

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

- (1) The title of the form/collection;
- (2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.
- (3) Who will be asked or required to respond, as well as a brief abstract;
- (4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
- (5) An estimate of the total public burden (in hours) associated with the collection; and,
- (6) An indication as to whether Section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514-4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

New Collection

- (1) Audit of the National Drug Intelligence Center.
- (2) None. Office of Inspector General, United States Department of Justice.
- (3) Primary = Federal Government, Other = State, Local or Tribal Government. Information is requested in order to determine: 1. Customers satisfaction with NDIC reports, and 2. Customers opinions of the quality of NDIC reports. The results of the survey

will be a factor in the auditors' assessment of the efficiency and effectiveness of NDIC.

(4) 290 annual respondents but it is projected that only 58 will respond at .5 hours per response.

(5) 29 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96-511.

Public comment on this item is encouraged.

Dated: February 16, 1995.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

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Office of Justice Programs**Office for Victims of Crime**

[OJP (OVC) NO. 1003-F]

RIN 1121-AA21

Victims of Crime Act Victim Compensation Grant Program

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

ACTION: Final program guidelines.

SUMMARY: The Office for Victims of Crime (OVC), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is publishing Final Program Guidelines to implement the victim compensation 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: February 23, 1995.

FOR FURTHER INFORMATION CONTACT: Carolyn A. Hightower, Acting Director, State Compensation and Assistance Division, 633 Indiana Avenue NW., Washington, DC 20531; telephone number (202) 307-5947. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: VOCA provides 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 compensation grant program as authorized in Section 1403 of VOCA, Public Law 98-473, as amended, codified at 42 U.S.C. 10603, and contain the following information: Summary of the Comments to the Proposed Program Guidelines; Background; Funding Allocation and Application Process;

Program Requirements; Financial Requirements; Monitoring; and Suspension and Termination of Funding. The Guidelines are based on the experience gained and legal opinions rendered during the first nine years of the grant program and are in accordance with VOCA. These Final Program Guidelines are all inclusive. Thus, they supersede any Guidelines previously issued by OVC.

The Office of Justice Programs, Office for Victims of Crime, in conjunction with the Office of Policy Development, DOJ, and the Office of Information and Regulatory Affairs, OMB, has determined that this rule is not a "significant regulatory action" for purposes of Executive Order 12866 and, accordingly, this rule was not reviewed by the Office of Management and Budget (OMB).

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 described in the Program Requirements section has been approved by the Office of Management and Budget (OMB) as required under the Paperwork Reduction Act, 44 U.S.C. 3504(h). (OMB Approval Number 1121-0014.)

Summary of the Comments to the Proposed Program Guidelines

On December 17, 1993, the Office for Victims of Crime (OVC) published proposed VOCA Victim Compensation Program Guidelines in the **Federal Register**, Vol. 58, No. 164, pages 66023 through 66028. These proposed Guidelines were published for the purpose of soliciting comments on the revised rules for the VOCA victim compensation grant program from all interested individuals and organizations. OVC received six letters from interested individuals and organizations and had conversations with many State VOCA compensation administrators. In total, over twenty-four different issues, questions, recommendations, and comments were received, which often reflected a variety of perspectives.

Respondents included individuals as well as representatives of State and national organizations concerned with various aspects of the implementation of State crime victims compensation benefits and the VOCA victim compensation grant program. The national organizations included the National Association of Crime Victim Compensation Boards (NACVCB) and

the National Indian Justice Center (NIJC). There were also comments submitted by four State VOCA compensation administrators.

In addition, on September 18, 1994, President Clinton signed into law the Violent Crime Control and Law Enforcement Act of 1994. This comprehensive anti-crime legislation contained a number of victim related provisions. The following four amendments to the Victims of Crime Act (VOCA) directly affect the VOCA victim compensation grant program:

(1) modification of the VOCA formula for distribution of the Crime Victims Fund dollars; (2) establishment of State compensation programs as the "payors of last resort"; (3) authorization for use of up to 5 percent of VOCA victim compensation and assistance grant funds for administrative costs; and (4) requiring states to maintain previous level of funding support in administering the VOCA compensation grant program. The following paragraphs incorporate comments from the field and reflect new policy guidance from OVC.

OVC appreciates the time and effort each respondent invested in reading and commenting upon the proposed Guidelines. All comments were carefully considered in developing these Final Program Guidelines. As a result, OVC rewrote, deleted, and incorporated additional information to further clarify various sections of the Guidelines. Explanation of our resolutions and final determinations are presented in the following analysis of each of the modified sections.

A. Background

A number of respondents expressed concern that the current language of this section speaks only of reimbursement paid directly to crime victims when in fact many programs pay providers of services such as hospitals, physicians, dentists, and attorneys directly. Thus, we have revised the language in this section to provide that State crime victim compensation programs may use VOCA compensation grant funds to pay for eligible expenses to, or on behalf of, an eligible crime victim except for property damage and losses. We feel that this modification will address any ambiguity regarding payments made directly to providers of services on behalf of victims.

B. Availability of Funds

Since 1989, OVC has received questions regarding the obligation and expenditure of grant funds, particularly with regard to the grant period. In an attempt to address this issue, these Final

Program Guidelines clarify that funds are available for obligation beginning October 1 of the year of the award through September 30 of the following Federal Fiscal Year (FFY). Thus, States are permitted to pay compensation claims retroactively from the start of the project period, even though the VOCA grant may not be awarded until later in the grant period.

C. Application Process

1. **Eligible State Payment Certification.** Each year States submit a Crime Victim Compensation Eligible State Payments Certification Form with their application for a Federal VOCA victim compensation grant award. The amount certified on this form is used by OVC to determine the amount of each eligible State's annual grant allocation. Previously, OVC required that the designated State certifying official was limited to the Governor, the Attorney General, or the Secretary of State. Since 1989, certifications of several States have been delayed because of this requirement, thus delaying grant awards to all States. In response, OVC now will accept the signature of the authorized individual within the agency designated by the Governor to administer the state compensation program on the annual certification of state payouts form. The NACVCB responded in support of the change and indicated that the modification will promote the timely implementation of the VOCA grant program.

2. **Civil Rights Information.** One respondent raised a concern regarding the collection of personal information such as race, national origin, gender, age, and handicap. Many States are prohibited from mandating that victims provide such information. Therefore, qualifying language has been added in the *Application Process* section of these Final Program Guidelines.

D. Program Requirements

1. **State Eligibility Criteria.** One respondent petitioned OVC to seek a legislative amendment to VOCA, which would allow for direct funding of compensation programs operated by tribal governments. Throughout the Legislative History of VOCA, Congress explicitly rejects the notion of funding separate programs to compensate crime victims because such action would result in duplication of effort. Rather, as a condition of eligibility for a VOCA crime victim compensation grant, a State must provide compensation to victims of Federal crime, including Native Americans, on the same basis as such program provides compensation to victims of State crimes. OVC must

conform with the mandate of Congress on this matter.

Another respondent pointed out that the definition of "State" which is provided in VOCA did not appear in the proposed Guidelines. This omission was inadvertent, and the definition has been included in the Program Requirements section of these Final Program Guidelines.

2. **Victim Cooperation with Law Enforcement.** OVC received numerous inquiries concerning the VOCA provision which requires, as a condition of eligibility, that a program promote victim cooperation with the reasonable requests of law enforcement. The proposed Program Guidelines provided that a State may, at its discretion, impose reasonable requirements, but must, at a minimum, require that the victim report the crime to the "appropriate law enforcement agency." Several programs have sought clarification as to the extent of discretion afforded States through this provision.

OVC is aware that in many jurisdictions, adult and child abuse reports may be filed with protective services agencies or may be filed with family or domestic courts. Hence, these Final Program Guidelines provide that States may utilize any of the following criteria to meet this VOCA Requirement or any other criteria the State believes is necessary to encourage victim cooperation with law enforcement and to verify that a crime occurred: a) require a victim to report the crime to the appropriate law enforcement agency; or b) require a victim to report the crime to an appropriate governmental agency, such as child and/or adult protective services, or family or juvenile court. In addition, for the purposes of meeting this VOCA program requirement States may accept the results of a medical evidentiary examination in lieu of a law enforcement report.

In assessing victim cooperation, State crime victim compensation programs are encouraged to carefully consider compelling health or safety reasons which may influence the extent of victim cooperation with law enforcement. Such considerations may include apprehension regarding personal safety, fear of retaliation, and intimidation by the offender or others.

3. **Compensation for non-residents.** With regard to the requirement that States offer compensation to non-residents who are victimized within their borders, and the requirement that States offer compensation to their own residents who are victimized in States without eligible compensation

programs, some respondents requested that the Guidelines specify that in both situations, claimants must meet the eligibility requirements of the applicable State statute. These Final Program Guidelines stipulate that claimants are eligible to apply for crime victim compensation from the State in which the crime occurred if the State's statutory eligibility requirements are met. However, if the State in which the crime occurred does not have an eligible compensation program, the crime victim should apply in the State in which he or she resides. Victim eligibility and the extent to which an eligible victim will be compensated are established by the respective State statute.

E. State Certification

In response to a request from one respondent, the definition of a "compensable crime" has been further defined to include not only crimes of violence but other crimes in which the victim suffers psychological or emotional trauma although there may not be any physical injury. While most State statutes explicitly define the crimes which will be covered under their program, questions have been raised as to whether certain crimes which involve emotional abuse, but did not involve physical injury, would be considered compensable under VOCA. Hopefully, this modification clarifies the type of crimes which may be considered compensable.

One respondent expressed concern regarding the availability of compensation for traditional healing and burial expenses. The respondent noted that there is great variation among the States as to the type and extent of expenses which are eligible for compensation. OVC appreciates the cultural and financial issues, as well as the need for each State to recognize and support various methods available and preferable to victims in their recovery and/or stabilizing their lives after a victimization. However, determinations as to the extent of benefits available to crime victims remains solely within the prerogative of each State. VOCA does not stipulate with any specificity the extent or any qualifying factors for the payment of expense categories.

In connection with the payment of forensic sexual assault examinations, one respondent recommended that clarification be given regarding inclusion of payments made for forensic sexual assault examinations in a State's certified payments. Specifically, the respondent suggested that the Guidelines advise that although the eligibility criteria for a VOCA compensation grant require that a victim

report to local law enforcement, States may waive the reporting requirement in the following circumstances: (1) the primary purpose of the examination is to collect forensic evidence; (2) such payments are allowable under the State's statute or administrative rules; and (3) such payments are made from funds administered by the compensation program.

Guidelines for Crime Victim Compensation Grants

Background

In 1984, VOCA established the Crime Victims Fund (Fund) in the U.S. Treasury and authorized the Fund to receive deposits from fines and penalties levied on criminals convicted of Federal crimes. This Fund provides the source of funding for carrying out all of the activities mandated by VOCA.

OVC was established in 1984 as the Justice Department's chief advocate for America's crime victims. OVC's program activities are consistent with VOCA. These Final Program Guidelines address the specific program and financial requirements of the VOCA crime victim compensation grant program.

OVC makes annual VOCA crime victim compensation grants from the Fund to eligible States. The primary purpose of these grants is to supplement State efforts to provide financial assistance and reimbursement to crime victims throughout the Nation for costs associated with being a victim of a crime, and to encourage victim cooperation and participation in the criminal justice system. State crime victim compensation programs may use VOCA compensation grant funds to pay for eligible expenses provided by the State compensation statute except for property damage and property losses.

The 1994 amendments to VOCA made a number of changes affecting the crime victim compensation program. These amendments can be found in sections 1402(d) which describe the distribution of the Crime Victim Fund and section 1403 of VOCA, which describes the requirements and eligibility criteria for a VOCA victim compensation grant award.

For the first time since the inception of the State VOCA victim compensation program, States may use up to five percent of their grant award for administrative purposes. This provision will apply to State VOCA victim compensation grants for Federal Fiscal Year 1995. Guidance as to the conditions, limitations, and reporting requirements on the expenditure of administrative funds is set forth the

Availability of Funds section of these Final Program Guidelines.

States have the responsibility for establishing guidelines and procedures for applying for crime victim compensation benefits which meet the minimal statutory requirements outlined in VOCA and the requirements in these Program Guidelines.

Funding Allocation and Application Process

A. Distribution of Crime Victim Fund

OVC administers the deposits made into the Fund for programs and services, as specified in VOCA. The amount of funds available for distribution each year is dependent upon the total deposits into the Fund in the preceding Federal Fiscal Year.

The Federal Courts Administration Act of 1992 removed the cap on the Fund, beginning with Federal Fiscal Year (FFY) 1993 deposits. This Act also eliminated the need for periodic reauthorization of VOCA and the Fund. Thus, under current legislation, the Fund will receive deposits indefinitely.

The Violent Crime Control and Law Enforcement Act of 1994 provides that the deposits into the Fund are to be distributed as follows:

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 is available to the Administrative Office of United States Courts for administrative costs to carry out the functions of the judicial branch under Sections 3611 of Title 18, U.S. Code.

2. Of the next \$10,000,000 deposited in the Fund a particular fiscal year,

- a. 85 percent 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 percent 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. The remaining Fund deposits are distributed as follows:

- a. 48.5 percent is available for victim compensation grants;

- b. 48.5 percent is available for victim assistance grant;

- c. 3 percent is available for support of services to Federal crime victims and for demonstration, training, and technical assistance grants to eligible crime victim programs.

B. Availability of Funds

The Director of OVC will make an annual grant to eligible State crime victim compensation programs equal to 40 percent of the amounts awarded by the State program to victims of crime from State sources of revenue during the fiscal year preceding the year of deposits in the Fund (two years prior to the grant year). Note: Amounts paid to compensate victims for property damage or property loss can not be included in a state's certification for a VOCA victim compensation grant award. If the amount in the Fund is insufficient to award each State 40 percent of its prior year's compensation payout, Section 1403(a)(2) of VOCA provides that all States will be awarded the same reduced percentage of their prior year payout from the available funds.

Funds are available for expenditure throughout the FFY of award as well as in the next FFY. The FFY begins on October 1 and ends on September 30. State crime victim compensation programs may pay compensation claims retroactively from October 1, even though the VOCA grant may not be awarded until later in the grant period. 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, States are encouraged to monitor closely the expenditure of VOCA funds prior to the end of the grant period.

Administrative Costs

The Victims of Crime Act (VOCA) now allows up to five percent of VOCA crime victim compensation grant funds to be used for administering the state crime victim compensation grant program(s). It is in the State's discretion to use the allowable five percent for administration. However, any part of the allowable five percent which is not used for administrative purposes must be used for awards of compensation to crime victims.

The intent of this new provision of VOCA is to support and advance program administration in all operational areas including claims processing, staff development and training, public outreach, and program funding by supporting those activities that will improve program effectiveness and service to crime victims. If a state elects to use up to five percent of their VOCA compensation grant for administrative purposes, only those costs directly associated with administering the program, enhancing overall program operations, and ensuring compliance with Federal requirements, can be paid with limited

administrative grant funds. Further, States must certify that VOCA funds used for administrative purposes will not be used to supplant State or local funds but will be used to increase the amount of State funds that would be available for administering the compensation program. For the purpose of establishing a baseline level of effort, States should maintain documentation as to the overall administrative commitment of the State prior to their use of VOCA administrative grant funds.

Allowable administrative costs include but are not limited to the following: program personnel, salary and benefits; travel costs for attendance at state, regional, and national compensation training conferences; computer equipment and support services; costs involved in the production and distribution of program brochures and posters, and other program outreach activities; professional fees for computer services and peer review of compensation claims; agency membership dues for victim compensation organizations; program enhancements such as toll-free numbers; special equipment and materials to facilitate service to persons with disabilities, and other reasonable costs directly related to administering a compensation program. Indirect costs expressed as a percentage of state-wide joint costs will not be considered as allowable.

Staff supported by 5% of the VOCA compensation administrative funds under the VOCA Crime Victim compensation grant must work directly for the compensation program in the same proportion as their level of support from VOCA grant funds. If the staff have other functions, the proportion of time working on the compensation program must be documented using some reasonable method at regular intervals such as time and attendance records on all funded staff which demonstrate the portion of staff time spent on compensation related activities. The documentation must provide a clear audit trail for the expenditure of grant funds.

Only staff activities directly related to compensation functions can be funded with VOCA administrative funds. Similarly, any equipment purchases or other expenditures charged to the VOCA compensation grant should only be charged proportionate to the percentage of time utilized by the compensation program.

Temporary or periodic personnel support, such as qualified peer reviewers for medical and mental health claims, and data processing support services are also allowable. These

services may be obtained through contract using VOCA administrative funds.

Those States that elect to utilize administrative funds under the VOCA compensation grant, shall include with their annual application a general description of how the administrative funds will be used. This description should include an itemization of the state's projected expenditures for allowable administrative cost. A state may modify projections set forth in their application by providing OVC a revised description of their planned use of administrative funds in writing, subsequent to submitting their annual application. However, the revised description must be reviewed prior to the obligation of any Federal funds.

Those States that elect to utilize administrative funds under the VOCA crime victim compensation grant, shall include a narrative description of the impact of VOCA administrative funds with their annual performance report.

C. Application Process

Each year, OVC issues to each eligible State a Program Instruction and Application Kit, which contains the necessary forms and detailed information required to make application for VOCA crime victim compensation grant funds. The amount for which each State may apply is included in the Application Kit. States shall use the Standard Form 424, Application for Federal Assistance, and its attachments to apply for VOCA victim compensation grant funds. Applications for VOCA crime victim compensation grants may only be submitted by the State agency designated by the Governor to administer the VOCA grant.

Completed applications must be submitted on or before the stated deadline, as determined by OVC. If an eligible State fails to apply for its crime victim compensation allocation by the prescribed deadline, OVC will redistribute Federal VOCA crime victim compensation dollars to the VOCA victim assistance grant program as provided by Section 1404(a)(1) of VOCA (42 U.S.C. 10603 (a)(1)), assuming all states have received the statutorily prescribed 40% (percent) of their prior years payouts.

In addition to submission of the Application for Federal Assistance, States shall:

1. Specify their arrangements for complying with the provisions of Circular A-128 (Audits of State or Local Government.)
2. Submit Certifications Regarding Lobbying, Debarment, Suspension, and

Other Responsibility Matters; Drug-Free Workplace Requirements; Civil Rights Compliance, and any other certifications required by OJP and OVC. Additionally, States must complete a disclosure form specifying any lobbying activities that are conducted.

3. Submit a Crime Victim Compensation Eligible State Payments Certification Form which is furnished by OVC.

The amount certified on this Form is used by OVC to determine the annual Federal grant award to each eligible State in the following year. This form must be completed and signed by the authorized individual within the agency designated by the Governor to administer the VOCA crime victims compensation grant. For Further information concerning the State certification, see the Program Requirements section.

4. Submit the following assurances and information:

a. An assurance that the program will comply with all applicable nondiscrimination requirements;

b. An assurance that in the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing, on the grounds of race, color, religion, national origin, sex, or disability against the program, the program will forward a copy of the finding to the Office of Justice Programs, Office for Civil Rights (OCR);

c. The name of the civil rights contact person who has lead responsibility in ensuring that all applicable civil rights requirements are met and who shall act as liaison in civil rights matters with OCR;

d. An assurance that programs will maintain information on crime victims receiving services by race, national origin, sex, age, and disabilities, where such information is voluntarily furnished by claimants. A State may, at its discretion, use the following language when soliciting claimant responses: "The submission of information regarding race/ethnic background or disabilities is strictly voluntary. A decision to not supply this information will not affect your eligibility for compensation benefits without this information. However, this information is important. We use it to study the extent to which members of minorities and persons with disabilities are recipients of compensation benefits and to determine the extent to which outreach efforts should be enhanced to ensure access and services to these populations."

Program Requirements

A. State Eligibility Criteria

The fundamental criteria for eligibility is the grantee must be an operational State-administered crime victim compensation program. The term "State" includes the District of Columbia, the Virgin Islands, and any other possession or territory of the United States. Although an authorized program that has not actually paid out compensation benefits would be technically eligible under Section 1403(b)(1) of VOCA, the program would not be entitled to a VOCA grant because it had not awarded any benefits that could be matched under Section 1403(a)(1). VOCA compensation grant funds may not be used as "start-up" funds for a new State program.

Section 1403 of VOCA prescribes the conditions and eligibility criteria related to crime victim compensation grants. In order for a State to meet or maintain eligibility for a crime victims compensation grant, it must satisfy the following eligibility requirements:

1. The program must be operated by a State and offer compensation to victims and survivors of victims of "compensable crimes," including drunk driving and domestic violence. The term "compensable crime" means a crime, the victims of which are eligible for compensation under the State's eligible crime victim compensation program statute or rule. The range of expenses for which States may award crime victims compensation varies nationwide, although all States must award compensation for medical expenses, including mental health counseling and care; loss of wages; and funeral expenses.

2. The program must promote victim cooperation with the reasonable requests of law enforcement authorities. The States may impose such reasonable requirements as they see fit to promote this cooperation and to verify that a crime has occurred. Encouraging victims to cooperate with law enforcement and to report the crime is important to the effective functioning of the criminal justice system and to preventing further victimizations.

In assessing a victim's cooperation with law enforcement, State crime victim compensation programs are encouraged to consider carefully any compelling health or safety reasons that may influence the extent of victim cooperation with law enforcement. Such considerations might include concerns regarding personal safety and retaliation, as well as threats or intimidation of the victim by the offender or others.

3. The State must certify that grants received under this section will not be used to supplant State funds otherwise available to provide crime victim compensation or to administer the state crime victim compensation program.

The nonsupplantation provision is intended to assure that States use VOCA funds to augment, not replace, otherwise available State funding for crime victim compensation. More specifically, the States may not decrease their financial commitment to crime victim compensation solely because they are receiving VOCA funds for the same purpose.

4. The State, as to compensable crimes occurring within the State, must make compensation awards to victims who are non-residents of the State on the basis of the same criteria used to make awards to victims who are residents of such State.

This provision is intended to ensure that non-residents of a State, who are victimized in a State that has an eligible compensation program, are provided the opportunity to apply for and receive the same compensation benefits that are available to residents of the State. The provision of reciprocal agreements with certain other States or foreign countries will not suffice to meet this criteria. Eligibility for VOCA funds requires the State program to extend its coverage to all non-residents victimized in the State. Note: For the purposes of this provision, the term "non-resident" must, at a minimum, include anyone who is a resident in one State but victimized in another. A State may, at its discretion, broaden its definition of non-resident to include anyone victimized in the State regardless of whether the victim is a United States citizen.

5. The State must provide compensation to victims of Federal crimes occurring within the State on the same basis that such program provides compensation to victims of State crimes.

For example, a victim of a rape, occurring on a Federal installation or Indian reservation inside the State, must be afforded the same benefits that would be available to the victim if the rape were classified as a crime against the State. This provision is intended to cover those individuals victimized on military installations, national parks and highways, Native American reservations, and under other circumstances where Federal jurisdiction exists since there is no Federal compensation program which provides benefits to victims covered under Federal jurisdiction.

6. The State must provide compensation to residents of the State who are victims of crimes occurring

outside the State, if the crimes would be compensable crimes had they occurred inside that State and the crimes occurred in a State not having eligible crime victim compensation programs.

This provision is intended to cover those residents of a State who are victimized in a State which does not have a crime victim compensation program.

This requirement protects residents of a State who are victims of criminal violence in another State which does not have an eligible crime victims program for which the victim qualifies. In such instances, the victim would be eligible to apply for crime victim compensation from the State in which he or she resides. If a person from one State is victimized in another, which has an eligible compensation program, the State in which the crime was committed must offer compensation to the victim according to its own eligibility requirements and allowable expenses, without regard to the non-residence status of the victim.

7. Except pursuant to rules issued by the compensation program to prevent unjust enrichment of the offender, the State cannot deny compensation to any victim because of that victim's familial relationship to the offender, or because of the sharing of a residence by the victim and the offender.

Unjust enrichment, as the basis for denying crime victims compensation, must be based upon written rules issued by the State crime victims compensation program. "Rules" mean either written policies or directives developed and distributed by State crime victim compensation programs or rules adopted by legislative or administrative bodies. Such rules cannot have the effect of denying compensation to a substantial percentage of domestic violence victims. The rules relating to unjust enrichment should be applicable to all claims for compensation although it is recognized that domestic violence cases have the greatest potential for unjust enrichment.

In general, programs must balance the goals of making compensation benefits available to domestic violence victims and preventing unjust enrichment of offenders. State programs are strongly encouraged to work with domestic violence coalitions and representatives to this end.

In developing rules, the States are encouraged to consider the following:

a. Legal responsibilities of the offender to the victim under the laws of the State and collateral resources available to the victim from the offender. For example, legal responsibilities may include court-

ordered restitution or requirements for spouse and/or family support under the domestic or marital property laws of the State. Collateral resources may include insurance or pension benefits available to the offender to cover the costs incurred by the victim as a result of the crime. As with other crime, victims of domestic violence should not be penalized when collateral sources of payment are not viable, e.g., when the offender refuses to, or cannot, pay restitution or other civil judgements within a reasonable period of time or when the offender otherwise impedes direct or third party (i.e., insurance) reimbursements.

b. Payments to victims of domestic violence which benefit offenders in only a minimal or inconsequential manner would not be considered unjust enrichment. To deny payments, in some instances, could serve to further victimize the claimant. For example, denial of medical or dental expenses solely because the offender has legal responsibility for the charges, but is unwilling, or unable to pay them, could result in the victim's inability to receive treatment.

c. Consultation with social services and other concerned governmental entities, as well as with private organizations that support and advocate on behalf of domestic violence victims.

d. The special needs of child victims of criminal violence especially when the perpetrator was the parent who may or may not have lived in the same residence.

8. The State must provide such other information and assurances as the Director of OVC may reasonably require.

9. If the compensation paid by an eligible crime victim compensation program would cover the costs that a Federal program, or a Federally financed State or local program, would otherwise pay such crime victim compensation program shall not pay that compensation; and the other program shall make its payments without regard to the existence of the crime victim compensation program.

B. State Certifications

Guidelines on amounts to be included as well as amounts to be excluded in a State's certification of payments of crime victims compensation from State funding sources are furnished below:

1. Program Revenue. States must report on the certification form all sources of State revenue available to the crime victims compensation program during the Federal Fiscal Year. In some instances, funds are made available to the crime victims compensation program from other departments or

agencies, from supplemental appropriations, donations, or carried over from prior years appropriations. All State funds which are available during the Federal Fiscal Year should be reported. The amount of certified revenue, excluding VOCA funds, must meet or exceed the amount of certified payments to crime victims.

2. Amounts to be Included. The total amount to be certified by the State program must include only those amounts paid from State funding sources to or on behalf of crime victims during the Federal Fiscal Year (October 1 to September 30).

3. Compensable Expenses. The range of expenses for which States may award crime victims compensation varies nationwide, although all States must award compensation for medical expenses, including mental health counseling and care; loss of wages; and funeral expenses. Note: The term "medical expenses" includes, to the extent provided under the State crime victim compensation program statute, expenses for eyeglasses and other corrective lenses; dental services, devices, and prosthetic devices; and for services rendered in accordance with a method of healing recognized by the law of the State. "Mental health counseling and care" means the assessment, diagnosis, and treatment of an individual's mental and emotional functioning that is required to alleviate psychological trauma resulting from a compensable crime. Such intervention must be provided by a person who meets such standards as may be set by the State for victim mental health counseling and care.

Compensable expenses to be included in the annual certification must be authorized by State statute or rule, providing there is rule making authority in State law. States may include expenses, not specifically identified in VOCA, such as pain and suffering; crime scene clean up; replacement costs for clothing and bedding held as evidence; annuities for child victims for loss of support; medically-necessary building modification; medically-necessary devices; and attorney fees related to a victim's claim for compensation.

States may also include payments related to forensic sexual assault examinations, even if the victim did not report the crime to law enforcement if such payments are made from funds administered by the compensation program and are allowable under the state's statute or administrative rules.

4. Amounts to be excluded. States must exclude, in the certification, VOCA grant funds, compensation for

property losses or property damage, audit costs, personnel costs, and any other program administrative costs.

5. **Applicable Credits.** Any "applicable credits" must be deducted from the State certification. The term "applicable credits" refers to those receipts or reduction of expenditures, which offset or reduce expense items that are allocable to a particular crime victim compensation claim. Typical examples of applicable credits in State crime victims compensation programs include funds received through a State's subrogation interest in a claimant's civil law suit recovery, restitution, refunds, or other reimbursements. Refunds include amounts from overpayment, erroneous payments made to claimants, uncashed checks, etc. Additional guidance regarding applicable credits can be found in OMB Circular A-87, "Cost principles for State and Local Governments."

States must determine how to account for both the receipt and expenditure of restitution and refunds. Note: A State is not required to reduce its certified payment figure by the amount of restitution recoveries received by the State which are not directly related to the payment of crime victim compensation benefits, nor when such reimbursements were from payments to victims prior to receiving a VOCA award.

6. **Recovery Costs.** Expenses incurred by State compensation programs, which are directly attributable to the recovery of restitution, refunds, and other reimbursements, may be offset against the amount of income received from such reimbursements. Expenses directly attributable to recovery income shall be limited to the percentage of those salaries incurred by the State for employees whose primary responsibilities (not less than 75 percent of their time) are directly and specifically related to recovering restitution and other reimbursements. Recovery costs can not be claimed for employees whose salary is derived from Federal administrative grant funds.

7. There is no financial requirement that State compensation programs identify the source of individual payments to crime victims as either Federal or State dollars.

C. Incorrect Certifications

If it is determined that a State has made an incorrect certification of payments of crime victims compensation from State funding sources and a VOCA crime victim compensation grant is awarded in error, one of the following two courses of action will be taken:

1. In the event that an over certification comes to the attention of OVC or the Office of the Comptroller, OJP, the necessary steps will be taken to recover funds which were awarded in error. OVC does not have the authority to permit States to keep amounts they were not entitled to as a result of overcertification.

2. If a State under-certifies amounts paid to crime victims, OVC will not supplement payments to the State in a subsequent year to correct the State's error. Once OVC awards funds in a given FFY, there are no excess funds available to remedy errors of this nature.

D. Program Reporting Requirements

States receiving VOCA crime victims compensation grant funds are required to prepare an Annual Performance Report that is provided by OVC. The Report requests specific information about claims for compensation, such as types of crimes committed, including drunk driving and domestic violence, disposition of claims, and payments for compensable expenses. The Performance Report covers the Federal Fiscal Year ending September 30 and is due to OVC by December 30 of the same year.

E. Additional 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 law, no recipient of monies under VOCA shall use or reveal any

research or statistical information gathered 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 14007(d) of VOCA, codified at 42 U.S.C. 10604(d)].

This provision is intended, among other things, to assure the confidentiality of information provided by crime victims to employees of VOCA-funded victim compensation programs. However, 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 a suspected child abuse. See *Pennhurst State School and Hospital v. Halderman, et al.*, 451 U.S. 1 (1981).

Financial Requirements

As a condition of receiving a grant, States agree to insure adherence to the general and specific requirements as set forth in the "Financial and Administrative Guide for Grants," OJP M7100.1D (effective edition) and applicable OMB Circulars and Common Rules. This includes the maintenance of books and records in accordance with generally accepted government accounting principles. States further agree to identify state fiscal year and Federal cognizant audit agency. This section describes the payment of grant funds, termination of advanced funding; financial status reports, and audit requirements.

A. Audit Responsibilities for States

Pursuant to OMB Circular A-128 (Audits of State or Local Governments), States that receive \$100,000 or more in Federal financial assistance in any fiscal year must have a single audit for that year. States 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 Costs

Although under OMB Circular A-128 audit costs are generally allowable charges under Federal grants, audit costs incurred at the grantee (State) level are determined to be an administrative expense.

C. Financial Status Report for States

Financial Status Reports (269A) are required from all State agencies. 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, within 45 days after the end of each 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, no later than December 31.

D. Termination of Advance Funding

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 to finance its operations with its own working capital. Payments to the State will then be made by the direct Treasury check method, which reimburses the State for actual cash disbursements.

Monitoring

A. Office of the Comptroller/General Accounting Office/Office of the Inspector General

The Office of the Comptroller, the General Accounting Office, and the Office of the Inspector General conducts periodic reviews of the financial policies and procedures and records of VOCA States. Therefore, upon request, States must give authorized representatives the right to access and examine all records, books, papers, case files, or other documents related to the grant.

B. Office for Victims of Crime

Beginning with the FFY 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 review various documents and files such as (1)

financial and program manuals and procedures governing the crime victim compensation grant program; (2) financial records, reports, and audit reports for the State grantee; (3) the State's compensation application, procedures, and guidelines for awarding compensation benefits; (4) a random sampling of victim compensation claim files; and (5) all other applicable State records and files.

Suspension and Termination of Funding

If, after notice and opportunity for a hearing, OVC finds that a State has failed to comply substantially with VOCA, the M7100.1D (effective edition), the Final Program Guidelines, or any implementing regulation or requirement, OVC may suspend or terminate funding to the State and/or take other appropriate action. At such time, States may request a hearing on the justification for the suspension and/or termination of VOCA funds.

Approved by:

Aileen Adams

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

[FR Doc. 95-4417 Filed 2-22-95; 8:45 am]

BILLING CODE 4410-18-P

NATIONAL INDIAN GAMING COMMISSION

Fee Rates

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1 (a)(3), that the National Indian Gaming Commission has adopted a preliminary annual fee rate of 0.6% (.006) for calendar year 1995. The rate shall apply to all assessable gross revenues (tier 1 and tier 2) from each class II gaming operation regulated by the Commission.

FOR FURTHER INFORMATION CONTACT:

Cindy Altimus, National Indian Gaming Commission, 1850 N Street, NW., Suite 250, Washington, DC 20036; telephone 202/632-7003; fax 202/632-7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act established the National Indian Gaming Commission which is charged with, among other things, regulating Class II gaming on Indian lands.

The regulations of the Commission (25 CFR Part 500) provide for a system of fee assessment and payment that is self-administered by the Class II gaming operations. Pursuant to those

regulations, the Commission is required to adopt and communicate assessment rates; the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, and report and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and this rate are effective for calendar year 1995. Therefore, all Class II gaming operations within the jurisdiction of the Commission are required to self-administer the provisions of these regulations and report and pay any fees that are due to the Commission before the end of the first quarter of 1995 (March 31), and quarterly thereafter.

Harold A. Monteau,

Chairman, National Indian Gaming Commission.

[FR Doc. 95-4463 Filed 2-22-95; 8:45 am]

BILLING CODE 7565-0-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued another periodic report to Congress on abnormal occurrences (AOs), "Report to Congress on Abnormal Occurrences: July-September 1994" (NUREG-0090, Vol. 17, No. 3).

Under the Energy Reorganization Act of 1974, which created NRC, an AO is defined as "an unscheduled incident or event that the Commission (NRC) determines is significant from the standpoint of public health or safety." NRC has made a determination that an incident or event involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and by-product material is an AO.

This report addresses five AOs at NRC-licensed facilities. One involved a medical brachytherapy misadministration, two involved medical teletherapy misadministrations, one involved a medical sodium iodide misadministration, and one involved a medical sodium iodide event. One AO report submitted by an Agreement State is included. It involved the loss of management and procedural control of a radioactive source.

The report also contains updates of six AOs previously reported by NRC licensees and three AOs previously reported by Agreement State licensees. Two "Other Events of Interest"