

31, in conjunction with the Part B Formula Grants Program Multi-year Plan or Annual Plan Update. Section 223(a) of the JJDP Act requires that the Formula Grants Plan be "amended annually to include new programs and challenge activities subsequent to State participation in part E."

Technical Assistance: Technical Assistance to support the States' efforts in implementing the Challenge Activities Program is available from OJJDP through the same process used for requesting technical assistance for the Formula Grants program.

Other Requirements—General: The relevant administrative requirements for categorical grants contained in the effective edition of Office of Justice Programs Guideline M.7100 apply to the Part E Challenge Grant Program. However, Progress Reports for Challenge Grants are required semi-annually, not quarterly as indicated in M.7100.

Other Requirements—Statutory: Section 223(a)(3)(D)(ii) of the JJDP Act requires that the State Advisory Group's annual recommendations to the Chief Executive Officer and the legislature of the State include "progress relating to challenge activities carried out pursuant to part E."

Applications for Challenge Grants must contain an assurance that the State will comply with this provision.

Responses to Public Comments

Ten comments to the proposed guideline were received. A summary of the comments and OJJDP's responses follow. In some instances, the summary comments listed below incorporate specific comments from more than one respondent. Many responses were in support of the program and did not raise questions specific to the guideline. The following comments reflect the submissions that seek clarification or change.

Comment. Several States expressed concern that the proposed guideline specifies that the only eligible applicants are the State Agencies, designated by the Chief Executive of the State. The comments received requested that the States be allowed to contract or subgrant the implementation of Challenge Activities to other entities.

Response. The final guideline allows States to award grants or contracts to public and private agencies.

Comment. States should be urged to work closely with local (town and municipal, as well as County) entities in the development of community-based alternatives to incarceration and the development of community-based alternatives to suspension and expulsion from school.

Response. Just as States are required to provide for active consultation with and participation of units of general local government or combination thereof in the development of the State Plan, OJJDP urges States to work closely with local entities in the development of the Challenge activities. Also, by virtue of the State Advisory Group's involvement in the approval of the Part E—Challenge Grant application, the State will have benefit of SAG input representative of community interests.

Comment. States should be given the opportunity to decide how much money to allocate per challenge activity applied whether the sum is more or less than 10% of a State's formula Grant allocation received.

Response. The 10% maximum amount is designed to encourage States to undertake multiple challenges. States may elect to allocate less than 10% per challenge activity and to undertake more than two Challenge activities in FY 1995.

Comment. Under Application Component 3. Project Summary, it is required that "collateral activities" to be funded from other sources be listed. Are collateral activities required in order to receive Challenge Grant funds?

Response. The Part E—Challenge Grants Program does not have a "match" requirement. However, as with all Federal programs, collaboration to the fullest extent possible is encouraged. States are encouraged to maximize the effectiveness of Challenge activities through coordination with complementary programs funded by other sources.

Shay Bilchik,

Administrator.

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Office for Victims of Crime

[OJP NO. 1045]

RIN 1121-AA30

Victims of Crime Act Victim Assistance Grant Program

AGENCY: Department of Justice, Office of Justice Programs, Office for Victims of Crime.

ACTION: Interim Final Program Guidelines.

SUMMARY: The Office for Victims of Crime (OVC), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), is publishing Interim Final Program Guidelines to implement the victim assistance grant program as authorized by the Victims of Crime Act of 1984, as

amended, 42 U.S.C. 10601, *et seq.* (hereafter referred to as VOCA).

EFFECTIVE DATE: These Interim Final Program Guidelines are effective May 10, 1995.

FOR FURTHER INFORMATION CONTACT: Carolyn A. Hightower, Acting Director, State Compensation and Assistance Division, telephone number (202) 307-5947.

SUPPLEMENTARY INFORMATION: VOCA authorizes Federal financial assistance to States for the purpose of compensating and assisting victims of crime, providing funds for training and technical assistance, and assisting victims of Federal crimes. These Program Guidelines provide information on the administration and implementation of the VOCA victim assistance grant program as authorized in Section 1404 of VOCA, Public Law 98-473, as amended, codified at 42 U.S.C. 10603, and contain information on the following: Background; Allocation of VOCA Victim Assistance Funds; VOCA Victim Assistance Application Process; Program Requirements; Financial Requirements; Monitoring; and Suspension and Termination of Funding. The Guidelines are based on the experience gained during the first nine years of the grant program and are in accordance with VOCA. These Interim Final Program Guidelines supersede any Guidelines issued previously by OVC.

The Office of Justice Programs, Office for Victims of Crime, has determined that this rule is not a "significant regulatory action" for purposes of Executive Order 12866 and, accordingly, these Guidelines were not reviewed by the Office of Management and Budget.

In addition, these Guidelines will not have a significant economic impact on a substantial number of small entities; therefore, an analysis of the impact of these rules on such entities is not required by the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

The collection of information requirements contained in the **Program Requirements** section was submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act, 44 U.S.C. 3504(h). Approval to use the specified reports to gather information on the use and impact of VOCA victim assistance grant funds has been granted by OMB.

Background

In 1984, VOCA established the Crime Victims Fund (Fund) in the U.S. Treasury and authorized the Fund to receive deposits of fines and penalties

levied against criminals convicted of Federal crimes. This Fund provides the source of funding for carrying out all of the activities authorized by VOCA.

OVC serves as the Federal government's chief advocate for all crime victim issues, which includes ensuring that the criminal justice system addresses the legitimate rights and interests of crime victims. OVC's program activities support this role. These Program Guidelines address the specific program and financial requirements of the VOCA crime victim assistance grant program.

OVC makes annual VOCA crime victim assistance grants from the Fund to States. The primary purposes of these grants are to support the provision of direct services to victims of violent crime throughout the Nation. For the purpose of these Guidelines, direct services are defined as those efforts that (1) respond to the emotional and physical needs of crime victims; (2) assist primary and secondary victims of crime to stabilize their lives after a victimization; (3) assist victims to understand and participate in the criminal justice system; and (4) provide victims of crime with a measure of safety such as boarding-up broken windows and replacing or repairing locks.

For the purpose of the VOCA crime victim assistance grant program, a crime victim is a person who has suffered physical, sexual, or emotional harm as a result of the commission of a crime.

VOCA gives latitude to State grantees to determine how VOCA victim assistance grant funds will best be used within each State. However, each State grantee must abide by the minimal statutory requirements outlined in VOCA and these Program Guidelines.

Allocation of VOCA Victim Assistance Funds

A. Distribution of the Crime Victims Fund

OVC administers monies deposited into the Fund for activities, as authorized in VOCA. The amount of funds available for distribution each year is dependent upon the total deposits into the Fund during the previous Federal Fiscal Year (October 1 through September 30).

The Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322, Title XXIII, Subtitle B) amended VOCA and made three major changes that affect the VOCA victim assistance grant program. First, the Director of OVC has the authority to retain up to \$20,000,000 to be held in reserve and used in a year in which the

Fund falls below the amount available in the previous year [Section 1402(d)(4)]. Second, the legislation changed the formula for allocating Fund deposits [Section 1402(d)]. Third, State administrators of VOCA victim assistance grant funds may retain up to 5% of each year's grant for administrative purposes [Section 1404(b)(3).] Please refer to the section entitled VOCA Victim Assistance Application Process, *B. Administrative Cost Provision for State Grantees* for information on this provision.

B. Formula for Distributing Crime Victims Fund Deposits

Beginning with FFY 1995, deposits into the Fund will be distributed as follows [Section 1402 (d)]:

1. The first \$6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first \$3,000,000 in each fiscal year thereafter shall be available to the Federal judicial branch for administrative costs to carry out the functions of the judicial branch under Sections 3611 of Title 18, U.S. Code [See Section 1402 (d)(1)].

2. Of the next \$10,000,000 deposited in the Fund in a particular fiscal year,
 - a. 85% shall be available to the Secretary of Health and Human Services for grants under Section 4(d) of the Child Abuse Prevention and Treatment Act for improving the investigation and prosecution of child abuse cases;

- b. 15% shall be available to the Director of the Office for Victims of Crime for grants under Section 4(d) of the Child Abuse Prevention and Treatment Act for assisting Native American Indian tribes in developing, establishing, and operating programs to improve the investigation and prosecution of child abuse cases.

3. Of the remaining amount deposited in the Fund in a particular fiscal year,

- a. 48.5% shall be available for victim compensation grants,

- b. 48.5% shall be available for victim assistance grants; and

- c. 3% shall be available for demonstration projects and training and technical assistance services to eligible crime victim assistance programs and for the financial support of services to victims of Federal crime by eligible crime victim assistance programs.

C. Availability of Funds

All States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Northern Mariana Islands, and Palau (hereinafter referred to as "States") are eligible to apply for, and receive, VOCA victim assistance grants.

[See Section 1404(d)(3) of VOCA, codified at 42 U.S.C. 10603(d)(3).]

Funds are available for expenditure during the FFY of award and in the next FFY (the grant period). The FFY begins on October 1 and ends on September 30 of the following year. State grantees may incur expenses retroactively to the beginning of each year's grant, October 1, even though the VOCA grant may not be awarded until later in the grant period. Under VOCA, funds that are not obligated by the end of the grant period must be returned to the General Fund of the U.S. Treasury. Therefore, State grantees are encouraged to monitor closely the expenditure of VOCA funds at the subrecipient level and to reallocate unexpended funds prior to the end of the grant period.

D. Allocation of Funds to States

From the Fund deposits available for victim assistance grants, each State grantee receives a base amount of \$200,000, except Palau. The remaining Fund deposits are distributed to each State, based upon the State's population in relation to all other States, as determined by current census data.

E. Allocation of Funds Within the States

The Governor of each State designates the State agency that will administer the VOCA victim assistance grant program. That designated State agency establishes policies and procedures, which must meet the minimum requirements of VOCA and the Program Guidelines. The State grantee can choose to be more restrictive.

VOCA funds granted to the States are to be used by eligible public and private nonprofit organizations to provide direct services to crime victims. States have sole discretion for determining which organizations will receive funds, and in what amounts, as long as the recipients meet the requirements of VOCA and the Program Guidelines.

State grantees are encouraged to develop a VOCA program funding strategy, which should consider the following: the range of victim services throughout the State and within communities; the unmet needs of crime victims; the demographic profile of crime victims; the coordinated, cooperative response of community organizations in organizing services for crime victims; the availability of services to crime victims throughout the criminal justice process; and the extent to which other sources of funding are available for services.

State grantees are encouraged to expand into new service areas as needs change and demographics of crime changes within the State. Many State

grantees use VOCA funds to stabilize victim services by continuously funding selected organizations. Some State grantees end funding to organizations after several years in order to fund new organizations. Other State grantees limit the number of years an organization may receive VOCA funds. These practices are within the State grantee's discretion and are supported by OVC, when they serve the best interests of crime victims within the State.

State grantees may award VOCA funds to organizations that are physically located in an adjacent State, when it is an efficient and cost-effective mechanism available for providing services to victims who reside in the awarding State. When adjacent State awards are made, the amount of the award must be proportional to the number of victims to be served by the adjacent-State organization. OVC recommends that State grantees enter into an interstate agreement with the adjacent State to address monitoring of the VOCA subrecipient, auditing Federal funds, managing noncompliance issues, and reporting requirements. States must notify OVC of each VOCA award made to an organization in another State.

VOCA Victim Assistance Application Process

A. State Grantee Application Process

Each year, OVC issues a Program Instruction and Application Kit to each designated State agency. The Application Kit contains the necessary forms and information required to make application for VOCA grant funds, including the Application for Federal Assistance, Standard Form 424. The amount for which each State may apply is included in the Application Kit. At the time of application, State grantees are not required to provide specific information regarding the subrecipients that will receive VOCA victim assistance funds.

In addition to the Application for Federal Assistance, State grantees shall specify their arrangements for complying with the provisions of OMB Circular A-128 (Audits of State or Local Government) and shall submit Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements; Civil Rights Compliance; and/or any other certifications required by OJP and OVC.

B. Administrative Cost Provision for State Grantees

Beginning with the FFY 1995 grant, each State grantee may retain up to, but

not more than, 5% of each year's grant for administering the VOCA victim assistance grant at the State grantee level [Section 1402(d)(3)], with the remaining portion being used exclusively for direct services to crime victims or to train direct service providers in accordance with these Guidelines. This option is available to the State grantee and does not apply to VOCA subrecipients.

This administrative cost provision is to be used by the State grantee to expand, enhance, and/or improve the State's previous level of effort in administering the VOCA victim assistance grant program at the State level and to support activities and costs that impact the delivery and quality of services to crime victims throughout the State. Thus, State grantees will be required to certify that VOCA administrative funds will not be used to supplant State funds or to cover indirect costs.

State grantees are not required to match the portion of the grant that is used for administrative purposes.

1. The following are examples of activities that are directly related to managing the VOCA grant and can be supported with administrative funds:

- a. Pay salaries and benefits for staff and consultant fees to administer and manage the financial and programmatic aspects of VOCA;
- b. Attend OVC-sponsored technical assistance meetings, which address issues and concerns to State administrators;
- c. Monitor subrecipients, Victim Assistance in Indian Country subrecipients, and potential subrecipients, provide technical assistance, and/or evaluation and assessment of program activities;
- d. Purchase equipment for the State grantee such as computers, software, fax machines, copying machines;
- e. Train VOCA direct service providers; and
- f. Purchase memberships in crime victims organizations and purchase victim-related materials such as curricula, literature, and protocols.

2. The following activities impact the delivery and quality of services to crime victims throughout the State and, thus, can be supported by administrative funds:

- a. Develop strategic plans on a State and/or regional basis, conduct surveys and needs assessments, promote innovative approaches to serving crime victims such as through the use of technology;
- b. Improve coordination efforts on behalf of crime victims with other OJP Offices and Bureaus and with Federal,

State, and local agencies and organizations;

c. Provide training on crime victim issues to State, public, and nonprofit organizations that serve or assist crime victims such as law enforcement officials, prosecutors, judges, corrections personnel, social service workers, child and youth service providers, and mental health and medical professionals;

d. Purchase, print, and/or develop publications such as training manuals for service providers, victim services directories, and brochures;

e. Coordinate and develop protocols, policies, and procedures that promote systemic change in the ways crime victims are treated and served; and

f. Train managers of victim service agencies.

State grantees are required to notify OVC of the decision to use administrative funds prior to charging or incurring any costs against this provision. State grantees may notify OVC when the decision is made to exercise this option or at the time the Application for Federal Assistance is submitted.

Each State grantee that chooses to use administrative funds is required to submit a statement to OVC describing:

1. What amount of the total grant will be used,
2. How the State grantee intends to use the funds and the types of activities that will be supported, and
3. How these activities will improve the administration of the VOCA program and/or improve services to crime victims.

State grantees may choose to award administrative funds to a "conduit" organization that assists in selecting qualified subrecipients and/or reduces the State grantee's administrative burden in implementing the grant program. However, the use of a "conduit" organization does not relieve the State grantee from ultimate programmatic and financial responsibilities.

C. Use of Funds for Training

State grantees have the option of retaining a portion of their VOCA victim assistance grant for conducting State-wide and/or regional State training(s) of victim services staff. The maximum amount permitted for this purpose is \$5,000 or 1% of the State's grant, whichever is greater. State grantees that choose to sponsor State-wide or regional training(s) are not precluded from awarding VOCA funds to subrecipients for other types of staff development.

State grantees must submit a training proposal to OVC for each event to be

sponsored under this option. OVC will review each proposal to identify other sources of assistance and support that may be available such as trainers or the resources from the OVC Resource Center. Each training activity must occur within the grant period, and all training costs must be obligated prior to the end of the grant period. VOCA grant funds cannot be used to supplant the cost of existing State administrative staff or related State training efforts.

Specific criteria for applying for training funds will be given in each year's Application Kit. This criteria may include addressing the goals, the needs of the service providers, how funds will be used, and how any program income that is generated will be used.

The VOCA funds used for training by the State grantee must be matched at 20%, cash or in-kind, and the source of the match must be described.

Program Requirements

A. State Grantee Eligibility Requirements

When applying for the VOCA victim assistance grant, State grantees are required to give assurances that the following conditions or requirements will be met:

1. Only eligible organizations will receive VOCA funds and these funds will be used only for direct services to victims of crime, except those funds that the State grantee uses for training victim service providers and/or administrative purposes. [Sections 1404(b), codified at 42 U.S.C. 10603(b)]. See section *E. Services, Activities, and Costs at the Subrecipient Level* for examples of direct services to crime victims.

2. VOCA crime victim assistance grant funds will enhance or expand services and will not be used to supplant State and local funds that would otherwise be available for crime victim services. See Section 1404(a)(2)(C) of VOCA, codified at 10603(a)(2)(C). This supplantation clause applies to State and local public agencies only.

3. Priority shall be given to victims of sexual assault, spousal abuse, and child abuse. Thus a minimum of 10% of each FFY's grant (30% total) will be allocated to each of these categories of crime victims. This State grantee requirement does not apply to VOCA subrecipients.

Each State grantee must meet this requirement, unless it can demonstrate to OVC that (1) a "priority" category is currently receiving significant amounts of financial assistance from the State or other funding sources; (2) a smaller amount of financial assistance, or no assistance, is needed from the VOCA victim assistance grant program; and (3)

crime rates for a "priority" category have diminished.

4. An additional 10% of each VOCA grant will be allocated to victims of violent crime (other than "priority" category victims) who were "previously under served." These under served victims of either adult or juvenile offenders may include, but are not limited to, survivors of homicide victims, or victims of assault, robbery, intoxicated drivers, bank robbery, and elder abuse. For the purpose of this program, elder abuse is defined as the abuse of vulnerable adults. Vulnerable adults are those individuals who do not have the mental and/or physical capacity to manage their daily needs, and who are subjected to either physical or emotional abuse by a guardian or caretaker.

To meet this under served requirement, State grantees must identify crime victims by type of crime. Each State grantee has latitude for determining the method for identifying "previously under served" crime victims, which may include public hearings, needs assessments, task forces, and meetings with State-wide victim services agencies.

Each State grantee must meet this requirement, unless it can justify to OVC that (1) services to these victims of violent crime are receiving significant amounts of financial assistance from the State or other funding sources; (2) a smaller amount of financial assistance, or no assistance, is needed from the VOCA victim assistance grant program; and (3) crime rates for these victims of violent crime have diminished.

State grantees may fund services to victims with specific demographic profiles and use those services to meet the "previously under served" requirement. However, State grantees must identify the type of violent crime to which these victims are subjected.

5. Appropriate accounting, auditing, and monitoring procedures will be used at the State grantee and subrecipient levels and that records are maintained to ensure fiscal control, proper management, and efficient disbursement of the VOCA victim assistance funds, in accordance with the *Financial and Administrative Guide for Grants* (M7100.1D), effective edition.

6. Compliance with all Federal laws and regulations applicable to Federal assistance programs and with the provisions of Title 28 Code of Federal Requirements (CFR) applicable to grants.

7. Compliance by the State grantee and subrecipients with the applicable provisions of VOCA and the Interim Final Program Guidelines.

8. Programmatic and financial reports shall be submitted. (See Program Requirements and Financial Requirements for reporting requirements and timelines.)

9. No person shall, on the grounds of race, color, religion, national origin, handicap, or sex, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with VOCA victim assistance grant funds.

10. A copy of a finding will be forwarded to the Office of Civil Rights (OCR) for OJP in the event a Federal or State court or administrative agency makes a finding of discrimination on the grounds of race, religion, national origin, sex, or disability against a recipient of VOCA victim assistance funds.

11. Immediate notification will be given to OVC in the event of a finding of fraud, waste, and/or abuse of VOCA funds. Additionally, OVC will be apprised of the status of any on-going investigations.

OVC encourages State grantees to coordinate their VOCA assistance and compensation activities. Coordination may include activities such as meetings; training activities for direct service providers on the general parameters of the State compensation agency's program (e.g., eligibility criteria, completion of claims, and time frames for receiving compensation); providing information on VOCA victim assistance services within the State; and developing joint guidance, where applicable, on third-party payments to VOCA assistance organizations.

OVC also encourages State grantees to coordinate their activities with the Victim/Witness Coordinator staff within U.S. Attorney Offices to ensure that the Coordinators are aware of available resources for victims of Federal crime. Such coordination may include providing Coordinators with a list of VOCA-funded organizations, co-sponsoring training activities, and inviting Coordinators to serve on review panels that select the organizations to receive VOCA funds.

B. Subrecipient Organization Eligibility Requirements

VOCA establishes eligibility criteria that must be met by all organizations that receive VOCA funds. These funds are to be awarded to subrecipients only for providing services to victims of crime through their staff. Each subrecipient organization shall:

1. Be operated by a public or nonprofit organization, or a combination

of such organizations, and provide direct services to crime victims.

2. Demonstrate a record of providing effective direct services to crime victims. This includes having the support and approval of its services by the community, a history of providing direct services in a cost-effective manner, and financial support from non-Federal sources.

3. Meet program match requirements. Match is to be committed for each VOCA-funded project and derived from resources other than Federal funds and/or resources, except as provided in Chapter 2, paragraph 14, of the *Financial and Administrative Guide for Grants* (M7100.1D.)

All funds designated as match are restricted to the same uses as the VOCA victim assistance funds and must be expended within the grant period. Because of this requirement, VOCA subrecipients must maintain records which clearly show the source, the amount, and the period during which the match was expended. Therefore, organizations are encouraged not to commit excessive amounts of match.

Match requirements are a minimum of 20%, cash or in-kind, of the total VOCA project (VOCA grant plus match) except as follows:

a. The match for VOCA subrecipients that are Native American tribes/organizations located on reservations, whether new or existing, is 5%, cash or in-kind, of the total VOCA project (VOCA grant plus match.) A Native American tribe/organization is described as any tribe, band, nation, or other organized group or community, which is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans. A reservation is defined as a tract of land set aside for use of, and occupancy by, Native Americans.

b. Subrecipients located in the U.S. Virgin Islands, and all other territories and possessions of the United States except Puerto Rico are not required to match the VOCA funds. See 48 U.S. Code, 1469a(d).

4. Use volunteers unless the State grantee determines there is a compelling reason to waive this requirement. A "compelling reason" may be a statutory or contractual provision concerning liability or confidentiality of counselor/victim information, which bars using volunteers for certain positions, or the inability to recruit and maintain volunteers after a sustained and aggressive effort.

5. Promote, within the community coordinated public and private efforts to

aid crime victims. Coordination may include, but is not limited to, serving on State, Federal, local, or Native American task forces, commissions and/or working groups; and developing written agreements, which contribute to better and more comprehensive services to crime victims. Coordination efforts qualify an organization to receive VOCA victim assistance funds, but are not activities that can be supported with VOCA funds.

6. Assist crime victims in seeking crime victim compensation benefits. Such assistance may include identifying and notifying crime victims of the availability of compensation, assisting them with application forms and procedures, obtaining necessary documentation, and/or checking on claim status.

7. Comply with the applicable provisions of VOCA, the Program Guidelines, and the requirements of the M7100.1D, which includes maintaining appropriate programmatic and financial records that fully disclose the amount and disposition of VOCA funds received. This includes financial documentation for disbursements; daily time and attendance records specifying time devoted to VOCA allowable victim services; client files; the portion of the project supplied by other sources of revenue; job descriptions; contracts for services; and other records which facilitate an effective audit.

8. Maintain statutorily required civil rights statistics on victims served by race or national origin, sex, age, and disability, within the timetable established by the State grantee; and permit reasonable access to its books, documents, papers, and records to determine whether the recipient is complying with applicable civil rights laws. This requirement is waived when providing a service, such as telephone counseling, where soliciting the information may be inappropriate or offensive to the crime victim.

9. Abide by any additional eligibility or service criteria as established by the State grantee including submitting statistical and programmatic information on the use and impact of VOCA funds, as requested by the State grantee.

10. Provide services to victims of Federal crimes on the same basis as victims of State crimes.

11. Provide services to crime victims, at no charge, through the VOCA-funded project. Any deviation from this provision requires prior approval by the State grantee and OVC.

12. Maintain confidentiality of client-counselor information, as required by State and Federal law.

C. Eligible Subrecipient Organizations

Nonprofit and public organizations that provide direct services to crime victims are eligible to receive VOCA funds. These include, but are not limited to, sexual assault and treatment centers, domestic violence programs, child abuse treatment facilities, centers for missing children, prosecutor offices, courts, correctional departments, probation and paroling authorities, hospitals, public housing authorities, and other community-based organizations including those who serve survivors of homicide victims.

Although nonprofit and public organizations may be eligible to receive VOCA funding, there are limitations on the use of VOCA victim assistance grant funds by these organizations. For example, VOCA funds should not be used for an activity mandated by State legislation. However, VOCA funds can extend or enhance the legislatively mandated activities. In situations where a service is mandated by law but funds have not been appropriated, State grantees are cautioned to closely review and justify to OVC the use of VOCA funds to support such activities. With approval from OVC, State grantees may use VOCA funds to support an unfunded legislative mandate for a limited time, if the State grantee believes that such support is essential to meeting the needs of crime victims.

In addition to victim services organizations, whose sole mission is to serve crime victims, many other public and nonprofit organizations that offer services to crime victims may be eligible to receive VOCA victim assistance funds. These organizations include, but are not limited to, the following:

1. Criminal justice agencies such as law enforcement organizations, prosecutor offices, courts, corrections departments, probation and paroling authorities. For example, a police department cannot use VOCA victim assistance funds to hire law enforcement personnel for activities that a sworn law enforcement officer would be expected to provide in the normal course of his/her duties, such as crime scene intervention, questioning of victims and witnesses, investigation of the crime, and follow-up activities. However, these organizations may use VOCA funds for victims services that exceed the boundaries of their mandate.

2. State and local public agencies charged with, for example, providing child and adult protective services or mental health services.

3. Religiously-affiliated organizations. Religious organizations that receive VOCA funds must ensure that (1)

services are offered to all crime victims without regard to religious affiliation; (2) the receipt of services is not contingent upon participation in a religious activity or event; and (3) receipt of the funds does not create an "excessive entanglement" of church and State.

4. Other public and nonprofit organizations whose primary mission or purpose is not providing direct services to crime victims if there is a component of the organization that provides services to crime victims. Such organizations include State grantees, mental health centers, hospitals, legal services agencies, and coalitions.

5. State crime victim compensation agencies. Compensation programs may receive VOCA assistance funds if direct services such as individual, family, and group counseling; court accompaniment; and shelter are provided. These services extend far beyond information/referral and providing information regarding compensation and other sources of public and private assistance. Because State compensation programs do not generally provide the type of direct services envisioned by VOCA and the Program Guidelines, State grantees are encouraged to discuss with OVC, prior to making a final funding decision, any proposed award of VOCA victim assistance funds to a compensation program.

6. Hospitals and emergency medical facilities. Such organizations must offer counseling, support groups, and/or other types of victim services. In addition, State grantees may only award VOCA funds to a medical facility for the purpose of performing forensic examinations on sexual assault victims if (1) the examination meets the standards established by the State, local prosecutor's office, or State-wide sexual assault coalition; and (2) appropriate crisis counseling and/or other types of victim services are offered to the victim in conjunction with the examination.

D. Ineligible Recipients of VOCA Funds

Some public and nonprofit organizations that offer services to crime victims are not eligible to receive VOCA victim assistance funding. These organizations include, but are not limited to, the following:

1. Federal agencies, including U.S. Attorneys Offices. Receipt of VOCA funds would constitute an augmentation of the Federal budget with money intended for State agencies. However, private nonprofit organizations that operate on Federal land may be eligible subrecipients of VOCA victim assistance grant funds.

2. In-patient treatment facilities such as those designed to provide treatment to individuals with drug, alcohol, and/or mental health-related conditions.

E. Services, Activities, and Costs at the Subrecipient Level

The following is a listing of services, activities, and costs that are eligible for support with VOCA victim assistance grant funds within a subrecipient's organization:

1. Those services which immediately respond to the emotional and physical needs (excluding medical care) of crime victims such as crisis intervention; accompaniment to hospitals for medical examinations; hotline counseling; emergency food, clothing, transportation, and shelter; emergency legal assistance such as filing restraining orders; and other emergency services that are intended to restore the victim's sense of dignity, and self esteem.

2. Those services and activities that assist the primary and secondary victims of crime in understanding the dynamics of victimization and in stabilizing their lives after a victimization such as counseling, group treatment, and therapy. "Therapy" refers to intensive professional psychological/psychiatric treatment for individuals, couples, and family members related to counseling to provide emotional support in crises arising from the occurrence of crime. This includes the evaluation of mental health needs, as well as the actual delivery of psychotherapy.

3. Services that are directed to the needs of the victims who participate in the criminal justice system. These services may include advocacy on behalf of crime victims; accompaniment to criminal justice offices and court; transportation to court; child care to enable a victims to attend court; notification of victims regarding trial dates, case disposition information, and parole consideration procedures; and restitution advocacy and assistance with victim impact statements.

4. Services which offer an immediate measure of safety to crime victims such as boarding-up broken windows and replacing or repairing locks.

5. Forensic examinations for sexual assault victims only to the extent that other funding sources (such as State compensation or private insurance or public benefits) are unavailable or insufficient. State grantees should establish procedures to monitor the use of VOCA victim assistance funds to pay for forensic examinations in sexual assault cases.

6. Costs that are necessary and essential to providing direct services

such as pro-rated costs of rent, telephone service, transportation costs for victims to receive services, emergency transportation costs that enable a victim to participate in the criminal justice system, and local travel expenses for direct service providers.

7. Services which assist crime victims with managing practical problems created by the victimization such as acting on behalf of the victim with other service providers, creditors, or employers; assisting the victim to recover property that is retained as evidence; assisting in filing for compensation benefits; and helping to apply for public assistance.

8. Costs that are directly related to providing direct services through staff. Such costs may consist of the following: advertising costs associated with recruiting VOCA-funded personnel; training costs for paid and volunteer staff; salaries and fringe benefits, including malpractice insurance.

9. Opportunities where crime victims have the option to meet with perpetrators, if such meetings are requested by the victim and have therapeutic value to crime victims.

State grantees that plan to fund this type of service should closely review the criteria for conducting these meetings. At a minimum, the following should be considered: (1) The benefit or therapeutic value to the victim, (2) the procedures for ensuring that participation of the victim and offender are voluntary and that everyone understands the nature of the meeting, (3) the provision of appropriate support and accompaniment for the victim, (4) appropriate "debriefing" opportunities for the victim after the meeting or panel, (5) the credentials of the facilitators, (6) the opportunity for a crime victim to withdraw from the process at any time. State grantees are encouraged to discuss proposals with OVC prior to awarding VOCA funds for this type of activity. VOCA assistance funds cannot be used for victim-offender meetings which serve to replace criminal justice proceedings.

The services, activities, and costs listed below are not generally considered direct crime victim services. For example, staff training is often a necessary and essential activity to ensure that quality direct services are provided; however, it is not a direct service. Before these costs can be supported with VOCA funds, the State grantee and subrecipient must agree that direct services to crime victims cannot be offered without support for these expenses; that the subrecipient has no other source of support for them; and that only limited amounts of VOCA

funds will be used for these purposes. The following list provides examples of such items:

1. Skills training for staff. VOCA funds designated for training are to be used exclusively for developing the skills of direct service providers including paid staff and volunteers, so that they are better able to offer quality services to crime victims. An example of skills development is training focused on how to respond to a victim in crisis.

VOCA funds can be used for training direct service providers who are not supported with VOCA funds within the subrecipient's organization.

VOCA funds can be used to purchase materials such as books, training manuals, and videos for direct service providers, within the VOCA-funded organization, and can support the costs of a trainer for in-service staff development. Although a subrecipient cannot use VOCA funds for training individuals in other organizations, staff from other organizations can attend in-service training activities that are held for the subrecipient's staff.

VOCA funds can support costs such as travel, meals, lodging, and registration fees to attend training within the State or a similar geographic area. This limitation encourages State grantees and subrecipients to first look for available training within their immediate geographical area, as travel costs will be minimal. However, when needed training is unavailable within the immediate geographical area, State grantees may authorize using VOCA funds to support training outside of the geographical area.

VOCA funds cannot be used for management and administrative training for executive directors, board members, and other individuals that do not provide direct services.

2. Equipment and furniture. VOCA funds may be used for furniture and equipment that provides or enhances direct services to crime victims, as demonstrated by the VOCA subrecipient.

VOCA funds cannot support the entire cost of an item that is not used exclusively for victim-related activities. However, VOCA funds can support a prorated share of such an item. In addition, subrecipients cannot use VOCA funds to purchase equipment for another organization or individual to perform a victim-related service.

State grantees that authorize equipment to be purchased with VOCA funds must establish policies and procedures on the acquisition and disbursement of the equipment, in the event the subrecipient no longer receives a VOCA grant. At a minimum,

property records must be maintained with the following: a description of the property and a serial number or other identifying number; who holds title; the acquisition date; the cost and the percentage of VOCA funds supporting the purchase; the location, use, and condition of the property; and any disposition data, including the date of disposal and sale price. (See Financial and Administrative Guide for Grants, M7100.1D).

3. Contracts for professional services. VOCA funds should not generally be used to support contract services.

However, at times, it may be necessary for VOCA subrecipients to use a portion of the VOCA grant to contract for specialized services. Examples of these services include assistance in filing emergency temporary restraining orders; forensic examinations on a sexual assault victim to the extent that other funding sources are unavailable or insufficient; and emergency psychological or psychiatric services.

Subrecipients are prohibited from using a majority of VOCA funds for contracted services, which contain administrative, overhead, and other indirect costs included in the hourly or daily rate.

VOCA funds cannot be used to pay for legal representation such as for divorces and child custody or visitation rights litigation.

4. Operating costs. Examples of allowable operating costs include supplies; equipment use fees, when supported by usage logs; printing, photocopying, and postage; brochures which describe available services; and books and other victim-related materials. VOCA funds may support administrative time to complete VOCA-required time and attendance sheets and programmatic documentation, reports, and statistics; administrative time to maintain crime victims' records; and the pro-rated share of audit costs.

5. Supervision of direct service providers. State grantees may provide VOCA funds for supervision of direct service providers when they determine that such supervision is necessary and essential to providing direct services to crime victims. For example, a State grantee may determine that using VOCA funds to support a coordinator of volunteers or interns is a cost-effective way of serving more crime victims.

6. Repair and/or replacement of essential items. VOCA funds may be used for repair or replacement of items that contribute to maintaining a healthy and/or safe environment for crime victims such as a furnace in a shelter. State grantees are cautioned to scrutinize each request for expending

VOCA funds for such purposes to ensure the following: (1) That the building is owned by the subrecipient organization and not rented or leased, (2) all other sources of funding have been exhausted, (3) there is no available option for providing the service in another location, (4) that the cost of the repair or replacement is reasonable considering the value of the building, and (5) the cost of the repair or replacement is pro-rated among all sources of income.

7. Presentations about crime victim services. Activities and costs related to describing the services available to crime victims within the community, such as presentations, can be supported by VOCA funds.

The following services, activities, and costs, although not exhaustive, cannot be supported with VOCA victim assistance grant funds:

1. Lobbying and administrative advocacy. VOCA funds cannot support victim legislation or administrative reform, whether conducted directly or indirectly.

2. Perpetrator rehabilitation and counseling. Subrecipients cannot knowingly use VOCA funds to offer rehabilitative services to offenders. Likewise, VOCA funds cannot support services to incarcerated individuals, even when the service pertains to the victimization of that individual.

3. Needs assessments, surveys, evaluations, studies, and research efforts conducted by individuals, organizations, task forces, or special commissions, which study and/or research a particular crime victim issue.

4. Activities directed at prosecuting an offender and/or improving the criminal justice system's effectiveness and efficiency such as witness notification and management activities and expert testimony at a trial. Additionally, victim protection costs and victim/witness expenses such as travel to testify in court and subsequent lodging and meal expenses are considered part of the criminal justice agency's responsibility and cannot be supported with VOCA funds.

5. Fundraising activities.

6. Indirect organizational costs such as liability insurance on buildings and vehicles; capital improvements; security guards and body guards; property losses and expenses; real estate purchases; mortgage payments; and construction costs.

7. Reimbursing crime victims for expenses incurred as a result of a crime such as insurance deductibles, replacement of stolen property, funeral expenses, lost wages, and medical bills.

8. Vehicles, purchased or leased. State grantees may not use VOCA funds to purchase or lease vehicles unless they can demonstrate to OVC that such an expenditure is essential to delivering services to crime victims. OVC must give prior approval for all such purchases.

9. Nursing home care, home health-care costs, in-patient treatment costs, hospital care, and other types of emergency and non-emergency medical and/or dental treatment. VOCA victim assistance grant funds cannot support medical costs resulting from a victimization, except for forensic medical examinations for sexual assault victims.

10. Relocation expenses for crime victims such as moving expenses, security deposits on housing, ongoing rent, and mortgage payments. However, VOCA funds may be used to support staff time in locating resources to assist victims with these expenses.

11. Salaries, fees, and reimbursable expenses associated with administrators, board members, executive directors, consultants, coordinators, and other individuals unless these expenses are incurred while providing direct services to crime victims.

12. Development of protocols, interagency agreements, and other working agreements that benefit crime victims. These activities are considered examples of the types of activities that subrecipients undertake as part of their role as a victim services organization, which in turn qualifies them as an eligible VOCA subrecipient.

13. Costs of sending individual crime victims to conferences.

14. Development of training manuals and/or extensive training materials.

15. Crime prevention activities.

Program Reporting Requirements

State grantees must adhere to all reporting requirements and timelines for submitting the required reports, as indicated below. Failure to do so may result in a hold being placed on the drawdown of the current year's funds, a hold being placed on processing the next year's grant award, or can result in the suspension or termination of a grant.

1. Subgrant Award Reports. State grantees are required to submit to OVC, within 90 days of making the subaward, Subgrant Award Report information for each subrecipient of VOCA victim assistance grant funds. Subgrant Award Report information is to be submitted to OVC via the automated subgrant dial-in system, whenever possible. When not possible, State grantees must complete and submit the Subgrant Award Report

form, OJP 7390/2A, for each VOCA subrecipient.

If the Subgrant Award Report information changes by the end of the grant period, State grantees must inform OVC of the changes, either by revising the information via the automated subgrant subdial system, by completing and submitting to OVC a revised Subgrant Award Report form, or by making notations on the State-wide database report and submitting it to OVC. The total of all Subgrant Award Reports submitted by the State grantee must agree with the Final Financial Status Report (Standard Form 269A) that is submitted at the end of the grant period.

A Subgrant Award Report is required for each organization that receives VOCA funds and uses the funds for such allowable expenses including employee salaries, fringe benefits, supplies, and rent. This requirement applies to all State grantee awards including grants, contracts, or subgrants and to all subrecipient organizations.

Subgrant Award Reports are not to be completed for organizations that serve only as conduits for distributing VOCA funds or for organizations that provide limited, emergency services, on an hourly rate, to the VOCA subrecipient organizations. Services and activities that are purchased by a VOCA subrecipient are to be included on the subrecipient's Subgrant Award Report.

2. Performance Report. Each State grantee is required to submit specific end-of-grant data on the OVC-provided Performance Report, form No. OJP 7390/4, no later than 90 days after each VOCA victim assistance grant ends.

For those State grantees who opt to use a portion of the VOCA victim assistance grant for administrative costs, the Performance Report will be used to describe how the funds were actually used and the impact of the 5% administrative funds on the State grantee's ability to expand, enhance, and improve services to crime victims.

A. Additional Program Requirements

1. Civil Rights—Prohibition of Discrimination for Recipients of Federal Funds. No person in any State shall, on the grounds of race, color, religion, national origin, sex, or disability be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or denied employment in connection with any program or activity receiving Federal financial assistance, pursuant to the following statutes and regulations: Section 809(c), Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3789d, and

Department of Justice Nondiscrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; Subtitle A, Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, *et seq.* and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681–1683; and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.*

2. Confidentiality of Research Information. Except as otherwise provided by Federal law, no recipient of monies under VOCA shall use or reveal any research or statistical information furnished under this program by any person and identifiable to any specific private person for any purpose other than the purpose for which such information was obtained in accordance with VOCA. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding. [See Section 1407(d) of VOCA, codified at 42 U.S.C. 10604.]

This provision is intended, among other things, to ensure the confidentiality of information provided by crime victims to counselors working for victim services programs receiving VOCA funds. Whatever the scope of application given this provision, it is clear that there is nothing in VOCA or its legislative history to indicate that Congress intended to override or repeal, in effect, a State's existing law governing the disclosure of information, which is supportive of VOCA's fundamental goal of helping crime victims. For example, this provision would not act to override or repeal, in effect, a State's existing law pertaining to the mandatory reporting of suspected child abuse. See *Pennhurst State School and Hospital v. Halderman, et al.*, 451 U.S. 1 (1981). Furthermore, this confidentiality provision should not be interpreted to thwart the legitimate informational needs of public agencies. For example, this provision does not prohibit a domestic violence shelter from acknowledging, in response to an inquiry by a law enforcement agency conducting a missing person investigation, that the person is safe in the shelter. Similarly, this provision does not prohibit access to a victim service project by a Federal or State

agency seeking to determine whether Federal and State funds are being utilized in accordance with funding agreements.

Financial Requirements

State grantees and subrecipients of VOCA victim assistance funds shall adhere to the financial and administrative provisions set forth in the OJP "Financial and Administrative Guide for Grants", M7100.1D (effective edition). The following describes the audit requirements for State grantees and subrecipients, the completion and submission of Financial Status Reports, and actions that result in termination of advanced funding.

A. Audit Responsibilities for State Grantees

Pursuant to OMB Circular A-128 (Audits of State or Local Governments), State grantees that receive \$100,000 or more in Federal financial assistance in any fiscal year must have a single audit for that year. State grantees receiving at least \$25,000, but less than \$100,000, in a fiscal year have the option of performing a single audit or an audit of the Federal program, as required by the applicable Federal laws and regulations. State and local governments receiving less than \$25,000 in any fiscal year are exempt from audit requirements.

B. Audit Responsibilities for Subrecipients

Pursuant to OMB Circular A-128 (Audits of State or Local Governments), local governments that receive \$100,000 or more in Federal financial assistance in any fiscal year shall have a single audit for that year. Local governments receiving at least \$25,000, but less than \$100,000, in a fiscal year have the option of performing a single audit or an audit of the Federal program, as required by the applicable Federal laws and regulations. Local governments receiving less than \$25,000 in any fiscal year are exempt from audit requirements.

Institutions of higher education and other nonprofit organizations that receive \$100,000 or more a year in Federal financial assistance shall have an audit made in accordance with OMB Circular A-133. Organizations and institutions that receive at least \$25,000, but less than \$100,000, in a fiscal year shall have an audit made in accordance with OMB Circular A-133 or an audit of the Federal program. Institutions and organizations receiving less than \$25,000 in any fiscal year are exempt from audit requirements.

C. Financial Status Report for State Grantees

Financial Status Reports are required from all State grantees. A Financial Status Report shall be submitted to the Office of the Comptroller for each calendar quarter in which the grant is active. This Report is due even though no obligations or expenditures were incurred. Financial Status Reports shall be submitted to the Office of the Comptroller, by the State grantee, within 45 days after the end of each subsequent calendar quarter. Calendar quarters end March 31, June 30, September 30, and December 31. A Final Financial Status Report is due 90 days after the end of the VOCA grant period, no later than December 31.

D. Termination of Advance Funding to State Grantees

If the State grantee receiving cash advances by Letter of Credit or by direct Treasury check demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between cash advances and disbursement, OJP may terminate advance funding and require the State grantee to finance its operations with its own working capital. Payments to the State grantee will then be made by the direct Treasury check method, which reimburses the State grantee for actual cash disbursements.

E. Administrative Cost Provision Documentation

State grantees who choose to use a portion of their VOCA victim assistance grant for administrative costs must maintain a clear audit trail of all costs supported by administrative funds and be able to document the value of the State grantee's previous commitment to administering VOCA.

Monitoring

A. Office of the Comptroller

The Office of the Comptroller conducts periodic reviews of the financial policies, procedures, and records of VOCA grantees and subrecipients. Therefore, upon request, State grantees and subrecipients must give authorized representatives the right to access and examine all records, books, papers, case files, or documents related to the grant, the use of administrative funds, and all subawards.

B. Office for Victims of Crime

Beginning with the FY 1991 grant period, OVC implemented an on-site monitoring plan in which each State grantee is visited a minimum of once

every three years. While on site, OVC personnel will expect to review various documents and files such as (1) financial and program manuals and procedures governing the VOCA grant program; (2) financial records, reports, and audit reports for the State grantee and all VOCA subrecipients; (3) the State grantee's VOCA application kit, procedures, and guidelines for subawarding VOCA funds; and (4) all other State grantee and subrecipient records and files.

In addition, OVC will visit selected subrecipients and will review similar documents such as (1) financial records, reports, and audit reports; (2) policies and procedures governing the organization and the VOCA funds; (3) programmatic records of victims' services; and (4) timekeeping records and other supporting documentation for costs supported by VOCA funds.

Suspension and Termination of Funding

If, after notice and opportunity for a hearing, OVC finds that a State grantee has failed to comply substantially with VOCA, the M7100.1D, the Final Program Guidelines, or another implementing regulation or requirements, OVC may suspend or terminate funding to the State grantee and/or take other appropriate action. At such time, State grantees may request a hearing on the justification for the suspension and/or termination of VOCA funds. VOCA subrecipients, within the State, may not request a hearing at the Federal level. However, VOCA subrecipients who believe that the State grantee has violated a program and/or financial requirement are not precluded from bringing the alleged violation(s) to the attention of OVC.

Aileen Adams,

Director, Office for Victims of Crime, Office of Justice Programs.

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DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

May 4, 1995.

The Department of Labor has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act (44 U.S.C.