

Wisconsin Department of Veterans Affairs

Policy Bulletin: Authority to Determine Amount of Tribal Veteran Service Officer Grants

Date of Origin: April 24, 2023	Policy Bulletin No.: 23-102
Last Revision: April 24, 2023	Page: 1 of 3
Last Review: April 24, 2023	Maintained By: Office of Legal Counsel
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I. Policy Statement:

The purpose of this Policy Bulletin is to outline the legal basis for DVA's authority to equally apportion funds related to TVSO grants.

II. Related Bulletins:

This bulletin supercedes any previous DVA legal opinions or internal procedures relating to how DVA handles unencumbered TVSO grant funds.

III. Issue:

Each fiscal year, the Legislature allocates a set amount available for DVA to provide tribes/bands TVSO grants. DVA typically determines the amount that each tribe/band is eligible by dividing this appropriated sum by the total number of eligible tribes/bands who apply for a TVSO grant; and, accordingly, DVA awards an equal amount to each tribe/band which is both eligible and applies.ⁱ

IV. Background and Legal Rationale:

Wisconsin Stat. §45.82(4) authorizes DVA to award annual grants to tribes/bands to improve the services provided to tribal veterans by a TVSO.ⁱⁱ The only statutory constraint on the amount of the grant being that each individual grant award shall not exceed \$16,500.ⁱⁱⁱ

The Legislature appropriates a lump sum amount that dictates the total available amount that DVA may award each fiscal year for all TVSO grants.^{iv} DVA then determines **an equal amount**, up to the \$16,500 statutory maximum amount, that it will award each tribe/band who apply and are determined eligible for a TVSO grant in a fiscal year.^v (*Emphasis added*).

V. Determination:

Pursuant to Wis. Stat. §45.82(4) and Wisconsin Administrative Code Chapter VA 15^{vi}, DVA possesses the discretion to allocate to each tribe/band which is both eligible and applied, the TVSO Grant in an equal amount, and otherwise consistent with the law.^{vii} If a tribe/band does not apply by the May 15 deadline or is determined ineligible for a TVSO grant, DVA **may** allocate the unused funds equally amongst the tribes/bands who were already awarded the TVSO grant as long as the total amount to each of these tribes/bands does not exceed the \$16,500 statutory maximum amount.

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ENDNOTES

ⁱ [Wisconsin Admin. Code VA §15.01](#) enumerates the eleven federally recognized tribes/bands potentially eligible for a TVSO grant.

ⁱⁱ Wisconsin Stat. §45.82(4) requires DVA to promulgate rules to implement the awarding of TVSO grants. DVA promulgated Wisconsin Administrative Code Chapter VA 15 that controls its awarding of TVSO grants but it does not specify an exact amount that DVA should award to each tribe nor does it proscribe how DVA should determine the amount it should provide to tribes/bands awarded a grant. [Wisconsin Administrative Code Chapter VA 15](#). The only limitation on the ability of DVA with respect to the amount to award is the amount the Legislature appropriates each fiscal year for TVSO grants and the \$16,500 limitation placed by Wis. Stat. §45.82(4).

In contrast, Wis. Stat. §45.82(2) proscribes the exact amounts of the County Veterans Service Officer grant based on each county's population as follows:

Grant Amount	Population Size of County
\$9,350	< 20,000
\$11,000	20,000 to 45,499
\$12,650	45,500 to 74,999
\$14,300	≥70,000

ⁱⁱⁱ [Wisconsin Stat. §45.82\(4\)](#). DVA is in charge of awarding these grants. *See id.* (“The department shall provide grants to the governing bodies of federally recognized American Indian tribes and bands . . .”)

^{iv} [Wisconsin Stat. §§20.485 \(2\) \(km\) or \(vu\)](#).

^v Wis. Stat. §45.82(4). The only criterion proscribed by Wis. Stat. §45.82(4) for whether DVA awards a grant are the following:

- The Tribe/band must enter into an agreement with DVA regarding the creation, goals, and objectives of the tribal veterans service officer of the tribe/band.
- The tribe/band must appoint a veteran to act as a tribal veterans service officer.
- The tribe/band must assign the tribal veterans service officer duties similar to the duties assigned to county veterans service officer except the tribal veterans service officer reports to the governing body of the tribe/band rather than reporting to the county board.

Wis. Admin. Code VA §§15.02(3) & 15.03 also proscribes additional substantive criterion for whether DVA awards a grant. These include:

- The tribe/band must meet minimum budget and operating standards established by DVA.
- If the tribe/band hires its tribal veteran service officer after August 1, 2000 the individual must be a veteran as defined by Wis. Stat. §45.01(12).
- The tribe/band must submit a certified copy of the budget adopted by the governing body of the tribe/band for the operations of the TVSO for the fiscal year for which the grant is claimed.
- The tribe/band must have submitted a report on the operations of the TVSO on uniform forms established by the department as soon as completed for the prior fiscal year.

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- The tribe/band must appoint a tribal veterans service officer who is a veteran and require him or her to have duties proscribed to county veterans service officers pursuant to Wis. Stat. §45.80(5). The only exception is that tribal veterans service officer shall report to the governing body of the tribe/band.
- The tribe/band shall provide sufficient staff to permit adequate service to tribal veterans.
- The tribe/band shall authorize sufficient office space and supplies to permit adequate service to tribal veterans.
- The tribe/band shall authorize sufficient travel by the tribal veterans service officer to permit adequate service to tribal veterans.

All the aforementioned criteria are requirements a tribe/band must satisfy to be eligible for the TVSO grant. Yet once the tribe/band satisfies these criteria, the criteria do not provide a justification to vary the amount provided to each eligible tribe/band.

^{vi} Wisconsin Admin. Code VA § 15.02(1) requires a tribe/band to apply not later than May 15 for the TVSO grant. If DVA sets a deadline earlier than May 15 and a tribe/band does not apply by DVA's deadline, DVA must consider the application of that tribe/band as long as the tribe/band submits the application by the May 15 deadline as established per s. VA 15.02 (1).

^{vii} The Legislature provides money for the TVSO grants from the appropriations under [Wis. Stat. §§20.485\(2\)\(km\) or \(vu\)](#). Paragraph (km) provides that the unencumbered balance on June 30 of each year shall revert to the Indian Gaming Receipt appropriation account. Paragraph (km) is further support for the fact that the Legislature has not mandated that all funds it allocates for the TVSO grant must be awarded each fiscal year.