficient individuals, in addition to older individuals and individuals with disabilities;

(5) that the applicant follows comprehensive quality assurance practices.

Finally, the application must contain such agreements, information, and assurances, including nondisclosure of confidential or personally identifiable information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

In accordance with 42 U.S.C. 10413(f), under section (d) we propose that the entity receiving a grant under this section shall submit a performance report to the Secretary at such time as reasonably required by the Secretary that shall describe the activities that

have been carried out with grant funds, contain an evaluation of the effectiveness of such activities, and provide additional information as the Secretary may reasonably require.

### VIII. Impact Analysis

#### *Paperwork Reduction Act*

This proposed rule contains no new information collection requirements. There is an existing requirement for grantees to provide performance progress reports under Office of Management and Budget approval number 0970–0280. Grantees are also required to submit an application and annual financial status report. Nothing in this proposed rule would require changes in the current requirements, all of which have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act.

#### *Regulatory Flexibility Act*

The Secretary certifies under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this proposed rule will not result in a significant economic impact on a substantial number of small entities. We have not proposed any new requirements that would have such an effect. Our proposed standards would almost entirely conform to the existing statutory requirements and existing practices in the program. In particular, we have proposed imposing only a few new processes, procedural, or documentation requirements that are not encompassed within the existing rule, existing Funding Opportunity Announcements, or existing information collection requirements. None of these would impose consequential burdens on grantees. Accordingly, an Initial Regulatory Flexibility Analysis is not required.

#### *Regulatory Impact Analysis*

Executive Order 12866 and 13563 require that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in these Executive Orders, including imposing the least burden on society, written in plain language and easy to understand, and seeking to improve the actual results of regulatory requirements. The Department has determined that this proposed rule is consistent with these priorities and principles. The Executive Orders require a Regulatory Impact Analysis for proposed or final rules with an annual economic impact of \$100 million or more. Nothing in this proposed rule approaches effects of this magnitude.

Nor does this proposed rule meet any of the other criteria for significance under these Executive Orders. This proposed rule has been reviewed by the Office of Management and Budget.

#### *Congressional Review*

This proposed rule is not a major rule (economic effects of \$100 million or more) as defined in the Congressional Review Act.

#### *Federalism Review*

Executive Order 13132, Federalism, requires that Federal agencies consult with State and local government officials in the development of regulatory policies with Federalism implications. This proposed rule will not have substantial direct impact on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with the Executive Order we have determined that this proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement.

#### *Family Impact Review*

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any new or adverse impact on the autonomy or integrity of the family as an institution. Like the existing rule and existing program practices, it directly supports family well-being. Since we propose no changes that would affect this policy priority, we have concluded that it is not necessary to prepare a Family Policymaking Assessment.

#### **List of Subjects in 45 CFR 1370**

Administrative practice and procedure, Domestic violence, Grant Programs—Social Programs, Reporting and recordkeeping requirements, Technical assistance.

(Catalog of Federal Domestic Assistance Program Numbers 93.671 Family Violence Prevention and Services/Battered Women's Shelters—Grants to States and Indian Tribes and 93.591 Family Violence Prevention and Services/Battered Women's Shelters—Grants to State Domestic Violence Coalitions)

Dated: March 24, 2015.

**Mark H. Greenberg,**  
*Acting Assistant Secretary for Children and Families.*

Approved: March 26, 2015.

**Sylvia M. Burwell,**  
*Secretary.*

Editorial note: This document was received for publication by the Office of the Federal Register on October 5, 2015.

For the reasons set forth in the preamble, title 45 CFR part 1370 is proposed to be amended as follows:

### **PART 1370—FAMILY VIOLENCE PREVENTION AND SERVICES PROGRAMS**

- 1. The authority citation for part 1370 continues to read as follows:
- 2. Revise §§ 1370.1 through 1370.5 and add § 1370.6 under a new subpart A to read as follows:

#### **Subpart A—General Provisions**

Sec.

1370.1 What are the purposes of Family Violence Prevention and Services Act Programs?

1370.2 What definitions apply to these programs?

1370.3 What Government-wide and HHS-wide regulations apply to these programs?

1370.4 What confidentiality requirements apply to these programs?

1370.5 What additional non-discrimination requirements apply to these programs?

1370.6 What requirements for reports and evaluations apply to these programs?

#### **§ 1370.1 What are the purposes of the Family Violence Prevention and Services Act Programs?**

This part addresses sections 301 through 313 of the Family Violence Prevention and Services Act (FVPSA), as amended, and codified at 42 U.S.C. 10401 *et seq.* FVPSA authorizes the Secretary to implement programs for the purposes of increasing public awareness about and preventing family violence, domestic violence, and dating violence; providing immediate shelter and supportive services for victims of family violence, domestic violence, and dating violence and their dependents; providing for technical assistance and training relating to family violence, domestic violence, and dating violence programs; providing for State Domestic Violence Coalitions; providing specialized services for abused parents and their children; and operating a national domestic violence hotline. FVPSA emphasizes both primary, and secondary, prevention of violence.

### § 1370.2 What definitions apply to these programs?

For the purposes of this part:

*Dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. This definition reflects the definition also found in Section 40002(a) of VAWA (as amended), as required by FVPSA. Additionally, dating violence may include violence against older individuals and those with disabilities when the violence meets the applicable definition.

*Domestic violence* means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by 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 person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. This definition also reflects the statutory definition of "domestic violence" found in Section 40002(a) of VAWA (as amended). Older individuals and those with disabilities who otherwise meet the criteria herein are also included within this term's definition. This definition will also include but will not be limited to acts or acts constituting intimidation, control, coercion and coercive control, emotional and psychological abuse and behavior, expressive and psychological aggression, harassment, tormenting behavior, disturbing or alarming behavior, and additional acts recognized in other Federal, State, local and tribal laws as well as acts in other Federal regulatory or sub-regulatory guidance. This definition is not intended to be interpreted more restrictively than FVPSA and VAWA but rather to be inclusive of other, more expansive definitions.

*Family violence* means any act or threatened act of violence, including any forceful detention of an individual, that results or threatens to result in physical injury and is committed by a person against another individual (including an older individual), to or

with whom such person is related by blood or marriage, or is or was otherwise legally related, or is or was lawfully residing. All FVPSA-funded grantees and contractors are required to serve program recipients regardless of whether an individual may be married to a person of the opposite or same sex. Please note that this guidance is not a change in previous grantee guidance as survivors of intimate partner violence, regardless of marital status, have always been eligible for FVPSA-funded services and programming.

*Personally identifying information* is:

(1) Individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including:

- (i) A first and last name;
- (ii) A home or other physical address;
- (iii) Contact information (including a postal, email or Internet protocol address, or telephone or facsimile number);
- (iv) A social security number, driver license number, passport number, or student identification number; and
- (v) Any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual.

(2) Note that information remains personally identifying even if physically protected through locked filing cabinets or electronically protected through encryption.

*Primary prevention* means strategies, policies, and programs to stop both first-time perpetration and first-time victimization. Primary prevention is stopping intimate partner violence before it occurs.

*Primary-purpose domestic violence provider* means a provider that operates a project of demonstrated effectiveness carried out by a nonprofit, nongovernmental, private entity, Tribe or Tribal organization that has as its project's primary-purpose the operation of shelters and supportive services for victims of domestic violence and their dependents; or provides counseling, advocacy, or self-help services to victims of domestic violence. Territorial Domestic Violence Coalitions may include government-operated domestic violence projects as "primary-purpose" providers for complying with the membership requirement, provided that Territorial Coalitions can document providing training, technical assistance, and capacity-building of community-based and privately operated projects to

provide shelter and supportive services to victims of family, domestic, or dating violence, with the intention of recruiting such projects as members once they are sustainable as primary-purpose domestic violence service providers.

*Secondary prevention* means identifying risk factors or problems that may lead to future family violence, domestic violence, or dating violence, and taking the necessary actions to eliminate the risk factors and the potential problem.

*Shelter* means the provision of temporary refuge and supportive services in compliance with applicable State law or regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and supportive services to victims of family violence, domestic violence, or dating violence, and their dependents. This definition also includes emergency shelter and immediate shelter, which may include scattered-site housing, which is defined as property with multiple locations around a local jurisdiction or state. Temporary refuge includes a residential service, including shelter and off-site services such as hotel or motel vouchers, which is not transitional or permanent housing. Should other jurisdictional laws conflict with this definition of temporary refuge, the definition which provides more expansive housing accessibility governs.

*State* means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, except as otherwise provided in statute, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

*State Domestic Violence Coalition* means a statewide, non-governmental, nonprofit 501(c)(3) organization whose membership includes a majority of the primary-purpose domestic violence providers in the State; whose board membership is representative of these primary-purpose domestic violence service providers and which may include representatives of the communities in which the services are being provided in the State; that provides education, support, and technical assistance to such providers; and that serves as an information clearinghouse, primary point of contact, and resource center on domestic violence for the State and supports the development of policies, protocols, and procedures to enhance domestic violence intervention and prevention in the State.

*Supportive services* means services for adult and youth victims of family

violence, domestic violence, or dating violence, and their dependents, that are designed to meet the needs of such victims and their dependents for short-term, transitional, or long-term safety and recovery. Supportive services includes those services identified in FVPSA Section 10408(b)(1)(G), but is not limited to: Direct and/or referral-based advocacy on behalf of victims and their dependents, counseling, case management, employment services, referrals, transportation services, legal advocacy or assistance, childcare services, health, behavioral health and preventive health services, culturally appropriate services, and other services that assist victims or their dependents in recovering from the effects of the violence. Supportive services may be directly provided by grantees and/or by providing advocacy or referrals to assist victims in accessing such services.

*Underserved populations* means populations who face barriers in accessing and using victim services, and includes populations underserved because of geographic location, religion, sexual orientation, gender identity, underserved racial and ethnic populations, and populations underserved because of special needs including language barriers, disabilities, immigration status, and age. Individuals with criminal histories due to victimization and individuals with substance abuse and mental health issues are also included in this definition. This definition also includes other population categories determined by the Secretary or the Secretary's designee to be underserved.

#### **§ 1370.3 What Government-wide and HHS-wide regulations apply to these programs?**

(a) A number of government-wide and HHS regulations apply or potentially apply to all grantees. These include but are not limited to:

- (1) 2 CFR part 182—Government-wide Requirements for Drug Free Workplaces;
- (2) 2 CFR part 376—Nonprocurement Debarment and Suspension;
- (3) 45 CFR part 16—Procedures of the Departmental Grant Appeals Board;
- (4) 45 CFR part 30—Claims Collection;
- (5) 45 CFR part 46—Protection of Human Subjects;
- (6) 45 CFR part 75—Uniform Administrative Requirements, Cost Principles and Audit Requirements for HHS Awards;
- (7) 45 CFR part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964;

(8) 45 CFR part 81—Practice and Procedure for Hearings under part 80;

(9) 45 CFR part 84—Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance;

(10) 45 CFR part 86—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance;

(11) 45 CFR part 87—Equal Treatment for Faith-Based Organizations;

(12) 45 CFR part 91—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance for HHS; and

(13) 45 CFR part 93—New Restrictions on Lobbying.

(b) A number of government-wide and HHS regulations apply to all contractors. These include but are not limited to:

(1) 48 CFR Chapter 1—Federal Acquisition Regulations; and

(2) 48 CFR Chapter 3—Federal Acquisition Regulations—Department of Health and Human Services.

#### **§ 1370.4 What confidentiality requirements apply to these programs?**

(a) In order to ensure the safety of adult, youth, and child victims of family violence, domestic violence, or dating violence, and their families, grantees and subgrantees under this title shall protect the confidentiality and privacy of such victims and their families. Subject to paragraphs (c), (d), and (e) of this section, grantees and subgrantees shall not—

(1) Disclose any personally identifying information (as defined in § 1370.2) collected in connection with services requested (including services utilized or denied) through grantees' and subgrantees' programs; or

(2) Reveal personally identifying information without informed, written, reasonably time-limited consent by the person about whom information is sought, whether for this program or any other Federal or State grant program.

(b) Consent shall be given by the person, except in the case of an unemancipated minor it shall be given by both the minor and the minor's parent or guardian; or in the case of an individual with a guardian it shall be given by the individual's guardian. A parent or guardian may not give consent if: He or she is the abuser or suspected abuser of the minor or individual with a guardian; or, the abuser or suspected abuser of the other parent of the minor. Reasonable accommodation shall also be made to those who may be unable, due to disability or other functional limitation, to provide consent in writing.

(c) If the release of information described in paragraphs (a) and (b) of this section is compelled by statutory or court mandate:

(1) Grantees and sub-grantees shall make reasonable attempts to provide notice to victims affected by the release of the information; and

(2) Grantees and sub-grantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

(d) Grantees and sub-grantees may share:

(1) Nonpersonally identifying information, in the aggregate, regarding services to their clients and demographic non-personally identifying information in order to comply with Federal, State, or Tribal reporting, evaluation, or data collection requirements;

(2) Court-generated information and law enforcement-generated information contained in secure, governmental registries for protective order enforcement purposes; and

(3) Law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.

(e) Nothing in this section prohibits a grantee or subgrantee from reporting abuse and neglect, as those terms are defined by law, where mandated or expressly permitted by the State or Indian Tribe involved.

(f) Nothing in this section shall be construed to supersede any provision of any Federal, State, Tribal, or local law that provides greater protection than this section for victims of family violence, domestic violence, or dating violence.

(g) The address or location of any shelter facility assisted that maintains a confidential location shall, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.

#### **§ 1370.5 What additional non-discrimination requirements apply to these programs?**

(a) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part through FVPSA. FVPSA grantees must provide comparable services to victims regardless of sex or gender. This includes not only providing access to services for male victims of family, domestic, and dating violence, but also making sure not to limit services for victims with adolescent sons (up to the

age of majority). Victims and their adolescent sons must be sheltered or housed together unless requested otherwise or unless the factors or considerations identified in the paragraph directly below require an exception to this general rule.

(b) However, no such program or activity is required to include an individual in such program or activity without taking into consideration that individual's sex in those certain instances where sex is a *bona fide* occupational qualification or a programmatic factor reasonably necessary to the essential or safe operation of that particular program or activity. If a shelter can reasonably separate the sexes in a manner which allows for single sex bedrooms and bathrooms and the essential and safe operation of the particular program is not substantially compromised, it is reasonable to provide such separation. If the essential or safe operation of the program or activity would be substantially compromised, alternative, equivalent shelter and services should be offered as practicable. Adult male victims should be offered hotel placements and provided supportive services at the shelter if shelter space is not available or if it is otherwise determined that the operation of the program or activity would be substantially compromised. Victims' adolescent male sons, as previously discussed must be housed with the abused parent seeking shelter or services unless otherwise requested, or unless there are specific, individual factors or circumstances, that by placing a victim in shelter with their son substantially compromise the essential or safe operations of the program.

(c) LGBTQ individuals must have access to FVPSA-funded shelter and nonresidential programs. Programmatic accessibility for LGBTQ survivors must be afforded to meet individual needs like those provided to all other survivors. For the purpose of assigning a beneficiary to sex-segregated or sex-specific services, the recipient should ask a transgender beneficiary which group or services the beneficiary wishes to join. The recipient may not, however, ask questions about the beneficiary's anatomy or medical history or make demands for identity documents. ACF requires that a FVPSA grantee, subgrantee, contractor, or vendor that makes decisions about eligibility for or placement into single-sex emergency shelters or other facilities will place a potential victim (or current victim/client seeking a new assignment) in a shelter or other appropriate placement that corresponds to the gender with

which the person identifies, taking health and safety concerns into consideration. A victim's/client's or potential victim's/client's own views with respect to personal health and safety must be given serious consideration in making the placement. For instance, if the potential victim/client requests to be placed based on his or her sex assigned at birth, ACF requires that the provider will place the individual in accordance with that request, consistent with health, safety, and privacy concerns. ACF also requires that a provider will not make an assignment or re-assignment based on complaints of another person when the sole stated basis of the complaint is a victim/client or potential victim/client's non-conformance with gender stereotypes.

(d) With respect to religion, religious beliefs or religious practices shall not be imposed on program recipients. Dietary practices dictated by particular religious beliefs may require some reasonable accommodation in cooking or feeding arrangements for particular clients as practicable. Finally, human trafficking victims may receive FVPSA-funded services as long as victims of domestic and intimate partner violence are prioritized first by FVPSA grantees.

(e) State and Tribal Formula grant-funded services must be provided without requiring documentation for eligibility given the multiple access barriers faced by battered immigrants.

(f) All requirements in this section shall not be construed as affecting any legal remedy provided under any other provision of law. The Secretary shall enforce the provisions of all requirements in this section in accordance with section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1). Section 603 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2) shall apply with respect to any action taken by the Secretary to enforce this section.

(g) No condition may be imposed by grantees or subgrantees for the receipt of emergency shelter, unless a State imposes a legal requirement to protect the safety and welfare of all shelter residents, and receipt of all supportive services shall be voluntary. Nothing in this requirement prohibits shelter operators from preventing violence or abuse or securing the safety of all shelter residents. In the case of an apparent conflict with State or Federal laws, case-by-case determinations will be made.

#### **§ 1370.6 What requirements for reports and evaluations apply to these programs?**

Each entity receiving a grant or contract under these programs shall submit a performance report to the

Secretary at such time as required by the Secretary. Such performance report shall describe the activities that have been carried out, contain an evaluation of the effectiveness of such activities, and provide such additional information as the Secretary may require. American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands are required to report directly to the Division of Family Violence Prevention and Services within FYSB and follow all reporting requirements applicable to States, Puerto Rico, and the District of Columbia, unless otherwise communicated to grantees. These requirements supplement, and do not replace the Territorial reporting requirements of the ACF Office of Community Services in its administration of the Consolidated Block Grants as part of the Social Services Block Grant program.

■ 3. Add subpart B, consisting of § 1370.10, to read as follows:

#### **Subpart B—State and Indian Tribal Grants**

##### **§ 1370.10 What additional requirements apply to State and Indian Tribal grants?**

(a) These grants assist States and Tribes to support the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence, domestic violence, and dating violence; to provide immediate shelter, supportive services, and access to community-based programs for victims of family violence, domestic violence, or dating violence, and their dependents; and to provide specialized services for children exposed to family violence, domestic violence, or dating violence, underserved populations, and victims who are members of racial and ethnic minority populations. States must consult with and provide for the participation of State and Tribal Domestic Violence Coalitions in the planning and monitoring of the distribution and administration of subgrant programs and projects. Tribes should be involved in these processes where appropriate but this rule is not intended to encroach upon Tribal sovereignty. States and Tribes must involve community-based organizations that primarily serve culturally specific, underserved communities and to determine how such organizations can assist the States and Tribes in serving the unmet needs of the underserved community. States also must consult with and provide for the participation of State and Tribal Domestic Violence Coalitions in State planning and coordinate such planning

with needs assessments to identify service gaps or problems and develop appropriate responsive plans and programs. Similar processes for Tribes and Coalitions that support coordination and collaboration are expected when feasible and appropriate with deference to Tribal sovereignty as previously indicated.

(b) A State application must be submitted by the Chief Executive of the State and signed by the Chief Executive Officer or the Chief Program Official designated as responsible for the administration of FVPSA. Each application must contain the following information or documentation:

(1) The name of the State agency, the name and contact information for the Chief Program Official designated as responsible for the administration of funds under FVPSA and coordination of related programs within the State, and the name and contact information for a contact person if different from the Chief Program Official.

(2) A plan describing in detail how the needs of underserved populations will be met, including:

(i) Identification of which populations in the State are underserved, a description of those that are being targeted for outreach and services, and a brief explanation of why those populations were selected to receive outreach and services, including how often the State revisits the identification and selection of the populations to be served with FVPSA funding. States must review their State demographics at least every three years or explain why this process is unnecessary;

(ii) A description of the outreach plan, including the domestic violence training to be provided, the means for providing technical assistance and support, and the leadership role played by those representing and serving the underserved populations in question;

(iii) A description of the specific services to be provided or enhanced, such as new shelters or services, improved access to shelters or services, or new services for underserved populations such as victims from communities of color, immigrant victims, victims with disabilities, or older individuals; and

(iv) A description of the public information component of the State's outreach program, including the elements of the program that are used to explain domestic violence, the most effective and safe ways to seek help, and tools to identify available resources.

(3) A description of the process and procedures used to involve the State Domestic Violence Coalition, knowledgeable individuals, and

interested organizations, including those serving or representing underserved communities in the State planning process.

(4) Documentation of planning, consultation with and participation of the State Domestic Violence Coalition in the administration and distribution of FVPSA programs, projects, and grant funds awarded to the State.

(5) A description of the procedures used to assure an equitable distribution of grants and grant funds within the State and between urban and rural areas, as defined by the Census Bureau, within the State. The plan should describe how funding processes and allocations will address the needs of the underserved, racial and ethnic minorities including Tribal populations, and people with disabilities and their families, with an emphasis on funding organizations that can meet unique needs including culturally relevant and linguistically appropriate services. Other Federal, State, local, and private funds may be considered in determining compliance.

(6) A description of how the State plans to use the grant funds including a State plan developed in consultation with State and Tribal Domestic Violence Coalitions and representatives of underserved and culturally specific communities; a description of the target populations; of the number of shelters to be funded; of the number of non-residential programs to be funded; of the services the State will provide; and of the expected results from the use of the grant funds. To fulfill these requirements, it is critically important that States work with Coalitions and Tribes to solicit their feedback on program effectiveness which may include recommendations such as establishing program standards and participating in program monitoring.

(7) A copy of the law or procedures, such as a process for obtaining an order of protection that the State has implemented for the eviction of an abusive spouse or other intimate, domestic, or dating partner from a shared household or residence. This requirement includes family violence, domestic violence, and dating violence.

(8) An assurance that not less than 70 percent of the funds distributed by a State to sub-recipients shall be distributed to entities for the primary purpose of providing immediate shelter and supportive services to adult and youth victims of family violence, domestic violence, or dating violence, and their dependents, and that not less than 25 percent of the funds distributed by a State to sub-recipients shall be distributed to entities for the purpose of

providing supportive services and prevention services (these percentages may overlap with respect to supportive services but are not included in the 5 percent cap applicable to State administrative costs). No grant shall be made under this section to an entity other than a State unless the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the program or project for which the grant is awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions in an amount that is not less than \$1 for every \$5 of Federal funds provided under the grant. The non-Federal contributions required under this paragraph may be in cash or in kind.

(9) Documentation of policies, procedures and protocols that ensure individual identifiers of client records will not be used when providing statistical data on program activities and program services or in the course of grant monitoring, that the confidentiality of records pertaining to any individual provided family violence prevention or intervention services by any program or entity supported under the FVPSA will be strictly maintained, and the address or location of any shelter supported under the FVPSA will not be made public without the written authorization of the person or persons responsible for the operation of such shelter; and

(10) Such additional agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

(c) An application from a Tribe or Tribal Organization must be submitted by the Chief Executive Officer or Tribal Chairperson of the applicant organization. Each application must contain the following information or documentation:

(1) A copy of a current Tribal resolution or an equivalent document that verifies Tribal approval of the application being submitted. The resolution or other document should state that the designated organization or agency has the authority to submit an application on behalf of the individuals in the Tribe(s) and to administer programs and activities funded pursuant to the FVPSA. The resolution or equivalent document must specify the name(s) of the Tribe(s) represented and the service area for the intended grant services. If Tribal resolutions are the vehicles to support applications from Tribal Consortia or other joint Tribal

applications, a representative from each Tribe must sign the application.

(2) A description of the procedures designed to involve knowledgeable individuals and interested organizations in providing services under the FVPSA. For example, knowledgeable individuals and interested organizations may include Tribal officials or social services staff involved in child abuse or family violence prevention, Tribal law enforcement officials, representatives of Tribal or State Domestic Violence Coalitions, and operators of domestic violence shelters and service programs.

(3) A description of the applicant's operation of and/or capacity to carry out a family violence prevention and services program. This might be demonstrated in ways such as:

(i) The current operation of a shelter, safe house, or domestic violence prevention program;

(ii) The establishment of joint or collaborative service agreements with a local public agency or a private, non-profit agency for the operation of family violence prevention and intervention activities or services; or

(iii) The operation of social services programs as evidenced by receipt of grants or contracts awarded under Indian Child Welfare grants from the Bureau of Indian Affairs; Child Welfare Services grants under Title IV-B of the Social Security Act; or Family Preservation and Family Support grants under Title IV-B of the Social Security Act.

(4) A description of the services to be provided, how the applicant organization plans to use the grant funds to provide the direct services, to whom the services will be provided, and the expected results of the services.

(5) Documentation of the law or procedure which has been implemented for the eviction of an abusing spouse or other intimate, domestic, or dating partner from a shared household or residence.

(6) Documentation of the policies and procedures developed and implemented, including copies of the policies and procedures, to ensure that individual identifiers of client records will not be used when providing statistical data on program activities and program services or in the course of grant monitoring and that the confidentiality of records pertaining to any individual provided domestic violence prevention or intervention services by any FVPSA-supported program will be strictly maintained.

(7) Such agreements, assurances, and information, in such form, and submitted in such manner as the

Funding Opportunity Announcement and related program guidance prescribe.

■ 4. Add subpart C, consisting of § 1370.20, to read as follows:

#### **Subpart C—State Domestic Violence Coalition Grants**

##### **§ 1370.20 What additional requirements apply to State Domestic Violence Coalitions?**

(a) State Domestic Violence Coalitions reflect a Federal commitment to reducing domestic violence; to urge States, localities, cities, and the private sector to become involved in State and local planning towards an integrated service delivery approach that meets the needs of all victims, including those in underserved communities; to provide for technical assistance and training relating to domestic violence programs; and to increase public awareness about and prevention of domestic violence and increase the quality and availability of shelter and supportive services for victims of domestic violence and their dependents.

(b) To be eligible to receive a grant under this section, an organization shall be a statewide, non-governmental, non-profit 501(c)(3) domestic violence Coalition, designated as such by the Department. To obtain this designation the organization must meet the following criteria:

(1) The membership must include representatives from a majority of the primary-purpose programs for victims of domestic violence operating within the State (a Coalition also may include representatives of Indian Tribes and Tribal organizations as defined in the Indian Self-Determination and Education Assistance Act);

(2) The Board membership of the Coalition must be representative, though not exclusively composed, of such programs, and may include representatives of communities in which the services are being provided in the State;

(3) Financial sustainability of Coalitions, as independent, autonomous non-profit organizations, also must be supported by their membership, including those member representatives on the Coalitions' Boards of Directors;

(4) The purpose of the Coalition must be to provide services, community education, and technical assistance to domestic violence programs in order to establish and maintain shelter and supportive services for victims of domestic violence and their children.

(c) To apply for a grant under this section, an organization shall submit an annual application that:

(1) Includes a complete description of the applicant's plan for the operation of

a State Domestic Violence Coalition, including documentation that the Coalition's work will demonstrate the ability to conduct appropriately all activities described in this section. Demonstrated ability or capacity may include but is not limited to: Identifying successful efforts that support child welfare agencies' identification and support of victims during intake processes; creation of membership standards that enhance victim safety and fully require training and technical assistance for compliance with federal housing, disability, and sex discrimination laws and regulations; and, training judicial personnel on trauma-informed courtroom practice. Coalitions must also have documented experience in administering Federal grants to conduct the activities of a Coalition or a documented history of active participation in:

(i) Working with local family violence, domestic violence, and dating violence service programs and providers of direct services to encourage appropriate and comprehensive responses to family violence, domestic violence, and dating violence against adults or youth within the State involved, including providing training and technical assistance and conducting State needs assessments and participate in planning and monitoring of the distribution of subgrants within the States and in the administration of grant programs and projects;

(ii) In conducting needs assessments, Coalitions and States must work in partnership on the statutorily required FVPSA State planning process to involve representatives from underserved and racial and ethnic minority populations to plan, assess and voice the needs of the communities they represent. Coalitions will assist States in identifying underrepresented communities and culturally-specific community based organizations in State planning and to work with States to unify planning and needs assessment efforts so that comprehensive and culturally-specific services are provided. The inclusion of the populations targeted will emphasize building the capacity of culturally-specific services and programs.

(iii) Working in collaboration with service providers and community-based organizations to address the needs of family violence, domestic violence, and dating violence victims, and their dependents, who are members of racial and ethnic minority populations and underserved populations;

(iv) Collaborating with and providing information to entities in such fields as housing, health care, mental health,

social welfare, or business to support the development and implementation of effective policies, protocols, and programs that address the safety and support needs of adult and youth victims of family violence, domestic violence, or dating violence;

(v) Encouraging appropriate responses to cases of family violence, domestic violence, or dating violence against adults or youth, including by working with judicial and law enforcement agencies;

(vi) Working with family law judges, criminal court judges, child protective service agencies, and children's advocates to develop appropriate responses to child custody and visitation issues in cases of child exposure to family violence, domestic violence, or dating violence and in cases in which family violence, domestic violence, or dating violence is present and child abuse is present;

(vii) Working with protection and advocacy systems, and aging and disability systems to develop appropriate responses for older individuals and individuals with disabilities;

(viii) Providing information to the public about prevention of family violence, domestic violence, and dating violence, including information targeted to underserved populations; and

(ix) Collaborating with Indian Tribes and Tribal organizations (and corresponding Native Hawaiian groups or communities) to address the needs of Indian (including Alaska Native) and Native Hawaiian victims of family violence, domestic violence, or dating violence, as applicable in the State;

(2) Contains such agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

(d) Nothing in this section limits the ability of a Coalition to use non-Federal or other Federal funding sources to conduct required functions, provided that if the Coalition uses funds received under section 2001(c)(1) of the Omnibus Crime Control and Safe Streets Act of 1968 to perform the functions described in FVPSA section 311(e) in lieu of funds provided under the FVPSA, it shall provide an annual assurance to the Secretary that it is using such funds, and that it is coordinating the activities conducted under this section with those of the State's activities under Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

(e) In cases in which two or more organizations seek designation, the designation of each State's individual

Coalition is within the exclusive discretion of HHS. HHS will determine which applicant best fits statutory criteria, with particular attention paid to the applicant's documented history of effective work, support of primary-purpose programs and programs that serve racial and ethnic minority populations and underserved populations, coordination and collaboration with the State government, and capacity to accomplish the FVPSA mandated role of a Coalition.

(f) Regarding FVPSA funding, in cases where a Coalition financially or otherwise dissolves, the designation of a new Coalition is within the exclusive discretion of HHS. HHS will work with domestic violence service providers, community stakeholders, State leaders, and representatives of underserved and culturally specific communities to identify an existing organization that can serve as the Coalition or to develop a new organization. The new Coalition must reapply for designation and funding following steps determined by the Secretary. HHS will determine whether the applicant fits the statutory criteria, with particular attention paid to the applicant's documented history of effective work, support of primary-purpose programs and programs that serve racial and ethnic minority populations and underserved communities, coordination and collaboration with the State government, and capacity to accomplish the FVPSA mandated role of a Coalition.

■ 5. Add Subpart D to read as follows:

#### **Subpart D—Discretionary Grants and Contracts**

Sec.

1370.30 What National Resource Centers and Training and Technical Assistance grant programs are available and what requirements apply?

1370.31 What additional requirements apply to specialized services for abused parents and their children?

1370.32 What additional requirements apply to National Domestic Violence Hotline grants?

#### **§ 1370.30 What National Resource Center and Training and Technical Assistance grant programs are available and what additional requirements apply?**

(a) These grants are to provide resource information, training, and technical assistance to improve the capacity of individuals, organizations, governmental entities, and communities to prevent family violence, domestic violence, and dating violence and to provide effective intervention services. They fund national, special issue, and culturally-specific resource centers addressing key areas of domestic

violence intervention and prevention, and may include State resource centers to reduce disparities in domestic violence in States with high proportions of Native American (including Alaska Native or Native Hawaiian) populations and to support training and technical assistance that address emerging issues related to family violence, domestic violence, or dating violence, to entities demonstrating expertise in these areas. Grants may be made for:

(1) A National Resource Center on Domestic Violence which will conduct the following activities:

(i) Offer a comprehensive array of technical assistance and training resources to Federal, State, and local governmental agencies, domestic violence service providers, community-based organizations, and other professionals and interested parties, related to domestic violence service programs and research, including programs and research related to victims and their children who are exposed to domestic violence as well as older individuals and those with disabilities; and

(ii) Maintain a central resource library in order to collect, prepare, analyze, and disseminate information and statistics related to the incidence and prevention of family violence and domestic violence; and the provision of shelter, supportive services, and prevention services to adult and youth victims of domestic violence (including services to prevent repeated incidents of violence).

(2) A National Indian Resource Center Addressing Domestic Violence and Safety for Indian Women which will conduct the following activities:

(i) Offer a comprehensive array of technical assistance and training resources to Indian Tribes and Tribal organizations, specifically designed to enhance the capacity of the Tribes and Tribal organizations to respond to domestic violence and increase the safety of Indian women; and

(ii) Enhance the intervention and prevention efforts of Indian Tribes and Tribal organizations to respond to domestic violence and increase the safety of Indian women, and

(iii) To coordinate activities with other Federal agencies, offices, and grantees that address the needs of American Indians, Alaska Natives, and Native Hawaiians that experience domestic violence.

(3) Special issue resource centers to provide national information, training, and technical assistance to State and local domestic violence service providers. Each special issue resource center shall focus on enhancing domestic violence intervention and

prevention efforts in at least one of the following areas:

(i) Response of the criminal and civil justice systems to domestic violence victims, which may include the response to the use of the self-defense plea by domestic violence victims and the issuance and use of protective orders;

(ii) Response of child protective service agencies to victims of domestic violence and their dependents and child custody issues in domestic violence cases;

(iii) Response of the interdisciplinary health care system to victims of domestic violence and access to health care resources for victims of domestic violence;

(iv) Response of mental health systems, domestic violence service programs, and other related systems and programs to victims of domestic violence and to their children who are exposed to domestic violence.

(4) Culturally-Specific Special Issue Resource Centers enhance domestic violence intervention and prevention efforts for victims of domestic violence who are members of racial and ethnic minority groups, to enhance the cultural and linguistic relevancy of service delivery, resource utilization, policy, research, technical assistance, community education, and prevention initiatives.

(5) State resource centers to provide statewide information, training, and technical assistance to Indian Tribes, Tribal organizations, and local domestic violence service organizations serving Native Americans (including Alaska Natives and Native Hawaiians) in a culturally sensitive and relevant manner. These centers shall:

(i) Offer a comprehensive array of technical assistance and training resources to Indian Tribes, Tribal organizations, and providers of services to Native Americans (including Alaska Natives and Native Hawaiians) specifically designed to enhance the capacity of the Tribes, organizations, and providers to respond to domestic violence;

(ii) Coordinate all projects and activities with the National Indian Resource Center Addressing Domestic Violence and Safety for Indian Women, including projects and activities that involve working with State and local governments to enhance their capacity to understand the unique needs of Native Americans (including Alaska Natives and Native Hawaiians); and

(iii) Provide comprehensive community education and domestic violence prevention initiatives in a

culturally sensitive and relevant manner.

(iv) Be located in a State with high proportions of Indian or Native Hawaiian populations. Eligible entities shall be located in a State in which the population of Indians (including Alaska Natives) and Native Hawaiians exceeds 10 percent of the total population of the State; or, be an Indian tribe, Tribal organization or a Native Hawaiian organization that focuses primarily on issues of domestic violence among Indians or Native Hawaiians; or, be an institution of higher education; and, demonstrate the ability to serve all regions of the State, including underdeveloped areas and areas that are geographically distant from population centers. Additionally, eligible entities shall offer training and technical assistance and capacity-building resources in States where the population of Indians (including Alaska Natives) and Native Hawaiians exceeds 2.5 percent of the total population of the State.

(6) Other discretionary purposes to support training and technical assistance that address emerging issues related to family violence, domestic violence, or dating violence, to entities demonstrating related experience.

(b) To receive a grant under any part of this section, an entity shall submit an application that shall meet such eligibility standards as are prescribed in the FVPSA and contains such agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

(c) Grant recipients are required to comply with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. To effectuate such compliance, grant recipients should create a plan to ensure effective communication and meaningful access, including:

(1) How to respond to individuals with Limited English Proficiency, and how to use appropriate interpretation and translation services, including best practices for using taglines. Taglines are short statements in non-English languages informing persons who are Limited English Proficient on how to access language assistance services.

(2) How to respond to individuals with communication-related disabilities and how to provide appropriate auxiliary aids and services, including qualified interpreters and information in alternate formats, to people with disabilities.

**§ 1370.31 What additional requirements apply to grants for specialized services for abused parents and their children?**

(a) These grants serve to expand the capacity of family violence, domestic violence, and dating violence service programs and community-based programs to prevent future domestic violence by addressing, in an appropriate manner, the needs of children exposed to family violence, domestic violence, or dating violence. To be eligible an entity must be a local agency, a nonprofit private organization (including faith-based and charitable organizations, community-based organizations, and voluntary associations), or a Tribal organization, with a demonstrated record of serving victims of family violence, domestic violence, or dating violence and their children.

(b) To be eligible to receive a grant under this section, an entity shall submit an application that:

(1) Includes a complete description of the applicant's plan for providing specialized services for abused parents and their children, including descriptions of:

(i) How the entity will prioritize the safety of, and confidentiality of information about victims of family violence, victims of domestic violence, and victims of dating violence and their children;

(ii) How the entity will provide developmentally appropriate and age-appropriate services, and culturally and linguistically appropriate services, to the victims and children; and

(iii) How the entity will ensure that professionals working with the children receive the training and technical assistance appropriate and relevant to the unique needs of children exposed to family violence, domestic violence, or dating violence.

(2) Demonstrates that the applicant has the ability to provide direct counseling, appropriate service, and advocacy on behalf of victims of family violence, domestic violence, or dating violence and their children, including coordination with services provided by the child welfare system;

(3) Demonstrates that the applicant can effectively provide services for nonabusing parents to support those parents' roles as caregivers and their roles in responding to the social, emotional, and developmental needs of their children;

(c) Eligible applicants may use funds under a grant pursuant to this section that:

(1) Demonstrates a capacity to provide early childhood development and mental health services;

(2) Shows the ability to coordinate activities with and provide technical assistance to community-based organizations serving victims of family violence, domestic violence, or dating violence or children exposed to family violence, domestic violence, or dating violence; and

(3) Shows the capacity to provide additional services and referrals to services for children, including child care, transportation, educational support, respite care, supervised visitation, or other necessary services; and

(4) Contains such agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

(d) If Congressional appropriations in any fiscal year for the entirety of programs covered in this part (exclusive of the National Domestic Violence Hotline which receives a separate appropriation) exceed \$130 million, not less than 25 percent of such excess funds shall be made available to carry out this grant program. If appropriations reach this threshold, HHS will specify funding levels in future Funding Opportunity Announcements.

**§ 1370.32 What additional requirements apply to National Domestic Violence Hotline grants?**

(a) These grants are for one or more private entities to provide for the ongoing operation of a 24-hour, national, toll-free telephone hotline to provide information and assistance to adult and youth victims of family violence, domestic violence, or dating violence, family and household members of such victims, and persons affected by the victimization.

(b) Telephone is defined as a communications device that permits two or more callers or users to engage in transmitted analog, digital, short

message service (SMS), cellular/wireless, laser, cable/broadband, internet, voice-over internet protocol (IP) or other communications, including telephone, smartphone, chat, text, voice recognition, or other technological means which connects callers or users together.

(c) To be eligible to receive a grant under this section, an entity shall submit an application that:

(1) Includes a complete description of the applicant's plan for the operation of a national domestic violence telephone hotline, including descriptions of:

(i) The training program for hotline personnel, including technology training to ensure that all persons affiliated with the hotline are able to effectively operate any technological systems used by the hotline, and are familiar with effective communication and meaningful access requirements, to ensure access for all, including people who are Limited English Proficient and people with disabilities;

(ii) The hiring criteria and qualifications for hotline personnel;

(iii) The methods for the creation, maintenance, and updating of a resource database;

(iv) A plan for publicizing the availability of the hotline;

(v) A plan for providing service to Limited English Proficient callers, including service through hotline personnel who are qualified to interpret in non-English languages;

(vi) A plan for facilitating access to the hotline by persons with disabilities, including persons with hearing impairments; and

(vii) A plan for providing assistance and referrals to youth victims of domestic violence and for victims of dating violence who are minors, which may be carried out through a national teen dating violence hotline.

(2) Demonstrates that the applicant has recognized expertise in the area of

family violence, domestic violence, or dating violence and a record of high quality service to victims of family violence, domestic violence, or dating violence, including a demonstration of support from advocacy groups and State Domestic Violence Coalitions;

(3) Demonstrates that the applicant has the capacity and the expertise to maintain a domestic violence hotline and a comprehensive database of service providers;

(4) Demonstrates the ability to provide information and referrals for callers, directly connect callers to service providers, and employ crisis interventions meeting the standards of family violence, domestic violence, and dating violence providers;

(5) Demonstrates that the applicant has a commitment to diversity and to the provision of services to underserved populations, including to ethnic, racial, and Limited English Proficient individuals, in addition to older individuals and individuals with disabilities;

(6) Demonstrates that the applicant follows comprehensive quality assurance practices; and

(7) Contains such agreements, information, and assurances, including nondisclosure of confidential or private information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

(d) The entity receiving a grant under this section shall submit a performance report to the Secretary at such time as reasonably required by the Secretary that shall describe the activities that have been carried out with grant funds, contain an evaluation of the effectiveness of such activities, and provide additional information as the Secretary may reasonably require.

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