

**Department of Justice**

**§ 94.12**

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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**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:

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28 CFR Ch. I (7-1-10 Edition)

(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.