made up the shortages; continued to maintain that DEA was in his office improperly in 1988; and continued to assert that the claims against him were false and that he was harassed. Also, while Respondent indicated that he was willing to cooperate with DEA, he also made it clear that he was wary of DEA based upon the false charges and harassment against him, and that he believed that inspections should only be conducted when it is convenient for him and not during normal business hours. This last assertion is at odds with DEA's inspection authority under 21 U.S.C. 880, which requires that administrative inspection warrants be served during normal business hours.

Judge Tenney concluded that registration of Respondent would not inconsistent with the public interest with the imposition of the limitations suggested by Respondent. Therefore, Judge Tenney recommended that Respondent be granted a DEA Certificate of Registration subject to the temporary limitations suggested by Respondent. The Government filed an exception to this proposed sanction arguing that Respondent's application should be denied. Alternatively, the Government argued that if the Administrative Law Judge's recommendation is adopted by the Acting Deputy Administrator, the names and addresses of the patients on the records should not be redacted.

The Acting Deputy Administrator notes that 21 C.F.R. 1306.05 and 1304.24 require that prescriptions and records of dispensing contain the patient's name and address, and that to allow Respondent to redact that information would in effect subject him to lesser requirements than other registrants. However, the Acting Deputy Administrator finds that the Government has met its burden of proof that Respondent's registration would be inconsistent with the public interest. As the Government noted in its exceptions, in *Shatz* v. *United States Department of Justice*, 873 F. 2d 1089, 1091 (8th Cir. 1989), the court held that once the Government had met its burden, the Respondent then had the burden to rebut the evidence and to prove sufficient rehabilitation. As discussed above, while Respondent has stated that he has changed his inventory practices, there is more than sufficient evidence in the record to indicate that Respondent has not accepted responsibility for his prior actions as a DEA registrant, has not significantly changed his inventory practices, and has not exhibited a willingness for DEA to inspect his records ''at any time'', as suggested in his response to the Government exceptions. Consequently, the Acting Deputy Administrator finds that Respondent's registration with DEA would be inconsistent with the public interest.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that the application for registration, executed by Ellis Turk, M.D., be, and it hereby is, denied. This order is effective May 22, 1997.

Dated: April 8, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–10371 Filed 4–21–97; 8:45 am]

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DEPARTMENT OF JUSTICE

[OJP(OVC)–1113]

RIN 1121–ZA60

Victims of Crime Act Victim Assistance Grant Program

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

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 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 guidelines are effective from October 1, 1996 (Federal Fiscal Year 1997 VOCA grant program), until further revised by OVC.

FOR FURTHER INFORMATION CONTACT: Jackie McCann Cleland, Director, State Compensation and Assistance Division, 633 Indiana Avenue, NW., Washington, DC 20531–0001; e-mail address: Jackie@OJP.USDOJ.GOV; telephone number 202/307–5983. (This is not a toll-free number.)

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 under the following headings: *Summary of the Comments to the Proposed Program Guidelines; 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 and legal opinions rendered since the inception of the grant program in 1986, and are in accordance with VOCA. These Final Program Guidelines are all inclusive. Thus, they supersede any Guidelines previously issued by OVC.

OVC, in conjunction with DOJ's Office of Policy Development, and the Office of Information and Regulatory Affairs within the Office for Management and Budget (OMB), has determined that these Guidelines do not represent a ''significant regulatory action'' for the purposes of Executive Order 12866 and, accordingly, these Program Guidelines were not reviewed by OMB.

In addition, these Program 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, codified at 5 U.S.C. 601, *et seq.*

The program reporting requirements described in the *Program Requirements* section have been approved by OMB as required under the Paperwork Reduction Act, 44 U.S.C. 3504(h). (OMB Approval Number 1121–0014).

Summary of the Revisions to the 1997 Final Program Guidelines

As a result of comments from the field, recent legislative amendments, and modifications of applicable federal regulations, substantive changes were made to four sections of the Proposed Program Guidelines, including: the *Availability of Funds*, the *Application Process*, the *Program Requirements*, and the *Financial Requirements.* These changes are summarized in the paragraphs below, and incorporated into the complete text of the *Final Program Guidelines for Crime Victim Assistance Grants.* The Final Program Guidelines also include several technical corrections that are not listed in this summary because they do not affect policy or program implementation.

A. Comments From the Field

In the interest of reaching a more diverse audience and making the review and comment process more convenient for victim service advocates and providers, OVC took several steps. In April, 1996, OVC asked the state VOCA

victim assistance program administrators for their comments on the effective edition of the VOCA Victim Assistance Final Program Guidelines (published in October 27, 1995). On the basis of their comments and the suggestions of several other victim advocates, OVC developed Proposed VOCA Victim Assistance Program Guidelines. Throughout the year, the OVC Director and staff met individually and in groups with VOCA administrators and subgrantees to discuss revisions to the Guidelines. In November of 1996, OVC mailed copies of the Proposed Guidelines directly to all of the state VOCA victims assistance and victim compensation program administrators, as well to the representatives of approximately 20 national crime victim advocacy organizations. In early December, the Proposed Guidelines were posted on the OVC Website for review and comment by all interested parties. Finally, the Proposed Guidelines were published in the **Federal Register** on February 18, 1997.

Since last Spring, OVC has received approximately 90 recommendations, comments, and questions from VOCA administrators, victim service providers, representatives of national victim organizations, and other victim advocates via telephone, mail, fax, and e-mail. The vast majority of the comments supported the proposed changes to the Guidelines.

OVC received comments from experts in elder services that helped OVC redefine ''elder abuse'' and include specific direction regarding respite care for elders, emergency nursing home shelter for victims of elder abuse, and inclusion of adult care providers in community cooperation efforts. These comments were made by state and national organizations, including the U.S. Department of Health and Human Services Administration on Aging and the National Association of State Units on Aging.

OVC also received comments from state and national domestic violence organizations, such as the Pennsylvania Coalition Against Domestic Violence and AYUDA, supporting the proposal to expand VOCA-funded emergency legal assistance to include child custody and visitation when such assistance is from providers with a demonstrated history of advocacy on behalf of domestic violence victims.

All of the comments received were invaluable in helping OVC prepare the Final Victim Assistance Program Guidelines. A summary of the changes occurring as a result of comments from the field are listed below in the order in which they appear in the Final Program Guidelines.

1. Definition of Crime Victim To Include Financial Harm

In Section I., Background, the definition of crime victim has been modified to specifically include victims of financial exploitation. Although VOCA-funded programs cannot restore the financial losses suffered by victims of fraud, victims are eligible for the counseling, criminal justice advocacy, and other support services offered by VOCA-funded victim assistance programs.

2. Training of Adult Protective Services Personnel

The section on the VOCA Victim Assistance Application Process (III.B.2.c.), which lists allowable uses of the administrative cost provision, has been modified to specifically include training for aging and adult protective service providers.

3. Submission of Administrative Cost Provision Budget

Previous editions of the Guidelines required state grantees to submit a budget itemizing projected administrative fund expenditures and a statement describing the types of activities they would support and how the expenditure was expected to improve the administration of the VOCA program.

The State Grantee Application Process section (III.B.2.), which describes the administrative cost provision, has been modified to lessen the burden on state grantees. Those states that use administrative funds must submit a statement to OVC that reports only the amount of the total grant that will be used as administrative funds. A special condition will be added to the award document, and periodic OJP financial reviews will be conducted to ensure states' compliance with the Program Guidelines and OJP Financial Guide to determine whether administrative funds have been used for allowable purposes.

4. Training for Non-VOCA Funded Personnel

The State Grantee Application Process section (III.C.), which outlines the allowable use of training funds, has been expanded to specifically include non-VOCA funded staff in addition to VOCA-funded personnel.

5. Submission of Training Cost Provision Budget

In previous editions of the Guidelines, state grantees were required to submit a budget itemizing projected training expenses and a statement describing the needs of the providers and the goals of the training. The section on the State Grantee Application Process (III.C.), has been modified to lessen the burden on states. States using the VOCA training funds must only report the amount of the total grant that will be used for training. States still must comply with OVC the 20% match requirement and other guidance defining allowable uses for training funds.

6. Definition of Victims of Federal Crime

In response to requests for clarification, the Program Requirements section (IV.A.4.), has been modified to include a definition of ''victims of federal crime.'' For the purposes of this program, a victim of federal crime is a victim of an offense that violates a federal criminal statute or regulation. Federal crimes also include crimes that occur in an area where the federal government has jurisdiction, such as Indian reservations, some national parks, some federal buildings, and military installations.

7. Definition of Elder Abuse

The Program Requirements section (IV.A.4.) describing grantee eligibility requirements, has been modified so that the definition of ''elder abuse'' now focuses on describing the offense, rather than on characterizing the victim. Hence, the definition, ''abuse of vulnerable adults,'' has been expanded to include ''the mistreatment of older persons through physical, sexual, or psychological violence; neglect; or economic exploitation and fraud.''

8. Identifying Underserved Victims of Crime

The Program Requirements section (IV.A.4.) describing the state grantee eligibility requirements, has been modified to encourage states to identify gaps in available services, not just by the types of crimes committed, but also by victims' demographic characteristics. Thus, these Final Guidelines ask grantees to examine the possibility that in a given state, ''underserved'' victims may also be defined by demographic characteristics such as their status as senior citizens, non-English speaking residents, disabled persons, members of racial or ethnic minorities, or by virtue of the fact that they are residents of rural or remote areas, or inner cities.

9. Funding New Programs

There was confusion about OVC's intention regarding the funding of new crime victim programs. Hence, language has been added to Section IV, the

Program Requirements (IV.B.3.), clarifying that new programs that have not yet demonstrated a record of providing services may be eligible to receive VOCA funding if they can demonstrate that 25–50 percent of their financial support comes from non-federal sources. States are responsible for establishing the base level of non-federal support required within the 25–50 percent range.

10. Funding Unfunded Mandates

Recently, many state legislatures have passed laws establishing important new rights for crime victims. OVC wishes to clarify that VOCA funds may be used for the purpose of implementing these laws. Therefore, restrictive language from the previous Guidelines has been eliminated. Please note that VOCA crime victim assistance funds still may not be used to supplant state and local funds that would otherwise be available for crime victim services.

11. Child Abuse and Adult Protective Service Agencies

Section IV., the Program Requirements section (IV.C.), which describes the criteria for eligible subrecipient organizations, has been modified to specifically include child abuse programs and treatment facilities and adult protective service agencies.

12. Legal Service Agencies or Programs With Records of Serving Victims of Domestic Violence

The Program Requirements section (IV.C.5.), which lists the local public agencies eligible to receive VOCA subgrant funds, has been modified to specifically include legal service agencies or programs with a demonstrated history of advocacy on behalf of domestic violence victims, including children.

13. State Grantees as Subrecipients

Section IV., the Program Requirements (IV.C.5), has been modified with regard to subgrants to state grantees. Since the intention of the VOCA grant program is to support and enhance the crime victim services provided by community agencies, state grantees that meet the definition of an eligible subrecipient organization may not award themselves more than 10 percent of their annual VOCA award. This limitation applies to all states and territories, except for the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau.

14. Nursing Homes as Emergency Shelters

Under the Program Requirements section (IV.E.1.a.), which lists the allowable costs for direct services, the Guidelines have been modified to clarify that emergency shelter includes short-term nursing home shelter for elder abuse victims for whom no other safe, short-term residence is available.

15. Emergency Legal Assistance

The Program Requirements section (IV.E.1.a.), which lists the allowable services, activities, and costs at the subrecipient level, has been modified to allow subgrantees discretion in providing victims of domestic violence with legal assistance such as child custody and visitation proceedings ''when such actions are directly connected to family violence cases and are taken to ensure the health and safety of the victim.'' The allowable ''Contracts for Professional Services'' section (IV.E.2.g.) also has been modified to include assistance with emergency custody and visitation proceedings from providers with a demonstrated history of advocacy on behalf of domestic violence victims.

16. Cost of Respite Care

The Program Requirements, section (IV.E.1.c.), has been modified to specifically state that assistance with participation in criminal justice proceedings may include the cost of caring for a dependent adult when this enables a victim to attend court.

17. Cost of Restitution Advocacy on Behalf of Individuals

The Program Requirement section (IV.E.1.c.), has been modified to state clearly that restitution advocacy on behalf of specific crime victims is an allowable activity.

18. Restorative Justice

In many cases, victims are not familiar with the nature and availability of restorative justice programs. Therefore, the Program Requirements section (IV.E.1.h.), has been modified to clarify that restorative justice opportunities, where crime victims meet with perpetrators, are allowable, if such meetings are requested ''or voluntarily agreed to'' by the victim. In addition, since it is impossible to guarantee the therapeutic value of any activity, this section of the Guidelines has been further modified to state that restorative justice programs must have ''possible beneficial or'' therapeutic value to crime victims.

19. Allowable Costs for Making Services Accessible to Victims With Disabilities

The Program Requirements section (IV.E.2.d.), listing allowable ''non-direct'' costs and services, has been modified to clarify that VOCA funds may be used to purchase items such as braille equipment for the blind or TTY/TTD machines for the deaf, or to make minor building improvements that make services more accessible to victims with disabilities. Additional guidance can be found in the Office of Justice Programs, Office of the Comptroller, *Financial Guide*.

20. Advanced Technologies

In the Program Requirements section (IV.E.2.f.), OVC offers the states clarification that all subrecipients receiving VOCA funds for advanced technologies such as computers and victim notification systems must meet the usual program eligibility requirements as set forth in the Guidelines.

21. Electronic Submission of Subgrant Award Reports

In the interest of meeting OVC's mandate to collect and maintain accurate and timely information on the disbursal of VOCA funds, the section describing the subgrant award report requirements (V.A.) has been modified. Beginning with the Federal Fiscal Year (FFY) 1997 VOCA grant award, state grantees are required to transmit their Subgrant Award Report information to OVC via the automated subgrant dial-in system within 90 days of the date of the subaward. Grantees can access the system without incurring a long distance telephone charge by utilizing the subgrant dial-in 1–800 number. OVC will no longer accept manual submission of the Subgrant Award Reports. States and territories outside of the continental U.S. are exempt from the requirement to use the subdial system, but these grantees must complete and submit the Subgrant Award Report form, OJP 7390/2A, for each VOCA subrecipient.

B. Legislative Changes

1. The Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132)

The Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) (hereafter, ''The Antiterrorism Act''), was signed into law on April 24, 1996. This legislation contained a number of victim related provisions that amended VOCA, including four provisions concerning the ''Availability

of (VOCA victim assistance) Grant Funds.''

a. Higher Base Award (II.C.). The Antiterrorism Act increases the base amount for victim assistance grants from $200,000 to $500,000. The territories of Northern Mariana Islands, Guam, and American Samoa will continue to receive a base amount of $200,000, with the Republic of Palau's share governed by the Compact of Free Association between the U.S. and the Republic of Palau.

b. OVC Reserve Fund (II.B.2.). The Antiterrorism Act authorizes the OVC Director to establish a reserve fund, up to $50 million. Reserve fund monies may be used for supplemental grants to assist victims of terrorist acts or mass violence occurring within or outside the U.S. The OVC Director may award reserve funds to the following entities:

(1) States for providing compensation and assistance to their state residents, who, while outside of the borders of the U.S., become victims of a terrorist act or mass violence. The beneficiaries, however, cannot be persons who are already eligible for compensation under the Omnibus Diplomatic Security and Antiterrorism Act of 1986. Individuals covered under the Omnibus Diplomatic Security Act include those who are taken captive because of their relationship with the U.S. government as a member of the U.S. Civil Service, as well as other U.S. citizens, nationals, or resident aliens who are taken captive while rendering service to the U.S. similar to that of civil servants. Dependent family members of such persons also are covered under the Act.

(2) Eligible state crime victim compensation and assistance programs for providing compensation and emergency relief for the benefit of victims of terrorist acts or mass violence occurring within the U.S.

(3) U.S. Attorneys' Offices for use in coordination with state victim compensation and assistance efforts in providing relief to victims of terrorist acts or mass violence occurring within the U.S.

(4) Eligible state compensation and assistance programs to offset fluctuation in the funds during years in which the Fund decreases and additional monies are needed to stabilize funding for state programs.

c. Unobligated Grant Funds (II.B.4.). Beginning with FFY 1997 VOCA grants, funds not obligated by the end of the grant period, up to an annual national maximum of $500,000, will be returned to the Fund, and not to the General Treasury, as was the practice in previous years. Returned funds in excess of $500,000 in a given year shall be returned to the Treasury. Once any portion of a state's grant is returned to the Fund, the funds must be redistributed according to the formula established by VOCA and the Proposed Program Guidelines. States are encouraged to monitor closely the expenditure of VOCA funds throughout the grant period to avoid returning grant monies to OVC and/or the Treasury.

d. Grant Period Extended (II.B.3.). The Antiterrorism Act extended the VOCA victim assistance grant period from the year of award plus one, to the year of award plus two. Subsequent legislation further extended the grant period to the year of award plus three.

2. Omnibus Appropriations Act of 1997

The Omnibus Appropriations Act of 1997 (P.L. 104–208) was passed by Congress and signed into law by President Clinton in September, 1996. This Act further extended the grant period to the year of award plus three. This change is effective for all FFY 1997 grants. The Final Program Guidelines clarify that funds are available for obligation beginning October 1 of the year of the award, through September 30 of the FFY three years later. For example, grants awarded in November, 1996 (FFY 1997) are available for obligation beginning October 1, 1996 through September 30, 2000. This modification is contained in the ''Availability of Funds'' section (II.B.3) of the Final Program Guidelines.

C. Changes in Applicable Federal Regulations

1. Mandatory Enrollment in U.S. Treasury Department's Automated Clearing House (ACH) Vendor Express Program

In accordance with the Debt Collection Improvement Act of 1996, the U.S. Treasury Department revised its regulations regarding federal payments. The Final Program Guidelines have been modified to require that, effective July 26, 1996, all federal payments to state VOCA victim assistance and compensation grantees must be made via electronic funds transfer.

States that are new award recipients or those that have previously received funds in the form of a paper check from the U.S. Treasury must enroll in the Treasury Department's ACH Vendor Express program through OJP before requesting any federal funds. This means that VOCA grantees can no longer receive drawdowns against their awards via paper check mailed from the Treasury. Grant recipients must enroll in ACH for Treasury to electronically transfer drawdowns directly to their banking institutions. States that are currently on the Letter of Credit Electronic Certification System (LOCES) will be automatically enrolled in the ACH program. Enrollment forms will be included in the award packet. Enrollment in ACH need only be completed once. This modification is included in the ''Application Process'' section (III.A.6.) of the Final Program Guidelines.

2. Higher Audit Threshold

In response to suggestions made by many recipients of federal grant awards, including VOCA grant recipients, OMB Circular A–133 is being revised. Until the revisions are final, state and local government agencies that *receive* $100,000 or more in federal funds during their state fiscal year are required to submit an organization-wide financial and compliance audit report. Recipients of $25,000 to $100,000 in federal funds are required to submit a program- or organization-wide audit report as directed by the granting agency. Recipients receiving less than $25,000 in federal funds are not required to submit a program- or organization-wide financial and compliance audit report for that year. Nonprofit organizations and institutions of higher education that *expend* $300,000 or more in federal funds per year shall have an organization-wide financial and compliance audit. Grantees must submit audit reports within 13 months after their state fiscal year ends.

Previously, states that received $100,000 or more in federal financial assistance in any fiscal year were required to have a single audit for that year. States and subrecipients receiving at least $25,000, but less than $100,000, in a fiscal year had the option of performing a single audit or an audit of the federal program, and state and local governments receiving less than $25,000 in any fiscal year were exempt from audit requirements. This modification is contained in the ''Financial Requirements'' section (IV.A.) of the Proposed Program Guidelines.

Guidelines for Crime Victim Assistance Grants

I. 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 makes annual VOCA crime victim assistance grants from the Fund

to states. The primary purpose of these grants is to support the provision of services to victims of crime throughout the Nation. For the purpose of these Program Guidelines, 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 and security 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, financial, 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 requirements outlined in VOCA and these Program Guidelines.

II. Allocation of VOCA Victim Assistance Funds

A. Distribution of the Crime Victims 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 during the preceding Federal Fiscal Year (October 1 through September 30).

Pursuant to Section 1402 (d) of VOCA, deposits into the Fund will be distributed as follows:

1. The first $3,000,000 deposited in the Fund in each fiscal year is available to the Administrative Office of the U.S. Courts (AOUSC) for administrative costs to carry out the functions of the judicial branch under Sections 3611 and 3612 of Title 18 U.S. Code. (Legislation is being drafted to repeal this provision. If passed by Congress and signed by the President, AOUSC will no longer receive an allocation from the Fund.)

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.

B. Availability of Funds

1. VOCA Victim Assistance Grant Formula

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)(1) of VOCA, codified at 42 U.S.C. 10603(d)(1).

2. Reserve Fund

As the result of provisions in the Antiterrorism Act amending VOCA, the OVC Director is authorized to retain funds in a reserve fund, up to $50 million. The Director may utilize the reserve funds in order to:

a. Award supplemental grants to assist victims of terrorist acts or mass violence outside or within the U.S. The OVC Director may grant reserve funds for such purposes to the following entities:

(1) States for providing compensation and assistance to their state residents, who while outside of the U.S. become victims of a terrorist act or mass violence. The beneficiaries, however, cannot be persons who are already eligible for compensation under the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

Individuals covered under the Omnibus Diplomatic Security and Antiterrorism Act include persons who are taken captive because of their relationship with the U.S. Government as a member of the U.S. Civil Service, as well as other U.S. citizens, nationals, or resident aliens who are taken captive while rendering service to the U.S. similar to that of civil servants. Dependent family members of such persons also are covered under the Omnibus Diplomatic Security Act.

(2) Eligible state crime victim compensation and assistance programs for providing emergency relief, including crisis assistance, training, and technical assistance for the benefit of victims of terrorist acts or mass violence occurring within the U.S.

(3) U.S. Attorney's Offices for use in coordination with state victim compensation and assistance efforts in providing relief to victims of terrorist acts or mass violence occurring within the U.S.

b. Offset Fluctuations in Fund. The Director of OVC may also use the reserve fund to offset fluctuations in Fund deposits for state compensation and assistance programs in years in which the Fund decreases and additional monies are needed to stabilize programs.

3. Grant Period

Federal legislation passed in 1996 also makes victim assistance grant funds available for expenditure throughout the FFY of award as well as in the next three fiscal years. The FFY begins on October 1 and ends on September 30. For example, grants awarded in December, 1996 (FFY 1997) are available for obligation beginning October 1, 1996 through September 30, 2000.

4. Grant Deobligations

VOCA grant funds not obligated at the end of the award period will be returned to the Crime Victims Fund. In a given fiscal year, no more than $500,000 of the remaining unobligated funds can be returned to the Fund. Amounts in excess of $500,000 shall be returned to the Treasury. Once any portion of a state's grant is returned to the Fund, the funds must be redistributed according to the rules established by VOCA and the Final Program Guidelines, so states are encouraged to monitor closely the expenditure of VOCA funds throughout the grant period to ensure that no funds are returned.

C. Allocation of Funds to States

From the Fund deposits available for victim assistance grants, each state grantee receives a base amount of $500,000, except for the territories of Northern Mariana Islands, Guam, and American Samoa, which are eligible to receive a base amount of $200,000. The Republic of Palau's share is governed by the Compact of Free Association between the U.S. and the Republic of 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.

D. Allocation of Funds Within the States

The Governor of each state designates the state agency that will administer the VOCA victim assistance grant program. The designated agency establishes policies and procedures, which must meet the minimum requirements of VOCA and the Program Guidelines.

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 and demographics of crime change within the state. For example, when professional training, counseling, and debriefings are made available to victim assistance providers, dispatchers, and law enforcement officers in rural or other remote areas, services to victims in these areas improve dramatically. Victim services in rural or remote areas can also be improved by using VOCA funds to support electronic networking through computers, police radios, and cellular phones.

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 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.

III 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 apply 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.

Completed applications must be submitted on or before the stated deadline, as determined by OVC.

In addition to the Application for Federal Assistance, state grantees shall submit the following information:

1. Single Audit Act Information, specifically, the name and address of the designated cognizant federal agency, the federal agency assigned by OMB, and the dates of the state fiscal year.

2. 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. In addition, states must complete a disclosure form specifying any lobbying activities that are conducted.

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

4. An assurance that in the event a federal or state administrative agency makes a finding of discrimination after a due process hearing, on the grounds of race, color, religion, origin, sex, or disability against the program, the program will forward a copy of the finding to OJP, Office for Civil Rights (OCR).

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

6. Enrollment in Automated Clearing House (ACH). State agencies that are new award recipients, or those that have previously received funds in the form of a paper check from the U.S. Treasury, must enroll in the Treasury Department's ACH Vendor Express program through OJP before any federal funds will be disbursed. States that are currently on the Letter of Credit Electronic Certification System (LOCES) will be automatically enrolled in the ACH program. Enrollment in ACH need only be completed once.

7. Administrative Cost Provision Notification. States must indicate in a letter transmitting their annual grant application whether they intend to use the administrative cost provision. Additional information about the administrative cost provision is set forth in the following section.

B. Administrative Cost Provision for State Grantees

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 with the remaining portion being used exclusively for direct services to crime victims or to train direct service providers in accordance with these Program Guidelines, as authorized in Section 1404(b)(3), codified at 42 U.S.C. 10603(b)(3). Administrative funds must be expended during the project period for which the grant was awarded. States are not authorized to roll-over administrative funds from one project period to the next. The administrative cost provision is available only to the state grantee and not to VOCA subrecipients. State grantees are not required to match the portion of the grant that is used for administrative purposes. The state administrative agency may charge any federally approved indirect cost rate to this grant. However, any indirect costs requested must be paid from the 5 percent administrative funds.

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, grantees will be required to certify that VOCA administrative funds will not be used to supplant state funds. This information will assist OVC in evaluating requests to use administrative funds.

State grantees will not be in violation of the nonsupplantation clause if there is a decrease in the state's previous financial commitment towards the

administration of the VOCA grant programs in the following situations: (1) A serious loss of revenue at the state level, resulting in across-the-board budget restrictions. (2) A decrease in the number of ''state-supported'' staff positions used to meet the state's ''maintenance of effort'' in administering the VOCA grant programs.

States are required to notify OVC if there is a decrease in the amount of its previous financial commitment to the cost of administering the VOCA program.

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 and other relevant technical assistance meetings that address issues and concerns to state administration of victims' programs;

c. Monitor VOCA Victim Assistance 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;

f. Purchase memberships in crime victims organizations and victim-related materials such as curricula, literature, and protocols; and

g. Pay for program audit costs;

h. Pay for indirect costs at a federally approved indirect cost rate that when applied, does not exceed the 5 percent administrative cost allowance.

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 federally funded programs 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, aging and adult protective 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.

Each state grantee that chooses to use administrative funds is required to submit a statement to OVC reporting the amount of the total grant that will be used as administrative funds. 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. In addition, the grantee must maintain adequate documentation to support the expenditure of these funds.

A state may modify projections set forth in their application by notifying OVC, in writing, of the revised amount of the total grant that will be used as administrative funds. Failure to notify OVC of modifications will prevent the state from meeting its obligation to reconcile its State-wide Report with its Final Financial Status Report.

Administrative grant funds can only support that portion of a staff person's time devoted to the VOCA assistance program. If the staff person has other functions, the proportion of their time spent on the VOCA assistance program must be documented using regular time and attendance records. The documentation must provide a clear audit trail for the expenditure of grant funds.

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 trainings of victim services staff. The maximum amount permitted for this purpose is one percent of the state's grant. State grantees that choose to sponsor statewide or regional trainings are not precluded from awarding VOCA funds to subrecipients for other types of staff development.

Statewide or regional training supported with training funds should target a diverse audience of victim service providers and allied professionals, including VOCA funded and non-VOCA funded personnel, and should provide opportunities to consider issues related to types of crime, gaps in services, coordination of services, and legislative mandates.

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.

Each state grantee that chooses to use training funds is required to submit a statement to OVC reporting the amount of the total grant that will be used to pay for training. Grantees must maintain adequate documentation to support the expenditure of these funds.

A state may modify projections set forth in their application by notifying OVC of the revised amount of the total grant that will be used as training funds. Failure to notify OVC of modifications will prevent the state from meeting its obligation to reconcile its State-wide Report with its Final Financial Status Report.

The VOCA funds used for training by the state grantee must be matched at 20 percent of the total project cost, cash or in-kind, and the source of the match must be described. For further information regarding match requirements, see the section on Subrecipient Organization Eligibility Requirements (IV.B.).

IV. 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. Must Be An Eligible Organization

States should ensure that only eligible organizations receive VOCA funds, and that these funds are used only for services to victims of crime, except those funds that the state grantee uses for training victim service providers and/or administrative purposes, as authorized by Section 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. Nonsupplantation

VOCA crime victim assistance grant funds will be used to 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), codified at 42 U.S.C. 10603(a)(2)(C). This supplantation clause applies to state and local public agencies only.

3. Priority Areas

Priority shall be given to victims of sexual assault, domestic 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 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. ''Previously Underserved'' Priority Areas

An additional 10% of each VOCA grant will be allocated to victims of violent crime (other than ''priority'' category victims) who were ''previously underserved.'' These underserved victims of either adult or juvenile offenders may include, but are not limited to, victims of federal crimes; survivors of homicide victims; or victims of assault, robbery, gang violence, hate and bias crimes, intoxicated drivers, bank robbery, economic exploitation and fraud, and elder abuse.

For the purposes of this program, a victim of federal crime is a victim of an offense that violates a federal criminal statute or regulation. Federal crimes also include crimes that occur in an area where the federal government has jurisdiction, such as Indian reservations, some national parks, some federal buildings, and military installations.

For the purposes of this program, elder abuse is defined as the mistreatment of older persons through physical, sexual, or psychological violence, neglect, or economic exploitation and fraud.

To meet the underserved requirement, state grantees must identify crime victims by the types of crimes they have experienced (e.g., drunk driving, sexual assault, or domestic violence). States are encouraged to also identify gaps in available services by victims' demographic characteristics. For example, in a given state, *''underserved''* victims may be best defined according to their status as senior citizens, non-English speaking residents, persons with disabilities, members of racial or ethnic minorities, or by virtue of the fact that they are residents of rural or remote areas, or inner cities. Each state grantee has latitude for determining the method for identifying ''previously underserved'' 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 (a) services to these victims of violent crime are receiving significant amounts of financial assistance from the state or other funding sources; (b) a smaller amount of financial assistance, or no assistance, is needed from the VOCA victim assistance grant program; and (c) crime rates for these victims of violent crime have diminished.

5. Financial Record Keeping and Program Monitoring

Appropriate accounting, auditing, and monitoring procedures will be used at the grantee and subrecipient levels so that records are maintained to ensure fiscal control, proper management, and efficient disbursement of the VOCA victim assistance funds, in accordance with the *OJP Financial Guide*, effective edition.

6. Compliance With Federal Laws

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

7. Compliance With VOCA

Compliance by the state grantee and subrecipients with the applicable provisions of VOCA and the Final Program Guidelines.

8. Required Reports Submitted to OVC

Programmatic and financial reports shall be submitted. [See *Program Requirements* (Section IV.) and *Financial Requirements* (Section V.) for reporting requirements and timelines.]

9. 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, age, 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.*

10. Obligation to Report Discrimination Finding

In the event a federal or state court or administrative agency makes a finding of discrimination on the grounds of race, color, religion, national origin, sex, age, or disability against a recipient of VOCA victim assistance funds, state grantees are required to forward a copy of the finding to the Office for Civil Rights (OCR) for OJP.

11. Obligation to Report Other Allegations/Findings

In the event of a formal allegation or a finding of fraud, waste, and/or abuse of VOCA funds, state grantees are required to immediately notify OVC of said finding. State grantees are also obliged to apprise OVC of the status of any on-going investigations.

12. Coordination With State VOCA Compensation Program and Federal Law Enforcement

OVC encourages state grantees to coordinate their activities with their state's VOCA compensation program and the U.S. Attorneys' Offices and FBI Field Offices within their state. Only with an emphasis on coordination will a continuum of services be ensured for all crime victims. Coordination strategies could include inviting Compensation Program Directors and Federal Victim-Witness Coordinators to serve on subgrant review committees; providing Compensation Program Directors and Federal Victim-Witness Coordinators with a list of VOCA-funded organizations; attending meetings organized by Compensation Program Directors and Federal Victim-

Witness Coordinators regarding the provision of victim assistance services; providing training activities for subrecipients to learn about the compensation program; developing joint guidance, where applicable, on third-party payments to VOCA assistance organizations; and providing training for compensation program staff on the trauma of victimization, particularly for victims of economic crime and survivors of homicide victims.

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 meet the following requirements:

1. Public or Nonprofit Organization

To be eligible to receive VOCA funds, organizations must be operated by public or nonprofit organization, or a combination of such organizations, and provide services to crime victims.

2. Record of Effective Services

Demonstrate a record of providing effective 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 other sources.

3. New Programs

Those programs that have not yet demonstrated a record of providing services may be eligible to receive VOCA funding, if they can demonstrate that 25–50 percent of their financial support comes from non-federal sources. It is important that organizations have a variety of funding sources besides federal funding in order to ensure their financial stability. States are responsible for establishing the base level of non-federal support required within the 25–50 percent range.

4. Program Match Requirements

The purpose of matching contributions is to increase the amount of resources available to the projects supported by grant funds. Matching contributions of 20% (cash or in-kind) of the total cost of each VOCA project (VOCA grant plus match) are required for each VOCA-funded project and must be derived from non-federal sources, except as provided in the *OJP Financial Guide*, effective edition (Part III. Post Award Requirements, Chapter 3. Matching or Cost Sharing). 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. Match must be provided on a project-by-project basis. Any deviation from this policy must be approved by OVC.

For the purposes of this program, in-kind match may include donations of expendable equipment, office supplies, workshop or classroom materials, work space, or the monetary value of time contributed by professionals and technical personnel and other skilled and unskilled labor, if the services they provide are an integral and necessary part of a funded project. The value placed on donated services must be consistent with the rate of compensation paid for similar work in the subrecipient's organization. If the required skills are not found in the subrecipient's organization, the rate of compensation must be consistent with the labor market. In either case, fringe benefits may be included in the valuation. The value placed on loaned or donated equipment may not exceed its fair market value. The value of donated space may not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in privately-owned buildings in the same locality.

a. Record Keeping. VOCA recipients and their subrecipients must maintain records that clearly show the source, the amount, and the period during which the match was allocated. The basis for determining the value of personal services, materials, equipment, and space must be documented. Volunteer services must be documented, and to the extent feasible, supported by the same methods used by the subrecipient for its own paid employees. The state has primary responsibility for subrecipient compliance with the requirements. State grantees are encouraged not to require excessive amounts of match.

b. Exceptions to the 20% Match. OVC sets a lower match requirements for:

(1) Native American Tribes/Organizations Located on Reservations. The match for new or existing VOCA subrecipients that are Native American tribes/organizations located on reservations is 5% (cash or in-kind) of the total VOCA project. For the purpose of this grant, a Native American tribe/organization is defined 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 U.S. 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.

(2) The U.S. Virgin Islands, and all other territories and possessions of the U.S., except Puerto Rico, are *not* required to match VOCA funds. See 48 U.S.C. 1469a(d).

(3) OVC may waive the match requirement if extraordinary need is documented by State VOCA administrators.

5. Volunteers

Subrecipient organizations must 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.

6. Promote Community Efforts to Aid Crime Victims

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, working groups, coalitions, and/or multi-disciplinary teams. Coordination efforts also include developing written agreements that 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.

7. Help Victims Apply for 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.

8. Comply With Federal Rules Regulating Grants

Subrecipients must comply with the applicable provisions of VOCA, the Program Guidelines, and the requirements of the *OJP Financial Guide*, effective edition, 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 allowable VOCA 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.

9. Maintain Civil Rights Information

Maintain statutorily required civil rights statistics on victims served by race, 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 subrecipient 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.

10. Comply With State Criteria

Subrecipients must 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 grantee.

11. Services to Victims of Federal Crimes

Subrecipients must provide services to victims of federal crimes on the same basis as victims of state/local crimes.

12. No Charge to Victims for VOCA-Funded Services

Subrecipients must 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. Prior to authorizing subrecipients to generate income, OVC strongly encourages administrators to carefully weigh the following considerations regarding federal funds generating income for subrecipient organizations.

a. The purpose of the VOCA victim assistance grant program is to provide services to all crime victims regardless of their ability to pay for services rendered or availability of insurance or other third-party payment resources. Crime victims suffer tremendous emotional, physical, and financial losses. It was never the intent of VOCA to exacerbate the impact of the crime by asking the victim to pay for services.

b. State grantees must ensure that they and their subrecipients have the capability to track program income in accordance with federal financial accounting requirements. All VOCA-funded program and match income, no matter how large or small, is restricted to the same uses as the VOCA grant.

Program income can be problematic because of the required tracking systems needed to monitor VOCA-funded income and ensure that it is used only to make additional services available to crime victims. For example: VOCA often funds only a portion of a counselor's time. Accounting for VOCA program income generated by this counselor is complicated, involving careful record keeping by the counselor, the subrecipient program, and the state.

13. Client-Counselor and Research Information Confidentiality

Maintain confidentiality of client-counselor information, as required by state and federal law.

14. 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.

These provisions are 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 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.

C. Eligible Subrecipient Organizations

VOCA specifies that an organization must provide services to crime victims and be operated by a public agency or nonprofit organization, or a combination of such agencies or organizations in order to be eligible to receive VOCA funding. Eligible organizations include victim services organizations whose sole mission is to provide services to crime victims. These organizations include, but are not limited to, sexual assault and rape treatment centers, domestic violence programs and shelters, child abuse programs, centers for missing children, mental health services, and other community-based victim coalitions and support organizations including those who serve survivors of homicide victims.

In addition to victim services organizations, whose sole purpose is to serve crime victims, there are many other public and nonprofit organizations that have components which offer services to crime victims. These organizations are eligible to receive VOCA funds, if the funds are used to expand or enhance the delivery of crime victims' services. These organizations include, but are not limited to, the following:

1. Criminal Justice Agencies

Such agencies as law enforcement organizations, prosecutors' offices, courts, corrections departments, and probation and paroling authorities are eligible to receive VOCA funds to help pay for victims' services. For example, prosecutor-based victim services may include victim-witness programs, victim notification, and victim impact statements, including statements of pecuniary damages for restitution. Corrections-based victim services may include victim notification, restitution advocacy, victim-offender mediation programs, and victim impact panels. Police-based victim services may include victim crisis units or victim advocates, victim registration and notification, and cellular phone and alarm services for domestic abuse victims. In general, VOCA funds may be used to provide crime victim services that *exceed* a law enforcement official's normal duties. Regular law enforcement duties such as crime scene intervention,

questioning of victims and witnesses, investigation of the crime, and follow-up activities may not be paid for with VOCA funds.

2. Religiously-Affiliated Organizations

Such organizations receiving VOCA funds must ensure that services are offered to all crime victims without regard to religious affiliation and that the receipt of services is not contingent upon participation in a religious activity or event.

3. State Crime Victim Compensation Agencies

Compensation programs, including both centralized and decentralized programs, may receive VOCA assistance funds if they offer direct services to crime victims that extend beyond the essential duties of compensation staff such as claims investigations, distribution of information about compensation and referral to other sources of public and private assistance. Such services would include assisting victims in identifying and accessing needed services and resources.

4. Hospitals and Emergency Medical Facilities

Such organizations must offer crisis 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.

5. Others

State and local public agencies such as mental health service organizations, state/local public child and adult protective services, state grantees, legal services agencies and programs with a demonstrated history of advocacy on behalf of domestic violence victims, and public housing authorities that have components specifically trained to serve crime victims. Since the intention of the VOCA grant program is to support and enhance the crime victim services provided by community agencies, state grantees that meet the definition of an eligible subrecipient organization may not subaward themselves more than 10 percent of their annual VOCA award. This limitation applies to all states and territories, except for the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau.

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

This includes U.S. Attorneys Offices and FBI Field 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

For example, 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

1. Allowable Costs for Direct Services

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:

a. Immediate Health and Safety. Those services which respond to the immediate 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 (including emergency, short-term nursing home shelter for elder abuse victims for whom no other safe, short-term residence is available); and other emergency services that are intended to restore the victim's sense of security. This includes services which offer an immediate measure of safety to crime victims such as boarding-up broken windows and replacing or repairing locks. Also allowable is emergency legal assistance such as filing restraining orders and obtaining emergency custody/visitation rights when such actions are directly connected to family violence cases and are taken to ensure the health and safety of the victim.

b. Mental Health Assistance. 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.

c. Assistance with Participation in Criminal Justice Proceedings. In addition to the cost of emergency legal services noted above in section a. ''Immediate Health and Safety'', there are other costs associated with helping victims participate in the criminal justice system that also are allowable. These services may include advocacy on behalf of crime victims; accompaniment to criminal justice offices and court; transportation to court; child care or respite care to enable a victim to attend court; notification of victims regarding trial dates, case disposition information, and parole consideration procedures; and assistance with victim impact statements. State grantees may also fund projects devoted to restitution advocacy on behalf of specific crime victims. VOCA funds cannot be used to pay for non-emergency legal representation such as for divorces, or civil restitution recovery efforts.

d. Forensic Examinations. For sexual assault victims, forensic exams are allowable costs only to the extent that other funding sources (such as state compensation or private insurance or public benefits) are unavailable or insufficient and, such exams conform with state evidentiary collection requirements. State grantees should establish procedures to monitor the use of VOCA victim assistance funds to pay for forensic examinations in sexual assault cases.

e. Costs Necessary and Essential to Providing Direct Services. This includes 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 service providers.

f. Special Services. Services to 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.

g. Personnel Costs. Costs that are directly related to providing direct services, such as staff salaries and fringe benefits, including malpractice insurance; the cost of advertising to recruit VOCA-funded personnel; and

the cost of training paid and volunteer staff.

h. Restorative Justice. Opportunities for crime victims to meet with perpetrators, if such meetings are requested or voluntarily agreed to by the victim and have possible beneficial or 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 safety and security of the victim; (2) the benefit or therapeutic value to the victim; (3) the procedures for ensuring that participation of the victim and offender are voluntary and that everyone understands the nature of the meeting, (4) the provision of appropriate support and accompaniment for the victim, (5) appropriate ''debriefing'' opportunities for the victim after the meeting or panel, (6) the credentials of the facilitators, and (7) 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.

2. Other Allowable Costs and Services

The services, activities, and costs listed below are not generally considered direct crime victim services, *but are* often a necessary and essential activity to ensure that quality direct services are provided. 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:

a. 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 both VOCA-funded and non-VOCA-funded service providers who work within a VOCA recipient organization, but VOCA funds cannot be used for management and administrative training for executive directors, board members, and other individuals that do not provide direct services.

b. Training Materials. 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. Staff from other organizations can attend in-service training activities that are held for the subrecipient's staff.

c. Training Related Travel. 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. For example, VOCA grantees may benefit by attending national conferences that offer skills building training workshops for victim assistance providers.

d. Equipment and Furniture. VOCA funds may be used to purchase 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. Examples of allowable costs may include beepers; typewriters and word processors; video-tape cameras and players for interviewing children; two-way mirrors; and equipment and furniture for shelters, work spaces, victim waiting rooms, and children's play areas.

The costs of furniture, equipment such as braille equipment or TTY/TTD machines for the deaf, or minor building alterations/improvements that make victims services more accessible to persons with disabilities are allowable. Refer to the OJP *Financial Guide,* effective edition, before these types of decisions are made.

e. Purchasing or Leasing Vehicles. Subrecipients may use VOCA funds to purchase or lease vehicles if they can demonstrate to the state VOCA administrator that such an expenditure is essential to delivering services to crime victims. The VOCA administrator must give *prior* approval for all such purchases.

f. Advanced Technologies. At times, computers may increase a subrecipient's ability to reach and serve crime victims. For example, automated victim notification systems have dramatically improved the efficiency of victim notification and enhanced victim security.

In order to receive a grant for advanced technologies, each subrecipient must meet the program eligibility requirements set forth in section IV.B. of the Guidelines, Subrecipient Organization Eligibility Requirements. In making such expenditures, VOCA subrecipients must describe to the state how the computer equipment will enhance services to crime victims; how it will be integrated into and/or enhance the subrecipient's current system; the cost of installation; the cost of training staff to use the computer equipment; the on-going operational costs, such as maintenance agreements, supplies; and how these additional costs will be supported. Property insurance is an allowable expense as long as VOCA funds support a prorated share of the cost of the insurance payments.

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; identification of title holder; 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 *OJP Financial Guide,* effective edition.)

g. Contracts for Professional Services. VOCA funds generally should not be used to support contract services. At times, however, 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 restraining orders or establishing emergency custody/visitation rights (the provider must have a demonstrated history of advocacy on behalf of domestic violence victims); forensic examinations on a sexual assault victim to the extent that other funding sources are unavailable or insufficient; emergency psychological or psychiatric services; or sign and/or interpretation

for the deaf or for crime victims whose primary language is not English.

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.

h. 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.

i. 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.

j. 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. In the event that a vehicle is purchased with VOCA funds, related items, such as routine maintenance and repair costs, and automobile insurance are allowable. State grantees are cautioned to scrutinize each request for expending VOCA funds for such purposes to ensure the following: (1) that the building or vehicle 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 or vehicle, and (5) the cost of the repair or replacement is pro-rated among all sources of income.

k. Public Presentations. VOCA funds may be used to support presentations that are made in schools, community centers, or other public forums, and that are designed to identify crime victims and provide or refer them to needed services. Specifically, activities and costs related to such programs including presentation materials, brochures, and newspaper notices can be supported by VOCA funds.

3. Non-Allowable Costs and Activities

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

a. Lobbying and Administrative Advocacy. VOCA funds cannot support victim legislation or administrative reform, whether conducted directly or indirectly.

b. 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.

c. Needs Assessments, Surveys, Evaluations, Studies. VOCA program funds may not be used to pay for efforts conducted by individuals, organizations, task forces, or special commissions to study and/or research particular crime victim issues.

d. Prosecution Activities. VOCA funds cannot be used to pay for activities that are 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. In addition, victim witness protection costs and subsequent lodging and meal expenses are considered part of the criminal justice agency's responsibility and cannot be supported with VOCA funds.

e. Fundraising activities.

f. Indirect Organizational Costs. The costs of liability insurance on buildings; capital improvements; security guards and body guards; property losses and expenses; real estate purchases; mortgage payments; and construction may not be supported with VOCA funds.

g. Property Loss. 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 is not allowed.

h. Most Medical Costs. VOCA funds cannot pay for nursing home care (emergency short-term nursing home shelter as described in section IV.E.1.a. is allowable), 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.

i. Relocation Expenses. VOCA funds cannot support 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.

j. Administrative Staff Expenses. 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.

k. Development of Protocols, Interagency Agreements, and Other Working Agreements. These activities benefit crime victims, but they 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.

l. Costs of Sending Individual Crime Victims to Conferences.

m. Activities Exclusively Related to Crime Prevention.

V. 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.

A. Subgrant Award Reports

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.

1. Reporting Deadline

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.

2. Electronic Submission

State grantees shall transmit their Subgrant Award Report information to OVC via the automated subgrant dial-in system. By utilizing the subgrant dial-in number (1–800/838–0106), grantees can access the system without incurring a long distance telephone charge. States and territories outside of the continental U.S. are exempt from the requirement to use the subdial system, but these grantees must complete and submit the Subgrant Award Report form, OJP 7390/2A, for each VOCA subrecipient.

3. Changes to Subgrant Award Report

If the Subgrant Award Report information changes by the end of the grant period, state grantees must inform OVC of the changes, by revising the information via the automated subgrant subdial system. 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.

B. Performance Report

1. Reporting Deadline

Each state grantee is required to submit specific grant performance data on the OVC-provided Performance Report, form No. OJP 7390/4, by December 31 of each year.

2. Administrative Cost Provision

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. 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 grantee's previous commitment to administering VOCA.

VI. Financial Requirements

As a condition of receiving a grant, state grantees and subrecipients shall adhere to the financial and administrative provisions set forth in the *OJP Financial Guide* and applicable OMB Circulars and Common Rules. The following section describes the audit requirements for state grantees and subrecipients, the completion and submission of Financial Status Reports, and actions that result in termination of advance funding.

A. Audit Responsibilities for Grantees and Subrecipients

Audits of non-profit institutions and institutions of higher education must comply with the organizational audit requirements of OMB Circular A–133, which states that recipients who expend $300,000 or more during their fiscal year in federal funds during their fiscal year, are required to submit an organization-wide financial and compliance audit report within 13 months after the close of each fiscal year during the term of the award to their cognizant federal agency.

State and local units of government must comply with the organizational audit requirements of OMB circular A–128, which states that recipients of $25,000 of federal funds during their fiscal year, are required to submit an audit report to their cognizant agency. Recipients who receive less than $25,000 in federal funds are exempt from the audit requirement.

B. Audit Costs

Audit costs incurred at the grantee (state) level are determined to be an administrative expense, and may be paid with the allowable five percent for administration. Subrecipients may not use any VOCA funds to pay for administrative costs, including the cost of audits.

C. Financial Status Report for State Grantees

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 during the reporting period. 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 120 days after the end of the VOCA grant.

D. Termination of Advance Funding to State Grantees

If the state grantee receiving cash advances by direct Treasury deposit demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between cash advances and disbursements, 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 to the state by the ACH Vendor Express method to reimburse the grantee for actual cash disbursements. It is essential that the grantee organization maintain a minimum of cash on hand and that drawdowns of cash are made only when necessary for disbursements.

VII. 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 allow authorized representatives to access and examine all records, books, papers, case files, or documents related to the grant, use of administrative funds, and all subawards.

B. Office for Victims of Crime

OVC conducts on-site monitoring 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) program manuals and procedures governing the VOCA grant program; (2) reports for the 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) 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.

VIII. 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 OJP Financial Guide (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. 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.

Dated: April 17, 1997.

Aileen Adams,

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

[FR Doc. 97–10403 Filed 4–21–97; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Proposed Information Collection Request, Submitted for Public Comment and Recommendations; 29 CFR Part 1904 Recording and Reporting Occupational Injuries and Illnesses (1218–0176)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of this continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of approval for the paperwork requirements of 29 CFR 1904, Recording and Reporting Occupational Injuries and Illnesses (less 1904.8, Reporting of Fatality or Multiple Hospitalization Incidents and 1904.17, Annual OSHA Injury and Illness Survey of Ten or More Employers).

DATES: Written comments must be submitted on or before June 23, 1997.

Written comments should:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No., ICR–97–10 U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone: (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone: (202) 219–8148. Copies of the reference information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Vivian Allen at (202) 219–8076. For electronic copies, contact OSHA's WebPage on the Internet at http://www.osha.gov/.

SUPPLEMENTARY INFORMATION:

I. Background

The OSHA Act and 29 CFR part 1904 prescribe that certain employers maintain records of job related injuries and illnesses. The injury and illness records are intended to have multiple purposes. One purpose is to provide data needed by OSHA to carry out enforcement and intervention activities to guarantee workers a safe and healthy work environment. The data are also needed by the Bureau of Labor Statistics to report on the number and rate of occupational injuries and illnesses in the country.

The data also provide information for employers and employees of the kind of injuries and illnesses occurring in the workplace and their related hazards. Increased employer awareness should result in the identification and voluntary correction of hazardous workplace conditions. Likewise, employees who are provided information on injuries and illnesses will be more likely to follow safe work practices and report workplace hazards. This would generally raise the overall level of safety and health in the workplace.

OSHA currently has approval from the Office of Management and Budget (OMB) for information collection requirements contained in 29 CFR 1904. That approval will expire on September 30, 1997, unless OSHA applies for an extension of the OMB approval. This notice initiates the process for OSHA to request an extension of the current OMB approval. This notice also solicits public comment on OSHA's existing paperwork burden estimates from those interested parties and to seek public response to several questions related to the development of OSHA's estimation. Interested parties are requested to review OSHA's estimates, which are based upon the most current data available, and to comment on their accuracy or appropriateness in today's workplace situation.

29 CFR 1904.8, Reporting of Fatality or Multiple Hospitalization Incidents (OMB control number 1218–0007) and 29 CFR 1904.17, Annual OSHA Injury and Illness Survey of Ten or More Employers (OMB control number yet to be assigned) are each under separate Information Collection Request (ICR)

II. Current Action

This notice requests an extension of the current OMB approval of the paperwork requirements in 29 CFR 1904, Recording and Reporting Occupational Injuries and Illnesses.

Type of Review: Extension of currently approved collection.

Agency: U.S. Department of Labor, Occupational Safety and Health Administration.

Title: Recording and Reporting Occupational Injuries and Illnesses.

OMB Number: 1218–0176.

Agency Number: Docket No. ICR–97–10.

Frequency: Recordkeeping.

Affected Public: Business or other for-profit; Farms; Not for-profit institutions; State and Local Government.

Number of respondents: 816,766.

Estimated Time Per Respondent: 1.93 hours.

Total Estimated Cost: $29,058,139.

Total Burden Hours: 1,575,821 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request. They will also become a matter of public record.

Dated: April 16, 1997.

Stephen A. Newell,

Director, OSHA Office of Statistics.

[FR Doc. 97–10356 Filed 4–21–97; 8:45 am]

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