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agreements with other public or private entities, exclude violent offenders from programs authorized and funded under this part.

(b) No recipient of a grant made under the authority of this part shall permit a violent offender to participate in any program receiving funding pursuant to this part.

(c) Applicants must certify as part of the application process that violent offenders will not participate in programs authorized and funded under this part. The required certification shall be in such form and contain such assurances as the Assistant Attorney General may require to carry out the requirements of this part.

(d) If the Assistant Attorney General determines that one or more violent offenders are participating in a program receiving funding under this part, such funding shall be promptly suspended, pending the termination of participation by those persons deemed ineligible to participate under the regulations in this part.

(e) The Assistant Attorney General may carry out or make arrangements for evaluations and request information from programs that receive support under this part to ensure that violent offenders are excluded from participating in programs hereunder.

Subpart B [Reserved]

PART 94—CRIME VICTIM SERVICES

Subpart A—International Terrorism Victim Expense Reimbursement Program

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APPENDIX TO SUBPART A—INTERNATIONAL TERRORISM VICTIM EXPENSE REIMBURSEMENT PROGRAM (ITVERP) CHART OF EXPENSE CATEGORIES AND LIMITS

Subparts B–D [Reserved]

AUTHORITY: Victims of Crime Act (VOCA), Title II, Secs. 1404C and 1407 (42 U.S.C. 10603c, 10604).

SOURCE: 71 FR 52451, Sept. 6, 2006, unless otherwise noted.

Subpart A—International Terrorism Victim Expense Reimbursement Program

INTRODUCTION

§ 94.11 Purpose; construction and severability.

(a) The purpose of this subpart is to implement the provisions of VOCA, Title II, Sec. 1404C (42 U.S.C. 10603c), which authorize the Director (Director), Office for Victims of Crime (OVC), a component of the Office of Justice Programs (OJP), to establish a program to reimburse eligible victims of acts of international terrorism that occur outside the United States, for expenses associated with that victimization.

(b) Any provision of this part held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this part and shall not affect the remainder thereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

§ 94.12 Definitions.

The following definitions shall apply to this subpart:

(a) *Child* means any biological or legally-adopted child, or any stepchild, of a deceased victim, who, at the time of the victim's death, is—

(1) Younger than 18 years of age; or

(2) Over 18 years of age and a student, as defined in 5 U.S.C. 8101.

(b) *Claimant* means a victim, or his representative, who is authorized to sign and submit an application, and receive payment for reimbursement, if appropriate.

(c) *Collateral sources* means sources that provide reimbursement for specific expenses compensated under this subpart, including property, health, disability, or other insurance for specific expenses; Medicare or Medicaid; workers' compensation programs; military or veterans' benefits of a compensatory nature; vocational rehabilitation benefits; restitution; and other state, Federal, foreign, and international compensation programs: except that any reimbursement received under this subpart shall be reduced by the amount of any lump sum payment whatsoever, received from, or in respect of the United States or a foreign government, unless the claimant can show that such payment was for a category of expenses not covered under this subpart. To the extent that a claimant has an unsatisfied judgment against a foreign government based on the same act of terrorism, the value of that unsatisfied judgment shall be counted as a lump sum payment for expenses covered under this subpart, unless the claimant agrees to waive his right to sue the United States government for satisfaction of that judgment.

(d) *Deceased* means individuals who are dead, or are missing and presumed dead.

(e) *Dependent* has the meaning given in 26 U.S.C. 152. If the victim was not required by law to file a U.S. Federal income tax return for the year prior to the act of international terrorism, an individual shall be deemed to be a victim's dependent if he was reliant on the income of the victim for over half of his support in that year.

(f) *Employee of the United States Government* means any person who—

(1) Is an employee of the United States government under Federal law; or

(2) Receives a salary or compensation of any kind from the United States Government for personal services directly rendered to the United States, similar to those of an individual in the United States Civil Service, or is a contractor of the United States Government (or an employee of such contractor) rendering such personal services.

(g) *Funeral and burial* means those activities involved in the disposition of the remains of a deceased victim, including preparation of the body and body tissue, refrigeration, transportation, cremation, procurement of a final resting place, urns, markers, flowers and ornamentation, costs related to memorial services, and other reasonably-associated activities, including travel for not more than two family members.

(h) *Incapacitated* means substantially impaired by mental illness or deficiency, or by physical illness or disability, to the extent that personal decision-making is impossible.

(i) *Incompetent* means unable to care for oneself because of mental illness or disability, mental retardation, or dementia.

(j) *International terrorism* has the meaning given in 18 U.S.C. 2331. As of the date of these regulations, the statute defines the term to mean "activities that—

(1) Involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

(2) Appear to be intended—

(i) To intimidate or coerce a civilian population;

(ii) To influence the policy of a government by intimidation or coercion; or

(iii) To affect the conduct of a government by mass destruction, assassination, or kidnaping; and

(3) Occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the

locale in which their perpetrators operate or seek asylum.”

(k) *Legal guardian* means legal guardian, as the term is defined under the laws of the jurisdiction of which the ward is or was a legal resident, except that if the ward is or was a national of the United States, the legal guardianship must be pursuant to an order of a court of competent jurisdiction of or within the United States.

(l) *Medical expenses* means costs associated with the treatment, cure, or mitigation of a disease, injury, or mental or emotional condition that is the result of an act of international terrorism. Allowable medical expenses include reimbursement for eyeglasses or other corrective lenses, dental services, rehabilitation costs, prosthetic or other medical devices, prescription medication, and other services rendered in accordance with a method of healing recognized by the jurisdiction in which the medical care is administered.

(m) *Mental health care* means mental health care provided by an individual who meets professional standards to provide these services in the jurisdiction in which the care is administered.

(n) *National of the United States* has the meaning given in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)). As of the date of these regulations, the statute defines the term to mean “(A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.”

(o) *Officer of the United States government* has the meaning given in 5 U.S.C. 2104.

(p) *Outside the United States* means outside any state of the United States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other possession or territory of the United States.

(q) *Parent* means a biological or legally-adoptive parent, or a step-parent, unless his parental rights have been terminated in the jurisdiction where the child is or was a legal resident, except that if the child or either parent is a national of the United States, the

termination must be pursuant to an order of a court of competent jurisdiction of or within the United States.

(r) *Property loss* refers to items of personal property (other than medical devices, which are included in the category of “medical expenses”) that are lost, destroyed, or held as evidence.

(s) *Rehabilitation costs* includes reasonable costs for the following: physiotherapy; occupational therapy; counseling, and workplace, vehicle, and home modifications.

(t) *Representative* means a family member or legal guardian authorized to file a claim on behalf of a victim who is younger than 18 years of age, incompetent, incapacitated, or deceased, except that no individual who was criminally culpable for the act of international terrorism shall be considered a representative. In the event that no family member or legal guardian is available to file a claim for an interim emergency payment on behalf of a victim, under § 94.41, a U.S. consular officer or U.S. embassy official within the country may act as a representative, consistent with any limitation on his authority contained in 22 CFR 92.81(b).

(u) *Victim* has the meaning given in 42 U.S.C. 10603c(a)(3)(A), it being understood that the term “person” in that section means the following:

(1) (i) An individual who was present during the act of terrorism;

(ii) An individual who was present during the immediate aftermath of the act of terrorism; or

(iii) An emergency responder who assisted in efforts to search for and recover other victims; and

(2) The spouse, children, parents, and siblings of a victim described in paragraph (u)(1) of this Section, and other persons, at the discretion of the Director, shall be considered “victims”, when the person described in such paragraph—

(i) Dies as a result of the act of terrorism;

(ii) Is younger than 18 years of age (or is incompetent or incapacitated) at the time of the act of terrorism, or;

(iii) Is rendered incompetent or incapacitated as a result of the act of terrorism.

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§ 94.13 Terms.

The first three provisions of 1 U.S.C. 1 (rules of construction) shall apply to this subpart.

COVERAGE

§ 94.21 Eligibility.

(a) Except as provided in paragraphs (b) and (c) of this section, reimbursement of qualified expenses under this subpart is available to a victim of international terrorism or his representative, pursuant to 42 U.S.C. 10603c(a)(3)(A). For purposes of eligibility for this program only, the Attorney General shall determine whether there is a reasonable indication that an act was one of international terrorism, within the meaning of that section.

(b) Reimbursement shall be denied to any claimant if the Director, in consultation with appropriate Department of Justice (DOJ) officials, determines that there is a reasonable indication that either the victim with respect to whom the claim is made, or the claimant, was criminally culpable for the act of international terrorism.

(c) Reimbursement may be reduced or denied to a claimant if the Director, in consultation with appropriate DOJ officials, determines that the victim with respect to whom the claim is made contributed materially to his own death or injury by—

(1) Engaging in conduct that violates U.S. law or the law of the jurisdiction in which the act of international terrorism occurred;

(2) Acting as a mercenary or “soldier of fortune”;

(3) (As a non-U.S. Government employee), acting as an advisor, consultant, employee, or contractor, in a military or political capacity—

(i) For a rebel or paramilitary organization;

(ii) For a government not recognized by the United States; or

(iii) In a country in which an official travel warning issued by the U.S. Department of State related to armed conflict was in effect at the time of the act of international terrorism; or

(4) Engaging in grossly reckless conduct.

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§ 94.22 Categories of expenses.

The following categories of expenses, generally, may be reimbursed, with some limitations, as noted in § 94.23: medical care; mental health care; property loss; funeral and burial; and miscellaneous expenses (including temporary lodging, emergency travel, and transportation). Under this subpart, the Director shall not reimburse for attorneys’ fees, lost wages, or non-economic losses (such as pain and suffering, loss of enjoyment of life, loss of consortium, etc.).

§ 94.23 Amount of reimbursement.

Different categories of expenses are capped, as set forth in the chart below. Those caps may be adjusted, from time to time, by rulemaking. The cap in effect within a particular expense category, at the time that the application is received, shall apply to the award.

§ 94.24 Determination of award.

After review of each application, the Director shall determine the eligibility of the victim or representative and the amount, if any, eligible for reimbursement, specifying the reasons for such determination and the findings of fact and conclusions of law supporting it. A copy of the determination shall be mailed to the claimant at his last known address.

§ 94.25 Collateral sources.

(a) The amount of expenses reimbursed to a claimant under this subpart shall be reduced by any amount that the claimant receives from a collateral source in connection with the same act of international terrorism. In cases in which a claimant receives reimbursement under this subpart for expenses that also will or may be reimbursed from another source, the claimant shall subrogate the United States to the claim for payment from the collateral source up to the amount for which the claimant was reimbursed under this subpart.

(b) Notwithstanding paragraph (a) of this section, when a collateral source provides supplemental reimbursement

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for a specific expense, beyond the maximum amount reimbursed for that expense under this subpart, the claimant's award under this subpart shall not be reduced by the amount paid by the collateral source, nor shall the claimant be required to subrogate the United States to the claim for payment from the collateral source, except that in no event shall the combined reimbursement under this subpart and any collateral source exceed the actual expense.

PROGRAM ADMINISTRATION

§ 94.31 Application procedures.

(a) To receive reimbursement, a claimant must submit a completed application under this program requesting payment based on an itemized list of expenses, and must submit original receipts.

(b) Notwithstanding paragraph (a) of this Section, in cases involving incidents of terrorism preceding the establishment of this program where claimants may not have original receipts, and in cases in which the claimant certifies that the receipts have been destroyed or lost, the Director may, in his discretion, accept an itemized list of expenses. In each such case, the claimant must certify that original receipts are unavailable and attest that the items and amounts submitted in the list are true and correct to the best of his knowledge. In the event that it is later determined that a fraudulent certification was made, the United States may take action to recover any payment made under this section, and pursue criminal prosecution, as appropriate.

§ 94.32 Application deadline.

The deadline for an application is three years from the date of the act of international terrorism. At the discretion of the Director, the deadline for filing a claim may be extended to a date not later than three years from the date of the determination that there is a reasonable indication that an act of international terrorism has occurred, under § 94.21(a). For claims related to acts of international terrorism that occurred after December 21, 1988, but before the establishment of this

program, the application deadline is three years from the effective date of these regulations.

§ 94.33 Investigation and analysis of claims.

The Director may seek an expert examination of claims submitted if he believes there is a reasonable basis for requesting additional evaluation. The claimant, in submitting an application for reimbursement, authorizes the Director to release information regarding claims or expenses listed in the application to an appropriate body for review. If the Director initiates an expert review, no identifying information for the victim or representative shall be released.

PAYMENT OF CLAIMS

§ 94.41 Interim emergency payment.

Claimants may apply for an interim emergency payment, prior to a determination under § 94.21(a). If the Director determines that such payment is necessary to avoid or mitigate substantial hardship that may result from delaying reimbursement until complete and final consideration of an application, such payment may be made to cover immediate expenses such as those of medical care, funeral and burial, short-term lodging, and emergency transportation. The amount of an interim emergency payment shall be determined on a case-by-case basis, and shall be deducted from the final award amount.

§ 94.42 Repayment and waiver of repayment.

A victim or representative shall reimburse the program upon a determination by the Director that an interim emergency award or final award was: Made to an ineligible victim or claimant; based on fraudulent information; or an overpayment. Except in the case of ineligibility pursuant to a determination by the Director, in consultation with appropriate DOJ officials, under § 94.21(b), the Director may waive such repayment requirement in whole or in part, for good cause, upon request.

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APPEAL PROCEDURES

§ 94.51 Request for reconsideration.

A victim or representative may, within thirty (30) days after receipt of the determination under § 94.24, appeal the same to the Assistant Attorney General for the Office of Justice Programs, by submitting a written request for review. The Assistant Attorney General may conduct a review and make a determination based on the material submitted with the initial application, or may request additional documentation in order to conduct a more thorough review. In special circumstances, the Assistant Attorney General may determine that an oral hearing is warranted; in such cases, the hearing shall be held at a reasonable time and place.

§ 94.52 Final agency decision.

In cases that are not appealed under § 94.51, the Director's determination pursuant to § 94.24 shall be the final agency decision. In all cases that are appealed, the Assistant Attorney General shall issue a notice of final determination, which shall be the final agency decision, setting forth the findings of fact and conclusions of law supporting his determination.

APPENDIX TO SUBPART A—INTERNATIONAL TERRORISM VICTIM EXPENSE REIMBURSEMENT PROGRAM (ITVERP); CHART OF EXPENSE CATEGORIES AND LIMITS

There are five major categories of expenses for which claimants may seek reimbursement under the ITVERP: (1) Medical expenses, including dental and rehabilitation costs; (2) Mental health care; (3) Property loss, repair, and replacement; (4) Funeral and burial costs; and (5) Miscellaneous expenses.

Expense categories	Subcategories and conditions	Expense limits
Medical expenses, including dental and rehabilitation costs.	Victim's medical care, including, without limitation, treatment, cure, and mitigation of disease or injury; replacement of medical devices, including, without limitation, eyeglasses or other corrective lenses, dental services, prosthetic devices, and prescription medication; and other services rendered in accordance with a method of healing recognized by the jurisdiction in which the medical care is administered. Victim's cost for physiotherapy; occupational therapy; counseling; workplace, vehicle, and home modifications. For example, if a victim were to sustain a physical injury, such as blindness or paralysis, which would affect his ability to perform current professional duties, physical rehabilitation to address work skills would be appropriate.	Up to \$50,000.
Mental health care	Victim's (and, when victim is a minor, incompetent, incapacitated, or deceased, certain family members') mental health counseling costs.	Up to 12 months, but not to exceed \$5,000.
Property loss, repair, and replacement.	Includes crime scene cleanup, and replacement of personal property (not including medical devices) that is lost, destroyed, or held as evidence.	Up to \$10,000 to cover repair or replacement, whichever is less.
Funeral and burial costs	Includes, without limitation, the cost of disposition of remains, preparation of the body and body tissue, refrigeration, transportation of remains, cremation, procurement of a final resting place, urns, markers, flowers and ornamentation, costs related to memorial services, and other reasonably associated activities.	Up to \$25,000.
Miscellaneous expenses	Includes, without limitation, temporary lodging up to 30 days, local transportation, telephone costs, etc.; with respect to emergency travel, two family members' transportation costs to country where incident occurred (or other location, as appropriate) to recover remains, care for victim, care for victim's dependents, accompany victim to receive medical care abroad, accompany victim back to U.S., and attend to victim's affairs in host country.	Up to \$15,000.

Subparts B–D [Reserved]

PART 97—STANDARDS FOR PRIVATE ENTITIES PROVIDING PRISONER OR DETAINEE SERVICES

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- 97.1 Purpose.
- 97.2 Definitions.