

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: May 2, 1995.

By order of the Commission.

**Donna R. Koehnke,**

Secretary.

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

#### Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP) No. 1040F]

RIN 1121-ZA05

#### Challenge Grants Program Guideline

**AGENCY:** Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

**ACTION:** Notice of final guideline for the Office of Juvenile Justice and Delinquency Prevention's Challenge Grants Program.

**SUMMARY:** The Office of Juvenile Justice and Delinquency Prevention (OJJDP) published a proposed guideline for the Challenge Grants Program in the **Federal Register** on February 2, 1995 (60 FR 6553), and solicited public comments. Based on the analysis of those public comments, OJJDP is issuing this final guideline. This Program is of interest to all State formula grantees participating in the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

**DATES:** This final guideline is effective on May 10, 1995.

**ADDRESSES:** Office of Juvenile Justice and Delinquency Prevention, Room 742, 633 Indiana Avenue, N.W., Washington, DC 20531.

**FOR FURTHER INFORMATION CONTACT:**  
Rodney L. Albert, Social Science Program Specialist, State Relations and

Assistance Division, Office of Juvenile Justice and Delinquency Prevention, at the above address. Telephone (202) 307-5924.

**SUPPLEMENTARY INFORMATION:** Section 201(b) of the JJD Act provides that the Administrator "is authorized to prescribe regulations" in order to carry out the provisions included in Title II of the Act.

#### Changes to Proposed Guideline

The following changes are made to the proposed guideline. New language is italicized. In the section titled "Eligible Applicants," the following sentence is added to the end of the paragraph: Although the State Agency designated by the Chief Executive of the State pursuant to Section 223(a)(1) of the JJD Act must apply for Challenge activities, they may award subgrants and contracts to public and private agencies for the development and implementation of projects designed to carry out Challenge activities.

In the section titled "Application Components," at the end of Component #7, the following language is added: If the applicant State agency plans to subgrant or contract for services, a complete budget may not be available. In this instance only a budget narrative of anticipated general expenses is required.

In the section titled "Grant Period" the length of the grant award has been extended from 18 to 24 months from July 1, 1995.

#### Background

Section 285 of Title II, Part E, of the Juvenile Justice and Delinquency Prevention Act (JJD) of 1974, as amended (42 U.S.C. 5601, et seq.), states that "The Administrator may make a grant to a State that receives an allocation under section 222, in the amount of 10 percent of the amount of the allocation, for each challenge activity in which the State participates for the purpose of funding the activity."

Part E—State Challenge Activities is a new program authorized under the 1992 Amendments to the JJD Act. In FY 1995, Part E received its first appropriation. The purpose of Part E is to provide incentives for States participating in the Formula Grants Program to develop, adopt, and improve policies and programs in one or more of ten specified Challenge Activities. As used in this Guideline, "State" is defined in Section 103(7) of the JJD Act. "Formula Grant" refers to a grant to a State under Title II, Part B, of the JJD Act.

The ten Challenge Activities are defined in Part E as follows:

(A) Developing and adopting policies and programs to provide basic health, mental health, and appropriate education services, including special education, for youth in the juvenile justice system as specified in standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention prior to October 12, 1984.

(B) Developing and adopting policies and programs to provide access to counsel for all juveniles in the justice system to ensure that juveniles consult with counsel before waiving the right to counsel.

(C) Increasing community-based alternatives to incarceration by establishing programs (such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, and electronic monitoring) and developing and adopting a set of objective criteria for the appropriate placement of juveniles in detention and secure confinement.

(D) Developing and adopting policies and programs to provide secure settings for the placement of violent juvenile offenders by closing down traditional training schools and replacing them with secure settings with capacities of no more than 50 violent juvenile offenders with ratios of staff to youth great enough to ensure adequate supervision and treatment.

(E) Developing and adopting policies to prohibit gender bias in placement and treatment and establishing programs to ensure that female youth have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, self defense instruction, education in parenting, education in general, and other training and vocational services.

(F) Establishing and operating, either directly or by contract or arrangement with a public agency or other appropriate private nonprofit organization (other than an agency or organization that is responsible for licensing or certifying out-of-home care services for youth), a State ombudsman office for children, youth, and families to investigate and resolve complaints relating to action, inaction, or decisions of providers of out-of-home care to children and youth (including secure detention and correctional facilities, residential care facilities, public agencies, and social service agencies) that may adversely affect the health, safety, welfare, or rights of resident children and youth.

(G) Developing and adopting policies and programs designed to remove, where appropriate, status offenders from

the jurisdiction of the juvenile court to prevent the placement in secure detention facilities or secure correctional facilities of juveniles who are nonoffenders or who are charged with or who have committed offenses that would not be criminal if committed by an adult.

(H) Developing and adopting policies and programs designed to serve as alternatives to suspension and expulsion from school.

(I) Increasing aftercare services for juveniles involved in the justice system by establishing programs and developing and adopting policies to provide comprehensive health, mental health, education, and vocational services and services that preserve and strengthen the families of such juveniles.

(J) Developing and adopting policies to establish—

(i) a State administrative structure to coordinate program and fiscal policies for children who have emotional and behavioral problems and their families among the major child serving systems, including schools, social services, health services, mental health services, and the juvenile justice system; and

(ii) a statewide case review system. The term "case review system" means a procedure for ensuring that—

(a) each youth has a case plan, based on the use of objective criteria for determining a youth's danger to the community or himself or herself, that is designed to achieve appropriate placement in the least restrictive and most family-like setting available in close proximity to the parents' home, consistent with the best interests and special needs of the youth;

(b) the status of each youth is reviewed periodically but not less frequently than once every 3 months, by a court or by administrative review, in order to determine the continuing necessity for and appropriateness of the placement;

(c) with respect to each youth, procedural safeguards will be applied to ensure that a dispositional hearing is held to consider the future status of each youth under State supervision, in a juvenile or family court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, not later than 12 months after the original placement of the youth and periodically thereafter during the continuation of out-of-home placement; and

(d) a youth's health, mental health, and education record is reviewed and updated periodically.

**Eligible Applicants:** The eligible applicants for Part E Challenge Grants in a given fiscal year are the State Agencies, designated by the Chief Executive of the State pursuant to Section 223(a)(1) of the JJDP Act, which receive an OJJDP Formula Grant award under Section 223 of the JJDP Act for the same fiscal year. In the section titled "Eligible Applicants," the following sentence is added to the end of the paragraph: Although the State Agency designated by the Chief Executive of the State pursuant to Section 223(a)(1) of the JJDP Act must apply for Challenge activities, they may award subgrants and contracts to public and private agencies for the development and implementation of projects designed to carry out Challenge activities.

**Funding Levels:** The amounts of Part E funds available for the States are determined by the ratio of Part E funds to Formula Grant funds available to the States in a given fiscal year. The same ratio is applied to each State's Formula Grant allocation to determine each eligible State's Part E allocation.

Eligible State agencies will be notified of Part E State allocations annually.

Part E funds not awarded to a State by the end of the fiscal year due to the absence of a qualifying application will either be: (1) Made available to States in the subsequent fiscal year along with the Part E funds appropriated for that year, or (2) in the case of a State not participating in the Formula Grants Program, the State's Part E funds will be reserved for one year if the State (a) submits a written statement of intent to resume participation and (b) describes activities to be undertaken that will be undertaken to enable the State to participate in the following fiscal year.

**State Applications and Awards:** Each State may apply for a Part E grant in an amount equal to the sum of not more than 10% of such State's Formula Grant allocation received, for each challenge activity in which the State chooses to participate, not to exceed the total amount of the State's Part E allocation.

For example, a State may have a Formula Grant of \$600,000 and have a Part E allocation of \$100,000. The State could apply for up to \$60,000 (10% of the Formula Grant) for each Challenge Activity. However, since a total of \$100,000 Part E funds would be available to the State, the State could apply for \$60,000 for a first Challenge Activity, and \$40,000 for a second Activity. Alternatively, the State could apply for more Challenge Activities by applying for any amounts of not more than \$60,000 for each Activity that total not more than \$100,000.

The award of Part E funds is contingent upon OJJDP's approval of an application meeting the requirements listed below.

**Application Components:** Applications for Part E Challenge Activity Grants must contain the following items for each proposed Challenge Activity.

1. **Challenge Activity.** Identification of the Challenge Grant Activity to be implemented.

2. **Statement of Need.** A concise explanation of the need for Federal funding to implement the Challenge Activity.

3. **Project Summary.** A brief summary or abstract describing the activities, goods and services to be funded with Part E funds, as well as collateral activities to be funded from other sources.

4. **Goals, Objectives and Outcomes.** A listing of the goals and objectives for the project, and anticipated outcomes and products.

5. **Strategy.** A concise description of the steps to be taken in implementing the Challenge Activity, including a timeline for implementation. This description must link the proposed strategy with the Challenge Activity as cited in the JJDP Act.

6. **State Advisory Group Involvement and Approval.** A description of the State Advisory Group's (SAG) involvement in the Challenge Activity, and evidence of approval of the application by the SAG.

7. **Budget.** A budget and budget narrative explaining and justifying the costs of proposed Challenge Grant activities. If the applicant State agency plans to subgrant or contract for services, a complete budget may not be available. In this instance only a budget narrative of anticipated general expenses is required.

**Grant Period:** Part E grants will be awarded for a twenty-four month project period, from July 1, 1995.

**Use of Funds:** 1. The recipient State Agency shall use Part E funds to implement the proposed Challenge Activities. The State Agency may award grants or enter into contracts with public or private agencies to implement Challenge Activities.

2. Part E funds may be used only in accordance with the General and Administrative provisions of Part I of the JJDP Act and the effective edition of the Office of Justice Programs Guideline M.7100.

**Application Due Date:** Applications for FY 1995 Challenge Grants may be submitted after publication of the final guideline and must be received by June 30, 1995. For subsequent fiscal years, applications must be received by March

31, in conjunction with the Part B Formula Grants Program Multi-year Plan or Annual Plan Update. Section 223(a) of the JJD 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 JJD 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

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#### 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.

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#### 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