

DEPARTMENT OF JUSTICE**Office for Victims of Crime****[OJP(OVC)-1319]****Victims of Crime Act Victim Compensation Grant Program****AGENCY:** Office for Victims of Crime, Office of Justice Programs, Justice.**ACTION:** Final program guidelines.

SUMMARY: The Office for Victims of Crime (OVC), United States Department of Justice (DOJ) is publishing Final Guidelines to implement the crime victim compensation grant program as authorized by the Victims of Crime Act of 1984, as amended, 42 U.S.C. 10601, et seq., hereafter referred to as VOCA.

EFFECTIVE DATE: These Final Guidelines are effective upon publication in the **Federal Register** or until reissuance by OVC.

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SUPPLEMENTARY INFORMATION: The Victims of Crime Act (VOCA) authorizes federal financial assistance to states for the purposes of compensating and assisting crime victims, funding training and technical assistance, and serving victims of federal crimes. These Final Guidelines provide information specifically for the administration and implementation of the VOCA crime victim compensation grant program as authorized in section 1403 of VOCA, Public Law 98-473, as amended, codified at 42 U.S.C. 10602.

Summary of the Revisions to the Final Guidelines for the Victims of Crime Act Crime Victim Compensation Grant Program

These Final Guidelines for the VOCA Crime Victim Compensation Grant Program are in accordance with VOCA and are all inclusive. Thus, these Final Guidelines supersede any VOCA Crime Victim Compensation Grant Program Guidelines previously issued by OVC. The changes contained in these Final Guidelines result from developments in the criminal justice and victim services fields since the 1997 Guidelines were issued.

OVC published in the **Federal Register** Proposed VOCA Crime Victim Compensation Program Guidelines that were distributed to interested individuals and organizations for the

purpose of soliciting comments. Copies were mailed to all state VOCA victim compensation and assistance program administrators, to executive directors of national victim organizations, and to VOCA victim assistance subgrantee programs. OVC received 16 responses from state VOCA victim compensation administrators and the National Association of Crime Victim Compensation Boards; representatives of other victim services organizations, law enforcement, and U.S. Attorneys Offices; one local organization representing senior citizens; and one national association representing financial planners.

I. Comments From the Field

A. Nonviolent Crimes

VOCA administrators questioned the statutory authority to include nonviolent crimes and the related victim expenses under VOCA crime victim compensation funding. As a result, the Final Guidelines have been clarified to explain that VOCA does not prohibit coverage of nonviolent crimes and that states choosing to cover these crimes may include amounts paid to these victims in their certified payout figures, which are used to determine the amount of federal funding the state is entitled to receive. Compensable expenses could include crisis counseling, mental health treatment, financial counseling, and other services funded by a state's program. The Final Guidelines have also been clarified to explain that amounts paid by states to victims for property, damaged or lost in violent or nonviolent crimes, except in certain instances, cannot be included in a state's certified payout figures. The Final Guidelines emphasize that priority under VOCA continues to be coverage for victims of violent crime.

B. Encouragement From OVC To Expand Coverage

Two respondents questioned OVC's encouragement to expand coverage of certain crimes, expenses, and victims within the Guidelines, stating that the Guidelines establish policy, and that encouragements are better addressed through other means. OVC has removed the encouragements from the body of the Final Guidelines and has explained its identification of emerging trends and unmet needs of crime victims in a preamble. This information is provided for states to consider as they examine their programs' responsiveness to crime victims and strive to improve the range of assistance provided. The Final Guidelines state that these are not mandates and emphasize that it is

within the discretion of the state to determine coverage under its compensation statute, rule, or other established policy. The Final Guidelines also clarify that state funds paid to crime victims for these purposes may be included in a state's annual certification of payments to victims.

C. Victims Experiencing Financial Loss as a Result of Crime

Five respondents expressed support for inclusion of economic crime as a compensable crime category that states may include in their annual certification of payments. Others acknowledged that while victims of economic crime have needs, priority must remain with meeting the needs of victims of violent crime. As a result, economic crime is addressed in the preamble to the Final Guidelines and the body of the Final Guidelines emphasize that priority under VOCA is given to victims of violent crime.

Respondents sought clarification on use of the term financial planning in the proposed Guidelines. Since the term conflicts with a term used by professional financial planners who assist with investments, insurance, and estate planning, the term used in the Final Guidelines has been changed to *financial counseling*.

The purpose of financial counseling services is to assist victims who have to restructure their financial affairs because of a crime. These claimants may be survivors of homicide victims or victims of domestic violence, fraud, or other crimes. Allowable activities provided by financial counselors include but are not limited to: Analysis of a victim's financial situation such as income producing capacity and crime-related financial obligations; assistance with restructuring budget and debt; assistance in accessing insurance, public assistance, and other benefits; assistance in completing financial impact statements for criminal or civil courts; and assistance in settling estates and handling guardianship concerns.

D. Victim Cooperation With Law Enforcement

One respondent commented that requiring a victim who is a vulnerable adult to report a crime to law enforcement is unrealistic. As a result, these Final Guidelines allow a state to accept, as an indication of a victim's cooperation with law enforcement, a crime report to law enforcement or to a child or adult protective services agency from a mandated reporter or other person knowledgeable about a crime against a child or a vulnerable adult.

A crime victim's willingness to cooperate with law enforcement may be affected by compelling health or safety concerns including apprehension about personal safety, fear of retaliation, and intimidation by the offender or others. Crime victims may be reluctant to cooperate fully with law enforcement after receiving threats of violence or death against themselves and their families from the offender.

Many barriers—age, psychological, cultural, and linguistic—may affect the victim's ability to cooperate with law enforcement. There may be unique barriers deterring a young child or senior citizen from complying fully with law enforcement. Embarrassment, shame, and the psychological trauma may delay the reporting of sexual assault. Cultural and language differences may diminish a victim's access to and understanding of the criminal justice system. In setting the standard for victim cooperation with law enforcement, OVC encourages state programs to determine how to address these considerations.

E. Crime Scene Cleanup

VOCA administrators requested clarification on what could be covered under crime scene cleanup. Since state statute, rules, and policy dictate allowable expenses for this service, the Final Guidelines have been clarified to say that states may not include property replacement or repair cost, except for replacement of locks and windows, and replacement of bedding and clothing held as evidence, in their annual certification of payments.

F. Nonsupplantation

One respondent asked OVC to clarify if the use of federal funds that a state receives as a result of the expenditure of state revenues constitutes supplantation. As a result, clarifying language has been added stating that use of federal funds received as a result of its certified state payouts is not supplantation.

II. Legislative Changes

A. Child Abuse Prevention and Enforcement Act

This Act amended VOCA to allow for an increase in funds set aside for child abuse victims from \$10 million up to \$20 million. This occurs in any fiscal year in which Crime Victim Fund deposits are greater than the amount deposited in Fiscal Year 1998. An amount equal to 50 percent of the increase plus the base amount of \$10 million is available for this purpose. This applies regardless of whether there

is a cap on the amount of money made available from the Fund for VOCA purposes.

B. Consolidated Appropriations Acts of Fiscal Year 1997 and 2000

The VOCA distribution formula was amended to provide funds for victim assistance provided through the Federal Criminal Justice System.

C. Victims of Trafficking and Violence Protection Act of 2000

Provides: 1. Aid for victims of terrorism and expanded OVC's authority to respond to incidents of terrorism outside the United States and of terrorism and mass violence occurring within the United States; 2. authorization for the OVC Director to increase money set aside for the Antiterrorism and Emergency Fund to \$100 million and to deposit deobligated dollars from other funded program areas into this Fund; 3. an expanded list of eligible applicants for Antiterrorism and Emergency Funds for incidents of terrorism outside the U.S. to include, not only states and United States Attorneys Offices, but also victim service organizations, and public agencies (including Federal, State, or local governments), and non-governmental organizations that provide assistance to victims of crime for provision of emergency relief including crisis response efforts, assistance, training and technical assistance and on-going assistance including during any investigation and prosecution [42 U.S.C. 10603b(a)]; 4. an expanded range of support provided to victims of terrorism and mass violence beyond emergency relief to include crisis response efforts, assistance, training and technical assistance and on-going assistance; 5. for the establishment of a program to compensate victims of acts of international terrorism that occur outside the United States for associated expenses.

OVC will publish separate guidelines entitled *Antiterrorism and Emergency Fund Guidelines for Terrorism and Mass Violence Crimes* and for the International Crime Victim Compensation Program.

In addition, the Act establishes policy for international trafficking in persons and provides access to services and accommodation in immigration status for victims of severe forms of trafficking, regardless of their immigration status. It also establishes a new, non-immigrant visa classification for certain victims of severe forms of trafficking.

III. Final Program Guidelines for VOCA Crime Victim Compensation Grant Program

The Office for Victims of Crime (OVC), U.S. Department of Justice (DOJ) is publishing these Final Guidelines for the VOCA Crime Victim Compensation Grant Program (hereinafter referred to as Final Guidelines) to implement the victim compensation grant program as authorized by the Victims of Crime Act (VOCA) of 1984, as amended, 42 U.S.C. 10601, *et seq.* These Final Guidelines are in accordance with VOCA and supersede any Guidelines previously issued by OVC.

A. Preamble

OVC has administered the VOCA crime victim compensation program for fourteen years, funded hundreds of discretionary grants, hosted many focus groups with experts from various fields that serve crime victims, and responded to issues and concerns of hundreds of crime victims. Through these contacts, OVC has identified a number of emerging trends and unmet needs. OVC's partnership with states to meet the needs of all crime victims has, in some cases, resulted in statutory and policy changes. While no specific amendments have been made to VOCA to address many of these emerging issues and needs, OVC shares this information with states for consideration as they examine their programs' responsiveness to crime victims and strive to improve the range of assistance provided.

OVC has identified emerging issues and unmet needs for the following four groups of victims and crimes and acknowledges that many states already compensate crime victims in some or most of these categories.

1. **Crimes Involving Threat But Not Physical Injury.** Many crimes involve threat but the victims suffer no physical injury. For example, a stalking victim may be intimidated and harassed over the Internet but not physically attacked by the stalker and a robbery victim may be threatened with a weapon but not physically injured. Another example would be incidents such as school and workplace shootings in which many people are in danger but not all are physically injured or killed. In property related hate crimes, windows may be broken and graffiti painted on a home, with the intent to intimidate and cause fear in a person or family. In all of these instances, persons may be seriously traumatized by a crime but not be physically injured. States are encouraged to consider the safety and mental health needs of these victims.

2. Witnesses to Violence. The primary group considered under this category is children who witness domestic violence. In addition, in mass violence incidents, others impacted by the violence may be considered victims. States are encouraged to consider the mental health and other needs of these victims.

3. Economic Crime. Increasing attention is being directed by law enforcement officials to economic crime. While anyone can be a victim of financial fraud, often criminals target elders specifically. In addition, identity theft can damage or destroy the financial integrity of many unsuspecting adults. Economic crime can have a devastating impact on victims emotionally, physically, and financially. States are encouraged to consider the needs of these victims.

4. State Residents Who Are Victims of Crime Outside U.S. Jurisdiction. As required by VOCA, all states provide benefits under their crime victim compensation programs for victims of terrorism occurring outside the United States. Because state residents function in a global society, OVC encourages coverage of residents who are victims of crimes other than terrorism that occur when they are outside the territorial jurisdiction of the U.S. This would allow coverage to residents who are studying, conducting business, touring, and living abroad. It would also cover victims of crimes occurring on international waters.

Again, OVC's purpose in identifying the above emerging trends and unmet needs of crime victims is to challenge states to assess the comprehensiveness of their crime victim compensation programs and to provide needed background information for those states desiring to expand the scope of crimes and benefits provided to people victimized by crime. The identification of these issues does not constitute a mandate or requirement of states beyond the statutory requirements outlined in VOCA.

These VOCA Final Guidelines are outlined as follows:

- I. Definitions
- II. Background
- III. Funding Allocations
- IV. State Eligibility Criteria
- V. State Certification
- VI. Application Process and Performance Reporting
- VII. Administrative Costs
- VIII. Financial Requirements
- IX. Monitoring
- X. Suspension and Termination of Funding

I. Definitions

For purposes of these Final Guidelines, the following terms are defined:

A. Driving While Intoxicated. This includes drunk driving and driving under the influence of alcohol and/or other drugs. Specific definitions may be provided by state statutes, written rules, or other established policies.

B. Federal Crime. A federal crime is any crime that is a violation of the United States Criminal Code or violation of the Code of Military Justice. In general, federal crimes are investigated by federal law enforcement agencies, including the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), Bureau of Alcohol, Tobacco and Firearms (BATF), U.S. Postal Service (USPS), Department of Interior (DOI), U.S. Secret Service (USSS), U.S. Customs Service (USCS), and Immigration and Naturalization Service (INS). Federal crimes are prosecuted in Federal District Courts by U.S. Attorneys and the U.S. Department of Justice Criminal Division. Examples of Federal crimes include, but are not limited to:

1. Crimes against Federal officials
2. Crimes that take place on Federal property, including national parks and military bases, certain maritime and territorial jurisdictions, and buildings owned or leased by the Federal Government
3. Bank robberies where the bank is insured or otherwise secured by the Federal Government
4. Crimes affecting interstate activities, such as kidnaping, interstate domestic violence, and fraud via U.S. mail, telephone, or wire
5. Crimes occurring in Indian Country or on reservations, where the Federal Government has criminal jurisdiction
6. Trafficking of persons

C. Federal Program, or a federally financed State or local program is a program that provides third party reimbursement for victim expenses and includes such funding sources as Medicaid, Medicare, and CHAMPUS or provides direct Federal appropriations for organizations that provide direct services such as Indian Health Service and the Veterans' Administration.

D. Mass Violence occurring within or outside the United States. The term mass violence is not defined in VOCA or in any statute amending VOCA nor is it defined in the U.S. Criminal Code. Thus, OVC has developed a working definition of this term. The term mass violence means an intentional violent criminal act, for which a formal investigation has been opened by the

Federal Bureau of Investigation or other law enforcement agency, that results in physical, emotional or psychological injury to a sufficiently large number of people as to significantly increase the burden of victim assistance and compensation for the responding jurisdiction. If there is a discrepancy between the definition provided in these Final Guidelines and the *Antiterrorism and Emergency Fund Guidelines for Terrorism and Mass Violence Crimes*, the definition in the *Antiterrorism and Emergency Fund Guidelines* takes precedence.

E. Mental Health Counseling and Care. Mental health counseling and care mean the assessment, diagnosis, and treatment of an individual's mental and emotional functioning. Mental health counseling and care must be provided by a person who meets state standards to provide these services.

F. Property Damage and Loss. Property damage is damage to material goods. Property loss is destruction of material goods or loss of money, stocks, bonds, etc. Property damage does not include damage to prosthetic devices, eyeglasses, other corrective lenses, dental devices, or other medically related devices.

G. Restitution. Restitution is payment made by the offender to the victim who was injured in the crime, to the legal guardian of a vulnerable adult or child victim, or to beneficiaries of the victim of homicide. Restitution does not refer to the general collection of fines, fees, and other penalties from offenders that provide basic revenue for a compensation program and are not attributable to reimbursement of payouts on a specific claim.

H. State. The term *state* includes the 50 states, the District of Columbia, the U.S. Virgin Islands, Guam, Puerto Rico and any other possession or territory of the United States.

I. Terrorism occurring within the United States. The term terrorism means an activity that... (1) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State; and (2) appears to be intended ... (a) to intimidate or coerce a civilian population, (b) to influence the policy of a government by intimidation or coercion, or (c) to affect the conduct of a government by assassination or kidnaping (18 U.S.C. 3077).

J. Terrorism Occurring Outside the United States. The *Antiterrorism and Emergency Reserve Fund Guidelines for Terrorism and Mass Violence Crimes*

refers to the term terrorism, when occurring outside the United States, as international terrorism to mean an activity that... (1) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; (2) appears to be intended ... (a) to intimidate or coerce a civilian population; (b) to influence the policy of a government by intimidation or coercion; or (c) to affect the conduct of a government by assassination or kidnapping; and (3) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum (18 U.S.C. 2331).

II. Background

In 1984, VOCA established the Crime Victims Fund (hereinafter referred to as the Fund) in the U.S. Treasury to receive deposits from fines, penalties, and bond forfeitures levied on criminals convicted of federal crimes. The Fund is administered by OVC to support the activities authorized by VOCA.

OVC makes annual VOCA crime victim compensation grants from the Fund to eligible states and territories. The primary purpose of these grants is to supplement state efforts to provide financial assistance and reimbursement to crime victims throughout the Nation for costs associated with crime, and to encourage victim cooperation and participation in the criminal justice system.

With the exception of most property damage and loss as explained in these Final Guidelines, state crime victim compensation programs may use VOCA compensation grant funds to pay for eligible expenses allowed by state compensation statute, rule, or other established policy.

III. Funding Allocations

A. Distribution. By statute, deposits are to be allocated as follows:

1. Child Abuse Prevention and Treatment Grants. Up to \$20 million¹ of the first amounts deposited in the Fund are allocated to Child Abuse Prevention

and Treatment Grants. Of these funds, 85 percent are forwarded to the Department of Health and Human Services. The remaining 15 percent is retained by OVC to assist Native American Indian tribes in developing, establishing and operating child abuse programs.

2. Federal Criminal Justice System. Specific amounts are earmarked by Congress annually for improving services for the benefit of crime victims in the Federal criminal justice system.

3. Remaining Fund Deposits. The remaining fund deposits are distributed as follows:

a. Victim Compensation Grants. Forty-eight and one half percent (48.5%) is available to eligible state programs for crime victim compensation.

b. Victim Assistance Grants. Forty-eight and one half percent (48.5%) is available to states for victim assistance grants. Unused funds from the victim compensation portion of the deposits are added to this amount.

c. Discretionary Grants. Three percent (3%) is available to OVC for demonstration projects, training and technical assistance grants, and financial support for services to victims of federal crime.

d. Antiterrorism and Emergency Fund. If monies in the Fund are sufficient to fully provide VOCA grants to the states, and deposits total 110 percent of the previous fiscal year, or if any funds are deobligated, the OVC director may retain up to \$100 million in an emergency fund. These funds are to be used (1) for Victims of terrorism within and outside the United States and for victims of other mass violence crimes; (2) for supplementing State Compensation and Assistance Programs' basic state compensation and assistance awards at the discretion of the OVC Director; and (3) to pay benefits under the newly authorized international compensation program.

B. Grant Period. Victim compensation grant funds are available for expenditure throughout the fiscal year (FY) of the award plus the next three fiscal years. The federal fiscal year (FFY) begins on October 1 and ends on September 30. State crime victim compensation programs may pay compensation claims retroactively to October 1, even though the VOCA grant may not be awarded until later in the fiscal year.

C. VOCA Victim Compensation Grant Formula. The Director of OVC is required to make an annual grant to eligible crime victim compensation programs that is equal to 40 percent of the amount awarded by the state program to victims of crime from state revenues during the fiscal year

preceding the year of deposits in the Fund (two years prior to the grant year). If the amount in the Fund is insufficient to award each state 40 percent of its prior year's compensation payout from state revenues, all states will be awarded the same reduced percentage of their prior year payout from the available funds.

To determine the amount available, each state must submit with its annual application a certification of the amount expended by the crime victim compensation program in the previous federal fiscal year. See Section V. for additional information.

IV. State Eligibility Criteria

A. Grantee. The grantee must be an operational state-administered crime victim compensation program. A new compensation program is entitled to a VOCA grant after it has awarded benefits that can be matched under VOCA. VOCA may not be used as start-up funds for a new state compensation program. In the event that a state chooses to administer its compensation program in a decentralized fashion, the state remains accountable to VOCA for expenditure of these funds.

B. Program Requirements. For a state to meet or maintain eligibility for a VOCA crime victim compensation grant, it must satisfy the following requirements:

1. Compensable Crimes.

(a) VOCA Mandated Crimes. At a minimum, VOCA specifically requires the grantee to offer compensation to crime victims and survivors of victims of criminal violence for certain identified expenses (see below) resulting from physical injury from a compensable crime as defined by the state. VOCA requires that states include as compensable crimes those crimes whose victims suffer death or physical injury as a result of terrorism, driving while intoxicated, and domestic violence.

In addition, VOCA requires that states include as compensable crimes those crimes whose victims suffer death or personal injury as a result of the intentional or attempted defacement, damage, or destruction of any religious real property because of (1) its religious character or the obstruction, by force or threat of force, of any person's enjoyment of the free exercise of religious beliefs when the crime is covered by interstate or foreign commerce; (2) the race, color, or ethnic characteristics of any individual associated with the religious property.

(b) Coverage of Other Crimes. VOCA places priority on violent crime, but it does not prohibit coverage of nonviolent

¹In any fiscal year in which Fund deposits are greater than the amount deposited in fiscal year 1998, an amount equal to 50 percent of the increase in the amount from fiscal year 1998 shall be available for Child Abuse Prevention and Treatment Grants in addition to the base amount of \$10 million. The total amount allocated for Child Abuse Prevention and Treatment grants for any fiscal year cannot exceed \$20 million.

crime. States may choose to broaden the range of compensable crimes to include those involving threats of injury or economic crime where victims are traumatized but not physically injured. In doing so, they may include payments to victims for compensable expenses for these crimes on the state's certification of funds expended for the compensation program.

2. Compensable Expenses.

(a) VOCA Mandated Expenses. At a minimum, VOCA requires states to award compensation for the following expenses when they are attributable to a physical injury resulting from a compensable crime:

- i. Medical Expenses. This may include eyeglasses and other corrective lenses, dental services, prosthetic or other devices, and other services rendered in accordance with a method of healing recognized by state law.
- ii. Mental health counseling and care.
- iii. Lost wages.
- iv. Funeral expenses attributable to a death resulting from a compensable crime.

(b) Other Allowable Expenses. State grantees may offer compensation for other types of expenses *as authorized by state statute, rule, or other established policy*.

(i) Property Damage and Loss. Amounts awarded for property damage and loss cannot be included in the amount certified as a basis for the award of VOCA compensation grants except as listed under Section IV.B.2(b)(i)4&5 of these Final Guidelines.

(ii) In addition to VOCA mandated expenses, other allowable expenses may be included in the certified payout amount such as:

1. Travel and transport for survivors of homicide victims to secure bodies of deceased victims from another country or state.
2. Temporary lodging.
3. Necessary building modification and equipment to accommodate physical disabilities resulting from a compensable crime.
4. Replacement costs for clothing and bedding held as evidence.
5. Replacement or repair of windows and locks.
6. Crime scene cleanup, as defined by state statute, rule or other established policy. Crime scene cleanup does not include replacement of lost or damaged property, except for locks and windows, and for clothing and bedding held as evidence.
7. Attorneys' fees related to a victim's claim for compensation, for establishing guardianship, settling estates, and other activities related to the crime.
8. Payments related to forensic sexual assault examinations (1) If such

payments are made from funds administered by the compensation programs and are allowable under state statute, rule, or other established policy; and (2) to the extent that other funding sources such as state appropriations specifically earmarked for these exams are unavailable or insufficient.

9. Dependent care to allow victims to participate in criminal justice activities or secure medical treatment and rehabilitation services.

10. Financial counseling services for victims of economic crime, domestic violence, survivors of homicide victims, and other victims faced with financial difficulty as a result of a crime. Allowable activities provided to crime victims by financial counselors include but are not limited to: analysis of a victim's financial situation such as income producing capacity and crime related financial obligations; assistance with restructuring budget and debt; assistance in accessing insurance, public assistance and other benefits; assistance in completing financial impact statements for criminal courts; and assistance in settling estates and handling guardianship concerns. Financial counseling must be provided by a person who meets state standards for provision of this service.

11. Pain and suffering.

12. Annuities for loss of support for children of victims of homicide.

3. Victim Cooperation With Law Enforcement. Crime victim compensation programs must promote victim cooperation with the reasonable requests of law enforcement authorities. State crime victim compensation programs maintain the authority and discretion to establish their own standards for victim cooperation with the reasonable requests of law enforcement.

VOCA's cooperation with the reasonable requests of law enforcement requirement may be fulfilled by using the following criteria or by any other criteria the state believes is necessary and acceptable to encourage and document victim cooperation with law enforcement. For example, a state may:

- a. Require a victim to report the crime to a law enforcement agency;
- b. Require a victim to report the crime to an appropriate government agency, such as child and/or adult protective services, family court, or juvenile court;
- c. In the case of a child or a vulnerable adult, accept a crime report to law enforcement or to a child or adult protective services agency from a mandated reporter or other person knowledgeable about the crime;
- d. Accept proof of the completion of a medical evidentiary examination, such

as medical reports, x-rays, medical photographs, and other clinical assessments as evidence of cooperation with law enforcement.

4. Nonsupplantation. The state must certify that grants received under VOCA will not be used to supplant state funds otherwise available to provide crime victim compensation benefits or to administer the state crime victim compensation program. States may not decrease their financial commitment to crime victim compensation solely because they are receiving VOCA funds for the same purpose. Expenditure of VOCA funds received based on state certified payouts from previous years does not constitute supplantation.

5. Compensation for Residents Victimized Outside Their Own State. A state must provide compensation to state residents who are victims of crimes occurring outside the state if the crimes would be compensable crimes had they occurred inside that state and the crimes (1) occurred in a state without an eligible VOCA crime victim compensation program, or (2) in cases of terrorism, occurred outside the territorial jurisdiction of the United States. The state must make these awards according to the same criteria used to make awards to those who are victimized while in the state.

6. Compensation for Nonresidents of a State. The state, in making awards for compensable crimes occurring within the state, must make compensation awards to nonresidents of the state on the basis of the same criteria used to make awards to victims who are residents of the state.

7. Victims of Federal Crime. The state must provide compensation to victims of federal crimes occurring within the state on the same basis that the program provides compensation to victims of state crimes.

8. Unjust Enrichment. States cannot deny compensation to a victim based on the victim's familial relationship to the offender or because the victim shares a residence with the offender. States must adopt a rule or other written policy to avoid unjust enrichment of the offender, but it cannot have the effect of denying compensation to a substantial percentage of victims of violence perpetrated by family members or others with whom the victim shares a residence. In developing a rule, or other written policy, states are encouraged to consider the following:

- a. The legal responsibilities of the offender to the victim under the laws of the state and collateral resources available from the offenders to the victim. For example, legal responsibilities of the offender may

include court-ordered restitution or family support under the domestic, marital property or child support laws of the state. Collateral resources may include insurance or pension benefits available to the offender to cover the costs incurred by the victim as a result of the crime. Victims of family violence must not be penalized when collateral sources of payment are not viable. Examples of such situations include when the offender refuses to, or cannot, pay restitution or other civil judgments within a reasonable period of time or when the offender impedes direct or third party (i.e., insurance) payments.

b. Payments to victims of family violence that only minimally or inconsequentially benefit offenders. These payments are not considered unjust enrichment. For example, denial of medical or dental expenses solely because the offender has legal responsibility for the charges, but is unwilling or unable to pay them, could result in the victim not receiving treatment. When indicated, the state has the option of seeking reimbursement from the offender.

c. Consultation with social services and other concerned government entities, and with private organizations that support and advocate on behalf of victims of violence perpetrated by family members.

d. The special needs of child witnesses to violence and child victims of criminal violence, especially when the perpetrator is a parent who may or may not live in the same residence.

9. Discrimination Prohibited. No person shall on the grounds of race, color, religion, national origin, disability, or sex, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under VOCA. States must comply with these VOCA nondiscrimination requirements, the Federal civil rights statutes and regulations cited in the Assurances that accompany the grant award document, and all other applicable civil rights requirements. States with decentralized operations must assure that all operations comply with these requirements.

10. Additional Information Requested by the OVC Director. The state must provide other information and assurances as the Director of OVC may reasonably require.

C. VOCA Funds and Collateral Federal Programs

1. Means Testing. Federal, state, or local government programs that use

federal funds are prohibited from including victim compensation benefits when determining income eligibility for an applicant, until the total amount of medical or other assistance that the applicant receives from all programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime. VOCA requires this policy when an applicant needs medical or other assistance, in full or in part, because of the commission of a crime against the applicant. VOCA gives the OVC Director authority to determine whether such medical or other assistance is necessary to an applicant for victim compensation because of the commission of a crime against the applicant. Through these Final Guidelines, the Director's authority is delegated to state VOCA crime victim compensation administrators.

2. Payor of Last Resort. The compensation program is the payor of last resort with regard to federal or federally financed programs. When a victim is eligible to receive benefits from a federal program such as Veterans' benefits, Medicare, and Social Security Disability or federally financed state or local program, such as Medicaid the state compensation program shall not use VOCA funds to pay costs that another federal or federally financed program covers. The federal or federally financed program must make payments without regard to benefits awarded to a crime victim by a state crime victim compensation program.

To facilitate victim access to other funding resources, OVC recommends that VOCA compensation administrators coordinate their activities and provide appropriate referrals to other programs that provide financial assistance and services to crime victims, whether funded by federal, state or local governments. Examples of such programs include worker's compensation, vocational rehabilitation, and VOCA victim assistance subgrantee programs. Outreach to other programs can result in mutual understanding of eligibility requirements, application processing, time lines, and other program specific requirements. As payor of last resort, it is in the compensation program's discretion to make exception for victim needs that are not adequately met by collateral sources. Additionally, this provision does not mandate that states require victims to apply for or use other federally funded programs prior to accessing the crime victim compensation program.

V. State Certifications

State grantees must provide information about crime victim

compensation claim payouts including all available funding sources, deductions, and recovery costs on a certification form provided by OVC. The Office of Budget and Management Services, Office of Justice Programs, uses this information to calculate allocations for VOCA eligible crime victim compensation programs.

A. Program Revenue. States must report on the certification form all sources of revenue to the crime victims compensation programs during the federal fiscal year. In some instances, funds are made available to the crime victim compensation programs from other departments or agencies, from supplemental appropriations, donations, or unspent funds carried over from prior years. The amount of certified revenue, excluding VOCA funds, but including all other sources, including carried over funds, must meet or exceed the amount of certified payments to crime victims.

B. Program Expenditures. The total amount to be certified by the state program must include only those amounts paid from state funding sources that are allowable under Section IV.B.1&2 to, or on behalf of, crime victims during the federal fiscal year (October 1 to September 30).

C. Amounts to be Excluded. Compensation for property damage or loss except for items found in Section IV.B.2.(b)ii.4&5 of these Final Guidelines; audit costs; personnel costs; costs related to the collection of offender fines, fees, penalties, and other revenues that provide basic program funding; and, any other program administrative costs.

D. Deductions. Deductions are receipts or refunds that offset or reduce expense items that are allocable to a particular crime victim compensation claim. These include funds received through a state's subrogation interest in a claimant's civil law suit recovery, restitution, refunds, or other reimbursements. For purposes of applicable credits, the term *restitution* means payment made by the offender to the victim who was injured in the crime, to the legal guardian of a vulnerable adult or child, or to beneficiaries of the victim of homicide.

Restitution does not refer to the costs of general collection of fines, fees and other penalties from offenders that provides the basic revenue for the compensation program and are not attributable to reimbursement of payouts on a specific claim. Refunds include amounts from overpayment, erroneous payments made to claimants, and uncashed checks. Additional guidance regarding applicable credits

can be found in *OMB Circular A-87, Cost Principles for State and Local Governments*.

F. Recovery Costs. Salary and benefits costs for personnel directly involved in recovery efforts may be offset against the amount of income received from such reimbursement. Recovery efforts are those activities that are directly attributable to obtaining restitution, refunds, and other reimbursements for the expenses of specific crime victims who have received compensation from the state program. Expenses shall be limited to the percentage of those salaries and benefits incurred by the state for individual employees whose primary responsibilities (not less than 75 percent of each individual employee's work time) are directly and specifically related to recovering restitution and other reimbursements on behalf of compensated victims. Additional allowable recovery costs are garnishment fees, service of legal documents, costs of legal publication, and subpoena fees related to collecting reimbursements. Recovery costs cannot be claimed for employees whose salary and benefits are derived from federal administrative grant funds. Recovery costs do not include the collection of fines, fees, and other penalties that provide the basic revenue for the compensation program and are not identifiable to reimbursement of payouts on a specific victim claim.

G. Sources of Payments to Crime Victims. There is no financial requirement that state compensation programs identify the source of individual payments to crime victims as either federal or state dollars, nor are there any requirements that restitution recoveries or other refunds be tracked to federal or state dollars paid out to the victim.

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

1. Overcertification. In the event that an overcertification comes to the attention of OVC or the Office of the Comptroller, OJP, the necessary steps will be taken to recover funds that were awarded in error. OVC does not have the authority to permit states to keep amounts they were not entitled to as a result of overcertification. Generally, it is the policy of OVC to reduce the amount of the subsequent year VOCA victim compensation award by the amount of the overpayment.

2. Undercertification. If a state undercertifies amounts paid to crime victims, OVC and the Office of the Comptroller, OJP, will not supplement payments to the state to correct the state's error since this would require recalculating allocations to every state VOCA compensation and assistance program and cause disruption in administration of these programs.

VI. Application Process and Performance Reporting

A. Application for Federal Assistance. Each year, OVC issues to each eligible state an application package that contains the necessary forms and detailed information required to apply for VOCA crime victim compensation grant funds. The amount for which each state may apply is included with the application package. States shall use the Standard Form 424, *Application for Federal Assistance*, and its attachments to apply for VOCA victim compensation grant funds. Applications for VOCA crime victim compensation grants may only be submitted by the state agency designated by the governor to administer the VOCA victim compensation program and grant.

Completed applications must be submitted on or before the stated deadline, as determined by OVC. If an eligible state fails to apply for its crime victim compensation allocation by the prescribed deadline, OVC will redistribute federal VOCA crime victim compensation dollars to the VOCA victim assistance grant program, after all states have received the statutorily prescribed percentage of their prior years' payout.

B. Annual Performance Report. States receiving VOCA crime victim compensation grant funds must submit an annual OVC Performance Report. The Performance Report is due January 15 of each year for the preceding federal fiscal year.

VII. Administrative Costs

A. Administrative Costs Allowance. VOCA allows states to use up to 5 percent of crime victim compensation grant funds for administering the crime victim compensation grant program. Any portion of the allowable 5 percent that is not used for administrative purposes must be used for awards of compensation to crime victims.

The intent of this provision is to support and advance program administration in all operational areas including claims processing, staff development and training, public outreach, and program funding by supporting activities that will improve program effectiveness and service to

crime victims. If a state elects to use up to 5 percent of the VOCA compensation grant for administrative purposes, only those costs directly associated with administering the program, enhancing overall program operations, and ensuring compliance with federal requirements can be expended with administrative grant funds. State grantees are not required to match the portion of the grant that is used for administrative purposes. The state administrative agency may charge a federally approved indirect cost rate to this grant, but this cost is capped by the limits of these 5 percent administrative funds.

States must certify that VOCA funds used for administrative purposes will not supplant state or local funds but increase the amount of funds available for administering the compensation program. For the purpose of establishing a baseline level of effort, states must maintain documentation on the overall administrative commitment of the state prior to their use of VOCA administrative grant funds. State grantees will not be in violation of the nonsupplantation clause if there is a decrease in the state's previous financial commitment toward the administration of the VOCA grant programs in the following situations: (1) if serious loss of revenue occurs at the state level, resulting in across-the-board budget restrictions, and (2) if there is a decrease in the number of state-supported staff positions used to meet the state's effort in administering the VOCA grant programs. State grantees using administrative funds must notify OVC if there is a decrease in the amount of its previous state financial commitment to the cost of administering the VOCA program.

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

B. Allowable Costs. Allowable administrative costs include but are not limited to, the following:

1. Salaries and benefits for staff and consultant fees to administer and manage the financial and programmatic aspects of the crime victim compensation program. Staff supported by administrative funds under the VOCA crime victim compensation grant must work directly for the compensation program in the same proportion as their level of support from VOCA grant funds. If the staff performs

other functions unrelated to the provision of compensation to crime victims, the proportion of time spent working on the compensation program must be documented using some reasonable method of valuation at regular measurable intervals, e.g., time and attendance records. The documentation must provide a clear audit trail for the expenditure of grant funds.

Temporary or periodic personnel support, such as qualified peer reviewers for medical and mental health claims, and data processing support services are also allowable. These services may be obtained through means deemed acceptable by state administrative procedures.

2. Training and technical assistance includes attendance at training and technical assistance meetings and conferences that address issues relevant to state administration of victim compensation programs. Allowable costs may include travel, registration fees, and other such expenses.

3. Monitoring compliance with federal and state requirements.

4. Automation, including the study, design, and implementation of claims processing and other relevant systems; purchase and maintenance of equipment for the state grantee, including computers, software, FAX machines, copying machines, and TTYs; and services required to support the use of technology to enhance services to crime victims.

5. Training to victim services providers, criminal justice personnel, and health, mental health and social services providers about the crime victim compensation program.

6. Memberships in crime victim organizations and victim-related informational materials.

7. Prorated program audit costs for the crime victim compensation program.

8. Indirect costs at a federally approved rate that, when applied, does not exceed the 5 percent administrative cost allowance.

9. Participation in improving coordination efforts on behalf of crime victims with other federal, state, and local agencies and organizations. This includes development of protocols, policies, and procedures that promote coordination of victim compensation with other financial and victim service programs that improve responses to crime victims. Such participation includes the development and coordination of criminal crisis response teams.

10. Informational materials including development of applications, brochures, posters, training manuals and other

relevant publications that describe the compensation application process, eligibility criteria, and the range of benefits available for crime victims. This includes related printing costs.

11. Development of strategic and financial plans, conduct of surveys, and needs assessments, survey of victim satisfaction with the program, and employment of geographic information systems (GIS) technology for planning.

12. Toll-free telephone numbers, Internet access to claim information, and other such program enhancements.

C. Requirements to Notify OVC of Use of Administrative Funds. State grantees that elect to use administrative funds under the VOCA compensation grant are required to include with their annual application, notification of their intent to use administrative funds, the percentage of funds, and the purposes for which they will be used. Grantees will be expected to include in their annual performance report, documentation of actual use of administrative funds.

D. Confidentiality of Research Information. Except as otherwise provided by federal law, no officer or employee of the Federal Government or recipient of monies under VOCA shall use or reveal any research or statistical information gathered under this program by any person, and identifiable to any specific private person, for any purpose other than the purpose for which such information was obtained, in accordance with VOCA. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding.

This provision is intended, among other things, to assure confidentiality of information provided by crime victims to employees of VOCA-funded victim compensation programs. However, there is nothing in VOCA or its legislative history to indicate that Congress intended to override or repeal, in effect, a state's existing law governing the disclosure of information, which is supportive of VOCA's fundamental goal of helping crime victims. For example, this provision would not act to override or repeal, in effect, a state's existing law pertaining to the mandatory reporting of a suspected child abuse. See *Pennhurst State School and Hospital vs. Halderman*, et al., 451 U.S. 1 (1981).

VIII. Financial Requirements

As a condition of receiving a grant, states must agree to ensure adherence to

the general and specific requirements of the *OJP Financial Guide* (effective edition) and all applicable OMB Circulars and Common Rules. This includes the maintenance of books and records in accordance with generally accepted government accounting principles. For copies of the *OJP Financial Guide*, call or write the OJP Office of the Comptroller, 810 7th Street NW., Washington, DC 20531, Customer Service Center 1/800-458-0786; or visit the website at: www.ojp.usdoj.gov/FinGuide/

IX. Monitoring

A. Office of the Comptroller/General Accounting Office/Office of the Inspector General. The U.S. Department of Justice, Office of Justice Programs, Office of the Comptroller; the General Accounting Office; and the U.S. Department of Justice, Office of the Inspector General, conduct periodic reviews of the financial policies and procedures and records of VOCA state grantees. Therefore, upon request, states must provide authorized representatives with access to examine all records, books, papers, case files, or other documents related to the expenditure of funds received under this grant.

B. Office for Victims of Crime. OVC conducts onsite monitoring in accordance with its monitoring plan. While on the site, OVC personnel review various documents and files including (1) Program manuals; (2) procedures; (3) program reports; (4) claimant application, eligibility requirements, and determination and appeal process; (5) a random sampling of victim compensation claim files; and (6) other applicable state records and files. Grantees are notified in writing of their compliance with requirements of VOCA.

X. Suspension and Termination of Funding

If, after reasonable notice to the grantee, OVC finds that a state has failed to comply substantially with the following: VOCA, the state's application for funding, the *OJP Financial Guide* (effective edition), the Final VOCA Crime Victim Compensation Grant Program Guidelines, or any implementing regulation or federal requirements, the OVC Director may suspend or terminate funding to the state and/or take other appropriate action. Under the procedures of 28 CFR part 18, states may request a hearing on the record on the justification for the suspension and/or termination of VOCA funds.

Dated: May 10, 2001.

Kathryn M. Turman,

Director, Office for Victims of Crime.

[FR Doc. 01-12256 Filed 5-15-01; 8:45 am]

BILLING CODE 4410-18-P

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Institute of Museum and Library Services, Office of Research and Technology

Submission for OMB Review, Comment Request; Museum School Partnership Research

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Notice.

SUMMARY: The Institute of Museum Services has submitted the following public information request to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). Currently, the Institute of Museum and Library Services is soliciting comments concerning a new collection entitled, Museum School Partnership Research. A copy of the proposed instrument, with applicable supporting documentation, may be obtained by calling the Institute of Museum and Library Services, Director, Office of Research and Technology, Rebecca Danvers (202) 606-2478. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606-8636.

Comments should be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395-7316, by June 15, 2001.

The OMB is particularly interested in comments which:

- 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 submission of responses.

BACKGROUND:

Type of Review: New.
Agency: Institute of Museum and Library Services.

Title: Museum School Partnership Research.

OMB Number: N/A.

Affected Public: Museums.

Total Respondents: 1,500.

Frequency: Once.

Total Responses: 1,500.

Average Time per Response: 90 minutes.

Estimated Total Burden Hours: 2,250 hours.

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$0.

FOR FURTHER INFORMATION CONTACT:

Mamie Bittner, Director, Public and Legislative Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

Dated: May 10, 2001.

Mamie Bittner,

Director, Public and Legislative Affairs.

[FR Doc. 01-12262 Filed 5-15-01; 8:45 am]

BILLING CODE 7036-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-390, 50-327, 50-328, 50-269, 50-260, 50-296; License Nos. NPF-90, DPR-77, DPR-79, DPR-33, DPR-52, DPR-68 EA 99-234]

Tennessee Valley Authority, Watts Bar Nuclear Plant, Unit 1, Sequoyah Nuclear Plant, Units 1 & 2, Browns Ferry Nuclear Plant, Units 1, 2 & 3; Order Imposing Civil Monetary Penalty

I

Tennessee Valley Authority (Licensee) is the holder of Operating License Nos. NPF-90, DPR-77, DPR-79, DPR-33, DPR-52, DPR-68, issued by the Nuclear Regulatory Commission (NRC or Commission) on February 7, 1996, September 17, 1980, September 15, 1981, December 20, 1973, August 2, 1974, and July 2, 1976. The licenses authorize the Licensee to operate Watts Bar Nuclear Plant, Unit 1, Sequoyah Nuclear Plant, Units 1 and 2, and Browns Ferry Nuclear Plant, Units 1, 2, and 3, in accordance with the conditions specified therein.

II

An investigation of the Licensee's activities was completed on August 4,

1999. The results of this investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated February 7, 2000. The Notice states the nature of the violation, the provision of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in letters dated January 22, 2001, and March 9, 2001. In its response, the Licensee denied the violation and protested the proposed imposition of a civil penalty.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The Licensee pay a civil penalty in the amount of \$110,000 within 30 days of the date of this Order, in accordance with NUREG/BR-0254. In addition, at the time of making the payment, the Licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory