The U.S. Supreme Court has found that federal laws creating conditions on grant funding do not violate states’ rights under the Tenth Amendment, so long as states are free to reject all or part of the funding if they do not wish to comply with a grant requirement.¹

As Chief Justice Rehnquist noted, incident to its spending power under the Constitution, “Congress may attach conditions on the receipt of federal funds, and has repeatedly employed the power to further broad policy objectives by conditioning receipt of federal moneys upon compliance by the recipient with federal statutory and administrative directives.”² So as not to violate the limits of constitutional spending power, any grant condition imposed by Congress on the states must meet each of the following criteria:

- The expenditure must be for the general welfare³
- The conditions imposed must be unambiguous⁴
- The conditions must be reasonably related to the purpose of the expenditure⁵
- The legislation may not violate any independent constitutional prohibition⁶

The Violence Against Women Act meets each of these tests.

VAWA serves the general welfare by providing grant funding to law enforcement, prosecution, the courts, and victim services to ensure a consistent and just response to the crimes of domestic violence, dating violence, sexual assault, and stalking. The purpose of the grant conditions is to improve public safety and reduce the burden of these crimes on the community.

The conditions imposed on grantees in VAWA are unambiguous, reasonably related to the purpose of the funding, and do not violate any independent constitutional prohibition.

States receiving funding through the STOP formula grant program are required to meet the following requirements (and may use STOP funding to meet these conditions):

- refrain from charging victims filing fees for protection orders or costs for criminal prosecution;
- notify persons subject to protection orders or persons charged with domestic violence about the federal gun laws that may impact them;
- refrain from charging victims of sexual assault for the collection or processing of rape kits; and
- prohibit law enforcement or prosecutors from requiring a victim of an alleged sex offense to undergo polygraph testing as a condition of going forward with investigating, charging or prosecuting that crime.

States and units of local government receiving funding under Grants to Encourage Arrest and Enforce Protection Orders are required to meet the following conditions (and may use GTEAEP funding to meet these conditions):

- ensure that their courts do not issue mutual restraining orders without due process;
- adopt policies to discourage dual arrests in domestic violence cases;
- refrain from charging victims filing fees for protection orders or costs for criminal prosecution;
- prohibit law enforcement or prosecutors from requiring a victim of an alleged sex offense to undergo polygraph testing as a condition of going forward with investigating, charging or prosecuting that crime; and
- develop a law or regulation to require HIV-testing of any person who has been indicted (within 48 hours of that indictment) for forcing a victim to engage in sexual activity, with follow up notification to the victim.

Grants made available through VAWA are not unlike many hundreds of other federal grant programs that place statutory conditions on the receipt of funding. These conditions encourage states to adopt best practices around their grant-funded work, which ensures that federal dollars are spent in the most efficient and appropriate way, and are wholly consistent with the Tenth Amendment.


Massachusetts v. United States, supra, at 461.