

**DEPARTMENT OF JUSTICE****Office for Victims of Crime****[OJP][OVC]-1309F]****Guidelines for the Antiterrorism and Emergency Assistance Program for Terrorism and Mass Violence Crimes****AGENCY:** Office for Victims of Crime, Office of Justice Programs, Justice.**ACTION:** Notice of final guidelines.

**SUMMARY:** The Office for Victims of Crime (OVC) has developed these final Guidelines to implement the victim assistance provisions contained in the Antiterrorism and Effective Death Penalty Act of 1996 (Pub. L. 104-132), the Omnibus Consolidated Appropriations Act of 1997 (Pub. L. 104-208), the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. 106-386), and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56 (hereafter referred to as the USA PATRIOT Act of 2001). The Victims of Crime Act (VOCA), 42 U.S.C. § 10603b and § 10603c, outlines the specific authority of the OVC to provide compensation and assistance to victims of acts of terrorism or mass violence within and assistance to victims of terrorism and mass violence outside the United States. Funding available through the Antiterrorism Emergency Reserve (hereafter referred to as the Emergency Reserve) is designed to provide timely relief and to help respond to immediate and on-going challenges in providing victim assistance services in the aftermath of cases of terrorism or mass violence. Funding and technical support is not provided automatically. Requested funds must supplement, not supplant, available resources. Non-federal contributions (cash or in-kind) are expected for each type of grant. Federal agencies are not expected to make a contribution. Amounts paid to victims from state funding sources to compensate victims of terrorism or mass violence may be included in a state's annual certification of payments to victims, which is the basis for matching annual federal crime victim compensation formula grants.

**EFFECTIVE DATE:** These final Guidelines are effective January 31, 2002, and until re-issuance by OVC.

**FOR FURTHER INFORMATION CONTACT:** Terrorism and International Victims Unit, Office for Victims of Crime, 810 Seventh Street, NW., Washington, DC 20531, telephone (202)307-5983.

**SUPPLEMENTARY INFORMATION:** VOCA provides federal financial assistance for the purpose of compensating and assisting victims of crime, to carry out a training and technical assistance program, to provide services for victims of federal crimes, to provide compensation and assistance services for victims of terrorism or mass violence, and to support fellowships and clinical internships. These final Guidelines provide specific information for the administration of funding for response to victims of terrorism or mass violence as authorized in 42 U.S.C. § 10603b and § 10603c.

**Preamble to the Final Guidelines**

OVC published proposed program guidelines in the **Federal Register** (FR, Vol. 66, No. 63) on April 2, 2001 for a 30-day public comment period. In addition, OVC distributed copies of the proposed guidelines to all VOCA state administrators, executive directors of national victim organizations, identified representatives in federal agencies with victim assistance responsibilities including the 93 United States Attorneys Offices, and other interested parties. In response to the notice of proposed program guidelines, OVC received 27 separate comments based on the **Federal Register** notice. In addition, comments were received from seven VOCA state victim assistance administrators at a working group meeting at their annual national conference held in Denver, Colorado. Of the written comments received from 27 individuals or organizations: Three came from special agents and medical staff at the Federal Bureau of Investigation; three from state crime victim compensation program representatives; four from state human services department divisions administering mental health programs; three from state departments of health and mental health; one from a state department of public welfare, office of mental health and substance abuse services; three from VOCA state assistance and compensation administrators, of which two came from a single state public safety agency; one from the Federal Emergency Management Agency; one from the Department of Treasury Enforcement Section; one from the Office of the Inspector General and one from the Secretary of the U.S. Department of Agriculture; one from the National Association of Crime Victim Compensation Boards; one from a VOCA state victim assistance administrator; one from Office of the Assistant Secretary of Defense, Special Operation Low Intensity Conflict

Combating Terrorism Policy Support; one from the Drug Enforcement Administration; one from the Center for Mental Health Services, Emergency Services and Disaster Relief Branch, Substance Abuse and Mental Health Services Administration; and one from the Department of State, Overseas Citizens Services, Bureau of Consular Affairs.

OVC has attempted to address all of the comments and recommendations received during the public comment period. In addition, OVC has included in these final Guidelines new provisions contained in the USA PATRIOT Act of 2001 (PL 107-56) which contains a definition of "domestic terrorism," expands the list of eligible applicants for funding in cases of "domestic terrorism," establishes a new cap on the amount of money the OVC Director can set aside to assist victims of terrorism and mass violence, and re-titles the name of the account in which funding is set aside for these purposes as the Emergency Reserve. It also authorized the transfer of money into this account from the emergency supplemental appropriation for the September 11th disaster specifically to support services for the victims and surviving family members of this terrorist attack. In addition, OVC provided two points of clarification regarding the amount of funding available from the Emergency Reserve to a jurisdiction and clarified eligible applicants for funding based on recent inquiries following the "September 11, 2001 attacks against America." The implementation of these final Guidelines will provide opportunities to broaden our understanding of the needs of victims and jurisdictions responding to terrorism or mass violence. As OVC learns from these experiences we will make the necessary adjustments to this program policy guidance.

*Analysis and Summary of Comments*

Overall, the comments were supportive of the direction taken by OVC in the proposed guidelines. Many respondents expressed appreciation for OVC's effort to provide structure and guidance to the field regarding funding available from the Emergency Reserve to support services and assistance to victims of terrorism or mass violence. Several respondents praised OVC for the flexibility built into the guidelines, including the application filing period and process, and timing for the different types of assistance.

In response to the comments and the September 11, 2001 attacks on America, OVC has made several additional changes in the final Guidelines. OVC

also has made formatting changes; added language to address property losses and damage and victim confidentiality and privacy; added definitions of "victim," "national of the United States," "grant," "cooperative agreement," "reimbursable agreement," and "interagency agreement;" extended the period of time for accessing criminal justice support grants to up to 36 months; added a new subsection to address federal monitoring and oversight; simplified the application requirements; provided additional guidance regarding required program reporting; and provided specific application requirements by type of applicant agency. The comments from the field address six specific areas of the Guidelines: Coordination, pre-crisis planning, mental health interventions, application process and funding, allowable activities, and definitions. The following is a summary of the comments and PVC's response.

**Coordination:** Several of the respondents asked OVC to strengthen language recommending coordination among federal law enforcement and prosecution, state victim assistance administrators, and the state mental health community. In response, OVC added language to the "coordination of effort with other public and private entities" section of the final Guidelines recommending coordination among law enforcement, prosecution, state victim assistance and compensation programs, and the mental health community. In addition, we address this issue in the Introduction and Background section by adding a new subsection discussing pre-crisis planning.

**Pre-crisis Planning:** A number of respondents focused on the need to support pre-crisis planning efforts of states and other jurisdictions, and sought to secure funding for preliminary and on-going crisis planning efforts. They also recommended that the final Guidelines require states to have critical incident operations plans that identify state resources to respond to criminal mass disasters and memoranda of understanding that describe the relationship between the applicant and state mental health services.

Funding available to jurisdictions under these final Guidelines is specifically to support victim assistance services in the aftermath of criminal mass disaster. OVC strongly supports pre-crisis planning and has identified various resources available to assist states and communities in its National Directory of Victim Assistance Funding Opportunities, 2001.

**Mental Health Interventions:** One respondent expressed concern about the

use of the term "counseling" and the potential for it to encourage interventions by non-qualified, non-credentialed individuals. Another respondent also suggested that the final Guidelines require states to document their inability to develop and/or identify state response resources prior to subcontracting for mental health counseling services. One respondent asked that OVC re-examine the time frames established for crisis response grants and consequence management grants to eliminate the gap in funding support for crisis counseling services and counseling and group therapy to ensure a continuum of psychological care for victims.

In response to the concern expressed regarding the term "counseling" and the credentials of persons providing mental health intervention, OVC has modified the language in the final Guidelines to indicate counseling and therapy that are provided by persons who meet state standards or who are supervised in accordance with state standards. In addition, we clarified this by adding two definitions: The definition of "crisis counseling" used in the Federal Emergency Management Agency (FEMA) regulations, and the definition of mental health counseling and care contained in OVC's Victim Assistance Program Guidelines. We believe these two additions to the final Guidelines address the concerns of the respondent with minimal federal intrusion on state decision-making.

OVC has entered into an interagency agreement with the Department of Health and Human Services' Center for Mental Health Services (CMHS), Emergency Services and Disaster Relief Branch to conduct research into currently available materials and protocols to address the immediate and longer-term mental health needs of victims of mass victimization; to prepare materials for federal law enforcement to assist victims of domestic and international terrorism and mass violence; to provide training and technical assistance to federal law enforcement on mental health care needs of victims; to assist federal law enforcement in coordinating its crisis response role with state and local agencies and community service organizations; and to develop partnerships between mental health and victim assistance disciplines at the state and local levels. This information has been added to a new subsection in the final Guidelines titled "Support for Pre-Crisis Planning."

With regard to the recommendation to require states to document the inability to secure state resources before

subcontracting for mental health services, OVC believes the selection of service providers is best left to the standards established by the affected jurisdiction.

To address the possible gap in mental health interventions, OVC has adjusted the time range for consequence management grants to begin at the point in which crisis response grant funding terminates. Hence, the consequence management grants will now be available from nine months and up to 18 months after the terrorist or mass violence event.

**Application Process and Funding:** A few respondents recommended that funding available from the Emergency Reserve be retroactive to the date of the criminal event. Another respondent expressed support for a joint application for funding available from OVC and the CMHS. Two respondents asked for clarification regarding funding determinations. Specifically, they wanted to know the extent to which federal formula grant fund amounts would be factored into the funding decision, and if defined criteria will be established for making funding determinations. Another respondent asked if the range of eligible applicants could be expanded to include state criminal justice planning agencies, state and county mental health agencies, and state departments of education. A state compensation program representative asked that the application requirements be revised to establish specific supplemental information required of state compensation programs and to eliminate additional application certifications for states that receive formula grant funding from OVC to support victims. In addition, the respondent requested that OVC eliminate the requirement that "recovered" funds be used to assist other victims of the "specific act of terrorism or mass violence for which Emergency Reserve dollars were awarded."

Next, a respondent recommended that application requirements be consolidated into one section of the final Guidelines and specific application requirements be identified by the type of applicant. Finally, a respondent asked for clarification regarding the time limit in which an application may be filed noting that "a state may initially have funds available and believe they are adequate; however future events may deplete resources."

In response to these recommendations, OVC has made the following changes in the final Guidelines. OVC added language under the section describing the application

process that provides for pre-agreement costs retroactive to the date of the mass casualty event. Regarding the recommendation for a joint application for funding available from CMHS and OVC, we have added language to the coordination section which indicates that OVC may elect in some cases to transfer funds to other federal agencies with disaster relief responsibilities to support victim assistance interventions, including mental health counseling and care. To clarify the funding decision process, we added to the definition section of the final Guidelines the term "undue financial hardship" and provided additional guidance regarding the criterion for making such determinations. The USA PATRIOT Act of 2001 expanded the list of eligible recipients for funding in cases of terrorism within the United States to include not only eligible state crime victim compensation and assistance programs, but also victim service organizations, public agencies—federal, state, and local governments, and non-governmental organizations that provide assistance to victims. Funding to foreign governments is still prohibited.

In response to the three requests affecting state compensation programs, the final Guidelines have been modified to provide specific guidance regarding supplemental application information required from crime victim compensation programs. OVC has elected to retain the language requiring that funds recovered through state subrogation provisions be used to compensate other victims of the same terrorist or mass violence act for which they were originally awarded. Additional language has been added requiring state compensation programs and other recipients of funds to return any remaining funds at the end of the grant to OVC for deobligation and deposit into the Emergency Reserve. OVC is unable to establish a blanket certification for funding received from different account sources. Hence, no change has been made to the certification requirements. OVC did not establish an application deadline precisely for the reasons cited by the respondent. The period of time that elapses between the submission of an application and the catastrophic event does affect the type of grant assistance an applicant can request, i.e., OVC will not approve an application submitted 24 months after the event for a crisis response grant. Clarification regarding the time frame for application submission is provided in the section of the final Guidelines titled "Application Processing and Turnaround Time."

Finally, OVC has consolidated all the application requirements under section VII of the final Guidelines and identified the specific application requirements based on the type of agency/organization requesting funding support.

**Allowable Activities:** One respondent asked that "direct (victim) outreach" be identified as an allowable activity to ensure that the largest number of victims are reached following a terrorism or mass violence event. Another respondent acknowledged the need for prolonged victim assistance interventions based on the length of time it often takes to arrest the perpetrator(s) and bring him/her to trial. One respondent asked that the pool of eligible recipients be expanded to include emergency responders. Another respondent suggested that the allowable activities under the consequence management assistance grants include automated informational telephone service, and Attorney Advisor positions to address questions from victims about criminal proceedings.

Direct victim outreach is an allowable activity. The list of activities supportable with Emergency Reserve dollars was not meant to be exhaustive. Thus, OVC added a statement that "[f]unding for services and other support may include, but is not limited to \* \* \*". The list of eligible activities outlined in the final Guidelines is intended to provide general guidance regarding the use of funds. We have added outreach and awareness to the list and language indicating that activities that are deemed necessary and essential to the provision of services may be funded with Emergency Reserve dollars. We also added automated informational telephone services to the list of allowable activities under the consequence management, crisis response, and criminal justice support grants, and Attorney Advisor and victim advocate personnel as an allowable cost under criminal justice support grants. We do not offer specific guidance regarding the approach for reaching victims or delivering services recognizing that these types of decisions may depend upon specific circumstances and are best left to the responding jurisdiction.

Finally, OVC added language which specifically identifies individuals in direct proximity to the crime who may have been traumatized by the criminal event, including emergency response personnel, and included a definition of "victim" in the definition section of the final Guidelines.

A number of states suggested that OVC include among the allowable costs

administrative costs deemed necessary and essential to the delivery of services. In response, OVC included in the allowable cost section of these final Guidelines the language, "authorizing use of a limited amount of available funding, as agreed upon by OVC and the applicant, for administrative purposes." (See Section VI.)

**Definitions:** A respondent requested that the definition of mass violence be expanded to acknowledge specifically the increased financial burden that state crime victim compensation programs may experience as a result of a criminal mass disaster. Another respondent asked that the term "family members" be defined to be responsive to the "variability that exists in the structure and membership of contemporary families." Finally, one respondent asked OVC for specific guidance on the amount of the *non-federal contribution*, referred to as match.

The use of the term "victim assistance" was intended to be inclusive of all victim assistance efforts, including compensation for purposes of incidents of domestic terrorism or mass violence. To clarify our intent and respond to the comment received, OVC has modified the definition of mass violence to include specific reference to crime victim compensation efforts. OVC has elected not to define the term "*family member*" as we believe this term should be defined by the responding jurisdiction.

At this time, we are not prepared to establish a specific matching percentage or amount, because the level of resources available to a jurisdiction following a catastrophic event will vary greatly depending upon a range of issues, e.g., amount of public support, funding available for non-profit organizations, funding available from other federal agencies. No specific match percentage or dollar amount has been established for this program. However, non-federal contributions (cash or in-kind) are expected. OVC clarified this in the "Definitions" section under the term "in-kind support/contribution."

### Final Guidelines

These final Guidelines incorporate recommendations received from the field during the public comment period on the proposed guidelines, and amendments to VOCA contained in the USA PATRIOT Act of 2001. The final Guidelines are organized as follows:

- I. Final Program Guidelines
- II. Introduction and Background
- III. Statutory Language and Definitions
- IV. Source of Funding
- V. Types of Assistance

- VI. Allowable Activities and Costs
- VII. Accessing the Antiterrorism and Emergency Reserve
- VIII. Reporting Requirements

## I. Final Program Guidelines

### A. Authority

42 U.S.C. § 10604 provides authority to the Director of OVC to establish rules, regulations, guidelines and procedures consistent with the program oversight and implementation responsibilities of the Director. OVC is publishing these final Guidelines for implementation of its authority under the USA PATRIOT Act of 2001, Antiterrorism and Effective Death Penalty of 1996, and the Victims of Trafficking and Violence Protection Act of 2000. These final Guidelines apply only to OVC's efforts to provide funding for victim compensation and assistance services in cases of terrorism and mass violence occurring within, and for victim assistance services in cases of terrorism and mass violence occurring outside, the United States. OVC will issue a separate set of Guidelines to implement the new International Terrorism Victim Compensation Program authorized by the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. 106–386).

This program is designed to supplement the available resources and services of entities responding to acts of terrorism or mass violence. Thus, Emergency Reserve support may be granted if needed services cannot be adequately provided with existing resources, or if the provision of services and assistance will result in an undue financial hardship on the jurisdiction's ability to respond to crime victims in a comprehensive and timely manner or impede the jurisdiction's ability to respond to other victims of crime. OVC works with several federal agencies such as the Federal Emergency Management Agency, the Department of Health and Human Services' CMHS, the Department of Education, the Department of State as well as others to make available their respective expertise and to maximize federal funding through interagency coordination to assist crime victims.

## II. Introduction and Background

### A. OVC Mission and Purpose

OVC was created by the U.S. Department of Justice in 1983 and formally established by Congress in 1988 through an amendment to the of 1984 (42 U.S.C. 10601) (VOCA). OVC's mission is to enhance the nation's capacity to assist victims of crime and to provide leadership in changing

attitudes, policies, and practices to promote justice and healing for all victims of crime. OVC accomplishes its mission in a variety of ways: administering the Crime Victims Fund and the Emergency Reserve account; supporting direct services; providing training programs; sponsoring demonstration and evaluation projects with national and international impact; publishing and disseminating materials that highlight promising practices in the effective support of crime victims that can be replicated throughout the country and worldwide; and sponsoring fellowships and clinical internships. Also, OVC is in the process of establishing a compensation program for victims of international terrorism.

OVC works with international, national, tribal, state, military, and local victim assistance and criminal justice agencies, as well as other professional organizations to promote fundamental rights and comprehensive services for crime victims. The largest amount of OVC funding is provided to state agencies designated by the governor to administer programs to assist crime victims—crime victim compensation and victim assistance. OVC is not only a grant funding agency, but also advocates for the fair treatment of crime victims, develops policy and provides technical assistance to states, localities, and other federal agencies on effective responses to crime victims, and supports public awareness and education on critical victim issues (42 U.S.C. 10604 and 10605).

OVC monitors federal agency compliance with federal statutes and guidelines dictating the fair treatment of crime victims, and prepares an annual compliance report for the Attorney General as well as periodically updates the Attorney General Guidelines for Victim and Witness Assistance. OVC enters into interagency agreements and memoranda of understanding, offers technical assistance through expert consultants, and forms and leads working groups to address issues that have an impact on crime victims. In addition, OVC provides funding to support services to people victimized on tribal or federal lands, such as military bases and national parks. Finally, OVC provides emergency funds to federal agencies with victim responsibilities to assist victims of federal crime when no other resources are available.

### B. Statement About Terrorism and Mass Violence

Violent and unexpected acts of terrorism and criminal mass violence may leave victims with serious physical and emotional wounds. Nothing in life

prepares people for the horror of an act of terrorism or mass violence that robs them of their sense of security and in some instances a loved one. Victims of violent crime experience a range of needs—physical, financial, emotional, and legal. Victims are entitled by law in the United States to certain types of information and support services. While victims of terrorism have much in common with other violent crime victims and with disaster victims, they appear to experience higher levels of distress, in part due to the magnitude and scope of such traumatic events. Terrorism and mass violence may involve murders that are committed by more than one person, multiple victims, and a greater degree of violence than other criminal acts. In addition, the methods of targeting victims can contribute to the trauma and anxiety victims feel. Terrorist acts can be either random or specific. In the case of the Oklahoma City bombing, Federal Government employees were the targets. In the case of the school shooting in Littleton, Colorado at Columbine High School, students were the targets, resulting in 15 fatalities (including the gunmen) and numerous injuries. Terrorism and mass violence may place people at risk for significant physical and long-term psychological injuries. Like other victims of violent crime, victims of terrorism and mass violence need help in dealing with the crisis created by the event, in stabilizing their lives, and in understanding and participating in the criminal justice process—whether there is an arrest and trial soon after the criminal act or an arrest and trial are delayed for years.

International terrorist attacks can involve victims and survivors from many different countries and different states within the United States, and in foreign countries. The local government infrastructure and resources of non-government organizations vary considerably in foreign countries. Thus, the ability to respond to a terrorist or mass violence incident and to provide crisis intervention and services to victims abroad also varies. In addition, care givers are sometimes unable to intervene effectively due to language, legal, or cultural barriers. The efforts, services, or benefits of several federal agencies and programs, as well as state victim assistance programs and non-government organizations may be involved and must be coordinated. Further, victims abroad may need services or incur expenses that are not traditionally provided by states or the Federal Government. OVC works with federal, state, and local agencies as well

as international organizations to establish comprehensive, appropriate, and consistent services for these victims when terrorism and mass violence occur outside of the United States.

### C. Support for Pre-Crisis Planning

OVC strongly supports pre-crisis planning as a means of assuring that jurisdictions have identified key personnel, available resources, and necessary protocols required for a comprehensive and effective response to criminal mass casualty crimes. OVC has supported several initiatives to assist interested jurisdictions with pre-crisis planning efforts. These initiatives include: promoting the development of community-based, multi-disciplinary, interagency assessment and planning processes for responding to cases of terrorism and mass violence; the design, development and implementation of long-range plans for establishing formal collaborative efforts involving victim service providers, law enforcement, fire and rescue, and other emergency response agencies; the use of self-assessment and planning tools, protocols for coordination and collaboration of victim services; the integration of victim services into incident command structures; and training for crisis response implementation teams to help with problem-solving, working cooperatively in a multi-disciplinary environment, designing and developing of interagency protocols, and skill-based training to allow teams to work together.

OVC has also supported the examination of materials and protocols to address the immediate and longer-term mental health needs of victims of terrorism and mass violence; the preparation of materials for federal law enforcement to assist victims of domestic and international terrorism and mass violence; the development of training and technical assistance to federal law enforcement on mental health care needs of victims, techniques to assist federal law enforcement in coordinating its crisis response role with state and local agencies and community service organizations; and the development of partnerships between mental health and victim assistance disciplines at the state and local levels. Although funding available under these final Guidelines is intended to assist jurisdictions in the aftermath of a terrorist event or mass violence incident, other resources and assistance are available from OVC to assist with pre-crisis planning.

Jurisdictions interested in crisis response planning are encouraged to contact OVC for more information about

these initiatives and other resources available to assist with their efforts.

### D. Action To Address Terrorism and Mass Violence

Following the bombing of the federal office building in Oklahoma City on April 19, 1995, Congress took a number of legislative steps to authorize funding and activities to assist the bombing victims. First, they passed legislation authorizing the Director of OVC to set aside monies in an Antiterrorism and Emergency Reserve account and to make funds available to provide assistance and compensation to the victims of the bombing, to facilitate their observation and attendance in trial proceedings, and for other related expenses. Congress also amended the VOCA of 1984 [42 U.S.C. § 10603b] to provide general authority to the OVC Director to respond to other incidents of terrorism or mass violence within the United States and abroad. OVC has used the Antiterrorism and Emergency Reserve to provide funding to support the victims of the Oklahoma City bombing, the bombing of Pan Am Flight 103, the bombing of the U.S. Embassies in Kenya and Tanzania, and two cases of mass violence—the school shootings in Oregon and Colorado. Most recently this account has been used to support the federal, state, and local responses to the terrorist attacks of September 11, 2001.

In the second session of the 106th Congress, the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. 106–386) was enacted. This law provides aid for victims of terrorism and expanded OVC's authority to respond to incidents of terrorism and mass violence outside the United States. Congress authorized the OVC Director: to deposit deobligated dollars from other funded program areas into the Emergency Reserve; to expand the list of eligible applicants for assistance funding in cases of terrorism outside the United States to include victim service organizations, public agencies (including federal, state, or local governments), and non-governmental organizations that provide assistance to victims of crime; and to establish a program to compensate victims of acts of international terrorism that occur outside the United States. The USA PATRIOT Act of 2001 expanded the list of eligible recipients for funding in cases of terrorism within the United States to not only include eligible state crime victim compensation and assistance programs, but also victim service organizations, public agencies—federal, state, and local governments, and non-governmental organizations that provide assistance to victims.

### E. Role of the Federal Government

In recent years, the Federal Government has been called upon to play a larger role in mitigating and responding to all types of human-caused violent events and disasters. The federal responsibility ranges from immediate disaster relief to subsequent assistance that helps victims and communities to recover from a terrorist act or mass violence incident, and to help victims participate effectively in the criminal justice process. In cases of terrorism and mass violence within the United States where requests for funding for mental health services are made, OVC may work in tandem with the Emergency Services and Disaster Relief Branch at the Center for Mental Health Services, Substance Abuse and Mental Health Services Administration (SAMHSA). Moreover, because terrorist acts are primarily federal crimes, investigated and prosecuted by federal law enforcement officials, components of the Department of Justice engaged in criminal investigative, prosecution, or correction functions have responsibilities under the *Attorney General Guidelines for Victim and Witness Assistance* related to victims' rights and services.

### F. Role of State Governments

State Crime Victim Compensation Programs reimburse crime victims for out-of-pocket expenses related to their victimization such as medical expenses, mental health counseling, funeral and burial costs, and lost wages. State agencies fund a wide variety of direct assistance to victims of federal and state crimes such as crisis counseling, temporary shelter, and criminal justice advocacy. OVC works in concert with these programs to maximize the limited funding available to assist crime victims and facilitate coordination among the various responding agencies including federal law enforcement and prosecution-based victim and witness assistance staff.

### G. Role of Other Public and Private Entities

Public and private sector organizations have a unique role in meeting the needs of crime victims through their various mandates and programs. Organizations like the United Way, the American Red Cross, and others offer important large-scale response to communities victimized by crime. In addition, community-based, nonprofit victim assistance programs provide a wide range of vital services to victims of crime that complement

assistance available from other public and private agencies.

### III. Statutory Language and Definitions for This Program

#### A. Victims of Crime Act and Amendments

The Antiterrorism and Effective Death Penalty Act of 1996 gave OVC the authority to establish and access the Emergency Reserve account in terrorism and mass violence cases. The Act amended the VOCA adding a new provision, 42 U.S.C. 10603b, which covers terrorism or mass violence occurring either within or outside the United States. The Victims of Trafficking and Violence Protection Act of 2000 expanded OVC's authority under 42 U.S.C. 10603b(a) to authorize the OVC Director to provide comprehensive and timely assistance to victims of terrorism occurring outside the United States. The USA PATRIOT Act of 2001 (Pub. L. 107-56) established a definition of "domestic terrorism," expanded the list of eligible applicants for funding in cases of "domestic terrorism," established a new cap on the amount of money the OVC Director can set aside to assist victims of terrorism and mass violence, and re-titled the name of the account in which funding is set aside for these purposes as the Emergency Reserve. It also authorized the transfer of money into this account from the emergency supplemental appropriation for the September 11th attacks on America, specifically to support services for the victims and surviving family members of this terrorist attack.

OVC may provide funding for emergency relief to benefit victims, including crisis response efforts, assistance, training, and technical assistance, and on-going assistance including during any investigation or prosecution. Such funding may be provided to states, victim service organizations, public agencies (including federal, state, or local governments), and non-governmental organizations that provide assistance to victims of crime.

In cases of terrorism or mass violence occurring within the United States, 42 U.S.C. 10603b(b) authorizes OVC to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance for the benefit of victims of terrorist acts or mass violence. Funding may be awarded to eligible state crime victim compensation and assistance programs, victim service organizations, public agencies—federal, state, and local governments, and non-governmental

organizations that provide assistance to victims.

#### B. Definitions

##### 1. Terrorism Occurring Within the United States

For the purposes of the Antiterrorism and Emergency Assistance Program, "terrorism occurring within the United States" is defined by the term "domestic terrorism" found in 18 U.S.C. 2331, as amended. (As of the publication of these Guidelines, 18 U.S.C. 2331 reads as follows: "domestic terrorism" means activities that—(A) Involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, (B) appear to be intended—(i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination or kidnaping; and (c) occur primarily within the territorial jurisdiction of the United States." (18 U.S.C. 2331).

##### 2. Terrorism Occurring Outside the United States

"Terrorism occurring outside the United States" is defined by the term "international terrorism" found in 18 U.S.C. § 2331, as amended. (As of the publication of these Guidelines, 18 U.S.C. § 2331 reads as follows: "The term 'international terrorism' means activities that—(A) Involve violent acts or acts dangerous to human life that are 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 of any State; (B) appear to be intended—(i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination or kidnaping; and (C) 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)).

##### 3. Mass Violence Occurring Within or Outside the United States

The term "mass violence" is not defined in VOCA or 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" herein

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 as determined by the OVC Director.

##### 4. Emergency Relief

"Emergency relief" means those activities intended to address a need which, if left unattended, may result in significant consequences for victims. *Emergency relief* may include assistance required immediately following the crime as well as activities needed during the investigation and prosecution of an act of terrorism or mass violence.

##### 5. Supplantation

"Supplantation" means to deliberately reduce state or local funds because of the availability of federal funds. For example, when state funds are appropriated for a stated purpose and federal funds are awarded for that same purpose, the state replaces its state funds with federal funds, thereby reducing the total amount available for the stated purpose (See OJP Financial Guide available on the OJP homepage at [www.ojp.usdoj.gov/](http://www.ojp.usdoj.gov/)).

##### 6. In-Kind Support/Contribution

"In-kind support/contribution" includes, but is not limited to, the valuation of in-kind services. "In-kind" is the value of something received or provided that does not have a cost associated with it. For example, if an in-kind match is permitted by law (other than cash payments), then the value of donated services could be used to comply with the match requirement. (OJP Financial Guide).

**Note:** No specific matching percentage or dollar amount has been established for this program. However, non-federal contributions (cash or in-kind) are expected from the applicant.

##### 7. Crisis Counseling

"Crisis counseling" means the application of individual and group treatment procedures that are designed to ameliorate mental and emotional crises and any resulting psychological and behavioral conditions stemming from a major disaster or its aftermath.

##### 8. Mental Health Counseling and Care

"Mental health counseling and care" means the assessment, diagnosis, and treatment of an individual's mental and

emotional functioning. Mental health counseling and care must be provided by a person, or under the supervision of a person, who meets state standards to provide these services.

#### 9. Undue Financial Hardship

“Undue financial hardship” is one basis upon which OVC will make funding determinations. For the purpose of these final Guidelines, “*undue financial hardship*” means the unanticipated allocation of substantial financial resources that adversely affect the ability to fund general services for victims.

#### 10. Property Damage

“Property damage” is damage to material goods, but does not include damage to prosthetic devices, eyeglasses, other corrective lenses, dental devices, or other medically-related devices. “Property loss” is destruction of material goods or the physical loss of money, stocks, bonds, etc.

#### 11. Victim (International)

In cases of international terrorism and mass violence, the term “victim” has the same meaning as “victim” in 42 U.S.C. § 10603b, as amended, (As of the publication of these Guidelines, 42 U.S.C. 10603b reads as follows: “the term “victim”—(A) means a person who is a national of the United States or an officer or an employee of the United States Government who is injured or killed as a result of a terrorist act or mass violence occurring outside the United States; and (B) in the case of a person \* \* \* who is less than 18 years of age, incompetent, incapacitated, or deceased, includes a family member or legal guardian of that person.” [42 U.S.C. § 10603b]), except that (a) it also includes individuals who are likely to suffer traumatic effects of the incident, for example people in direct proximity to the crime and emergency responders; and (b) notwithstanding any other provision hereof, in no event shall an individual who is criminally culpable for the terrorist act or mass violence receive any assistance under this section, either directly or on behalf of a victim.

#### 12. Victim (Domestic)

In cases of terrorism and mass violence within the United States, the term “victim” has the same meaning as “victim” in 42 USCA 10603c, as amended. (As of the publication of these Guidelines, 42 U.S.C. 10603c defines “victim” as a person who has suffered direct physical or emotional harm as a result of the commission of a crime.)

Because of the nature of terrorist incidents, the term victim will also include individuals who are likely to suffer traumatic effects of the incident, for example people in direct proximity to the crime and emergency responders. In addition, OVC requires that consistent with other portions of VOCA, no individual who is criminally culpable for the terrorist act or mass violence may receive either assistance or compensation either directly or on behalf of a victim.

#### 13. National of the United States

The term “national of the United States” is defined by the term “national of the United States” found in section 101(a) of the Immigration and Nationality Act, 8 U.S.C. 1101(a), as amended. (As of the publication of these Guidelines, 8 U.S.C. 1101 reads as follows: “national of the United States” means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.” [8 U.S.C. 1101]) A “person who owes permanent allegiance to the United States” includes residents of the American Samoa and Swain Island, outlying possessions of the United States, who have not been granted the privilege of citizenship.

#### 14. Grant

The term “grant” means an award of federal funds to states, units of local government, or private organizations at the discretion of the awarding agency or on the basis of a formula. Grants are used to support a public purpose. Under these final Guidelines, VOCA victim assistance and compensation programs and other state and local governmental agencies will be awarded funds in the form of a grant.

#### 15. Reimbursable Agreement

The term “reimbursable agreement” means a written instrument of agreement for services or goods made between the Office of Justice Programs (OJP) or one of its bureaus or offices and another federal agency or a state or local government agency. Each Reimbursable Agreement entered into by an OJP bureau/office to reimburse another agency will result in the establishment of an obligation. Such funding arrangements are negotiated by the entities involved. Under these final Guidelines, the transfer of funds to federal agencies will be in the form of a reimbursable agreement.

#### 16. Cooperative Agreement

The term “cooperative agreement” means an award to states, units of local

government or private organizations at the discretion of the awarding agency. Cooperative agreements are utilized when substantial involvement is anticipated between the awarding agency and the recipient during the performance of the contemplated activity. Under these final Guidelines, funding awarded to nonprofit organizations will be made in the form of a cooperative agreement.

#### 17. Foreign Power

- (a) “Foreign power” means—
- (1) A foreign government or any component thereof, whether or not recognized by the United States;
  - (2) Faction of a foreign nation or nations, not substantially composed of United States persons;
  - (3) An entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;
  - (4) A group engaged in international terrorism or activities in preparation thereof;
  - (5) A foreign-based political organization, not substantially composed of United States persons; or
  - (6) An entity that is directed and controlled by a foreign government or governments. (See 50 U.S.C. § 1801(a).)

### IV. Source of Funding

#### A. Crime Victims Fund

A major responsibility of OVC is to administer the Crime Victims Fund, which is derived, not from tax dollars, but from fines and penalties paid by federal criminal offenders, and gifts, donations, and bequests from private entities or individuals. A large percentage of the money collected each year is distributed to states to assist in funding their victim assistance and compensation programs. These programs are the lifeline services that help many victims to cope with the devastation of crime. The Fund also supports OVC’s training, technical assistance and demonstration efforts, direct services to victims of federal crime, program evaluation and compliance efforts, and fellowships and clinical internships.

#### B. Antiterrorism Emergency Reserve

The OVC Director is authorized to hold certain amounts from of the Crime Victims Fund in reserve for three purposes—(i) To support compensation and assistance services for victims of domestic terrorism or mass violence, (ii) to support assistance services to victims of international terrorism, and (iii) to fund directly an International Terrorism

Victim Compensation Program. Thus far this money has been used to assist the victims of the September 11, 2001 terrorist attacks on America, Oklahoma City bombing, the East Africa embassy bombings, Pan Am Flight 103 bombing, and school shootings in Oregon and Colorado. In the September 11th attacks on America, and the Oklahoma City and Pan Am Flight 103 bombing cases, Congress enacted special legislation that expanded OVC's authority to fund activities beyond the parameters of its previous governing statute.

#### V. Types of Assistance

There are five types of support available from OVC to respond to terrorism and mass violence: (a) Crisis response grants; (b) consequence management grants; (c) criminal justice support grants; (d) compensation grants; and e) technical assistance/training services. Jurisdictions are not limited to receiving only one type of assistance. Funding and other assistance may be provided for an extended period of time if a justification is provided by the applicant. The established time frames for funding are flexible and not intended to prohibit the submission of applications at a different time, if warranted.

Justification for an extension must meet the "emergency relief" requirement, as determined by the OVC Director and the Office of General Counsel. Funding may be provided for each type of assistance available; however, coordination among the applicants is expected and a separate application must be submitted for each. OVC does not provide funding directly to individual crime victims, except compensation benefits to qualified applicants in the case of international terrorism.

**A. Crisis Response Grants** (*emergency/short-term, up to 9 months*) are designed to provide resources to help victims rebuild adaptive capacities, decrease stressors, and to reduce symptoms of trauma immediately following the terrorism or mass violence event. Requests for *crisis response funding* must be made as soon as practicable following the terrorism or mass violence event.

**B. Consequence Management Grants** (*on-going/longer-term, up to 18 months*) are designed to provide supplemental resources to help victims adapt to the trauma event and to restore victims' sense of equilibrium.

**C. Criminal Justice Support Grants** (*on-going/longer-term, up to 36 months*) are designed to facilitate victim participation in an investigation or prosecution directly related to the

terrorist and mass violence event. The nature of the support being requested is a factor in determining the amount as well as the extent to which the response involves activities that will result in permanent improvements in how victims access and participate in criminal justice proceedings such as the development of protocols and systems to enhance victim notification.

**Note:** It is within the OVC Director's authority to approve or deny requests for support for subsequent or parallel state criminal investigations and prosecutions.

**D. Crime Victim Compensation Grants** are designed to provide supplemental funding to a state crime victim compensation program that reimburses victims for out-of-pocket expenses related to their victimization in cases of terrorism or mass violence occurring within the United States. Grant funds may be used to pay claims to victims for costs that include, but are not limited to, medical and mental health counseling costs, funeral and burial costs, and lost wages. (See Section VI for other allowable activities and costs.) Emergency Reserve funds may not be used to cover property damage or property loss. (See "Definitions" section of these Guidelines.) OVC may provide funding to other organizations to cover expenses not traditionally covered by state crime victim compensation programs. OVC will coordinate such awards with state crime victim compensation programs.

In the event that a state recovers expenses on behalf of a victim from a collateral source, the amount recovered must be used either (1) to assist other victims of the same crime for which funds were awarded, or (2) returned to OVC and deobligated in accordance with the applicable provisions of the *OJP Financial Guide* and Section 1402(e) of VOCA.

**E. Request for Training and Technical Assistance.** A request for training or technical assistance may be made any time during the aftermath of a terrorism or mass violence event and during the criminal justice investigation or prosecution. Technical assistance is principally available to help federal, state, and local authorities identify victim needs and needed resources, to coordinate services to victims, to develop short- and longer-term strategies for responding, and for other purposes deemed appropriate by the OVC Director. While no direct funding is available, OVC may use the Emergency Reserve to support the expenses of experts to meet the training and technical assistance needs of applicants.

#### VI. Allowable Activities and Costs

The range of services that OVC will support for victims of terrorism and mass violence is outlined in this section. Allowable expenses are based, in part, on activities authorized in guidelines established for OVC's Federal Emergency Assistance Fund and VOCA Victim Assistance and Compensation Program Guidelines. In addition, OVC has relied upon the requirements of the *Attorney General Guidelines for Victim and Witness Assistance* to afford rights and provide services to federal crime victims to guide the development of these final Guidelines.

Services identified in these final Guidelines are intended to complement services that are available from other agencies and organizations. Funding is expected to support a "base" level of assistance to the victims of the terrorism or mass violence event. Funding may be used to support activities that are deemed necessary and essential to the provision of services, including a limited amount, as agreed upon by OVC and the applicant, for administrative purposes. These services include but are not limited to the following:

##### A. Crisis Response Assistance

Assistance securing compensation  
Automated informational telephone services  
Child and dependent care  
Coordination  
Crisis counseling  
Emergency food, housing, and clothing  
Emergency travel and transportation  
Employer and creditor intervention  
Outreach, awareness, and education  
Toll-free telephone lines  
Victim/Community needs assessment (limited)

##### B. Consequence Management Assistance

Counseling and group therapy  
Case management  
Employer and creditor intervention  
Victim informational websites  
Rehabilitation expenses  
Vocational rehabilitation  
Temporary housing, per diem, and relocation  
Emergency travel or transportation  
Victim/Community needs assessment (expanded)  
Outreach, awareness, and education  
Automated informational telephone services  
Coordination

##### C. Criminal Justice Support Assistance

Assistance with victim impact statements  
Attorney advisor and victim advocate personnel cost  
Automated informational telephone services

Case briefings by investigators, prosecutors  
 Coordination  
 Criminal justice notification  
 Information and Referral  
 Outreach, awareness, and education  
 Support victim participation in criminal justice proceedings, e.g., travel/transportation to court or closed-circuit viewing facility, counseling, advocacy, etc.  
 Victim/Community needs assessment  
 Victim Identification  
 Victim Information (printed and electronic)

*D. Crime Victim Compensation (in cases of domestic terrorism)*

Autopsy, refrigeration, and transport of body  
 Coordination  
 Co-payments required by insurance programs  
 Emergency travel and/or transportation costs  
 Long-distance telephone costs to contact family members  
 Medical expenses including non-medical attendant services, rehabilitation and physical therapy diagnostic examinations, prosthetic devices, eyeglasses  
 Outpatient mental health treatment/therapy  
 Outreach, awareness, and education  
**Note:** Allowable activities in one category may be necessary and authorized in another funding category.

*E. Training and Technical Assistance*

Conducting needs assessment and planning  
 Defining the mental health needs of victims  
 Identifying strategies for integrating victim assistance in the incident command structure  
 Improving coordination and collaboration between responding agencies/organizations  
 Linking mental health services and victim assistance services  
 Working cooperatively in a multi-disciplinary environment

**VII. Accessing Antiterrorism Emergency Reserve**

*A. Eligible Applicants*

Applicants eligible for funding include state victim assistance and victim compensation programs, public agencies including federal, state, and local governments, and victim service and non-governmental organizations. In cases within the United States, applications will be accepted only from the jurisdiction in which the crime occurred unless a statute establishes a

special authorization and appropriation supporting allocations to other jurisdictions, or a compelling justification can be provided to the OVC Director supporting requests from other jurisdictions.

It is the responsibility of the jurisdiction where the crime occurred to conduct the necessary outreach and make services and/or funding available to all victims of crimes which occur within their boundaries. However, if a substantial number of victims/surviving family members reside in another jurisdiction, in cases when the applicant is a state agency, the grantee may sub-award Antiterrorism Emergency Reserve dollars received from OVC to another jurisdiction/eligible state agency when doing so is an efficient and cost-effective way to provide services to victims/survivors who reside in another state.

OVC will not provide funding to a foreign power or domestic organization operated for the purpose of engaging in any significant political or lobbying activities or to individual crime victims.

The funded applicant may subcontract Antiterrorism Emergency Reserve dollars to another organization with the concurrence of OVC. Subcontracting entities must meet the eligibility criteria and abide by the statutory provisions contained in VOCA, the Antiterrorism and Effective Death Penalty Act, the Victims of Trafficking and Violence Protection Act, the USA PATRIOT Act of 2001, and the requirements set forth in these final Guidelines.

*B. Eligible Recipients of Benefits and Services*

In cases abroad, eligible recipients include victims who are nationals of the United States or an officer or employee of the United States Government as defined in section III(B), (11) of these final Guidelines. Unless otherwise indicated, these individuals are generally eligible for assistance from federally-funded victim assistance programs. In cases of terrorism and mass violence within the United States, eligible recipients of compensation and assistance include victims as defined in section III (B)(12) of these final Guidelines, including victims of other crimes where a causal relationship to the terrorist incident can be established.

*C. Coordination of Effort With Other Public and Private Entities*

No single agency can effectively respond to and meet all of the short- and longer-term needs of victims of a terrorist or mass violence incident. In most instances within the United States

the resources of multiple agencies (local, state, and federal) are involved. In developing these final Guidelines, OVC has drawn heavily upon the experiences of agencies such as the Federal Emergency Management Agency and the Center for Mental Health Services, both of which have responsibility for providing assistance to communities following disasters within the United States. OVC will work closely with applicants to ensure the most appropriate utilization of resources. Applicants should identify other public and private entities that have been consulted in the process of preparing the application and describe how the proposed services fit within the overall scheme for addressing victim needs.

OVC will consider the level of coordination and the availability of resources from other federal, state, local, and private entities in making funding determinations. Extensive coordination with agencies such as state emergency preparedness, state mental health, local chapters of the American Red Cross and the United Way, and between federal and state law enforcement and prosecutor personnel is a necessary component of an effective response to terrorism and mass violence and a criterion upon which OVC will base its funding decision.

In cases of terrorism and mass violence abroad, the short-term and subsequent responses may involve resources of numerous federal and state agencies and non-governmental organizations, depending upon the nature of the incident and location. Coordination of efforts in these cases is critical and OVC will work closely with applicants to ensure the most appropriate utilization of resources.

*D. Areas of Special Concern*

In the development of a request for assistance, the applicant must be cognizant of special concerns, such as applicable state or federal victims' rights laws and requirements, and the needs of populations that are especially vulnerable, such as children, the elderly, and people with disabilities, and people of different ethnic backgrounds.

*E. Application Process*

An application for funding should be submitted to the OVC Director as soon as appropriate following a terrorist or mass violence event by the appropriate state or federal official, or private victim service or non-governmental organization. OVC has developed an application kit for Antiterrorism and Emergency Reserve dollars. The kit is

available on the OVC Web-site at [www.ojp.usdoj.gov/ovc](http://www.ojp.usdoj.gov/ovc) at the "grants and funding" page and will be mailed or faxed to potential applicants upon request.

There are two factors that determine the application submission requirements: (1) The applicant status, i.e., government agency (federal, state, or local), non-governmental organization, or victim service organization; and (2) the type of support requested, i.e., crisis response, consequence management, criminal justice, victim compensation, and/or technical assistance (no direct funding). Application requirements are listed below.

#### Application Requirements for State Crime Victim Compensation Programs

Funding will be made available to state crime victim compensation programs in the form of a grant. Requests for funding from state crime victim compensation programs may be made at any time and should include: (1) A description of the qualifying crime; (2) the projected number of claims to be paid and the projected number of claimants to receive payments; (3) the state's maximum award amount by category, e.g., medical, mental health, loss wages, funeral, etc.; and (4) SF 424, Application for Federal Assistance and applicable assurances and forms. The request should also describe the range of expenses covered by the program and the amount of state funding available to cover victim claims.

#### Application Requirements for all Other Recipients of Funds

All other applicants seeking Emergency Reserve support are required to submit a letter of request containing the following information:

- (1) Type of crime and description of the criminal event;
- (2) Identification of the lead law enforcement agency conducting the investigation;
- (3) Estimated number of victims affected by the crime;
- (4) Description of the applicant's role in responding to the victim population since the date of the incident;
- (5) Description of services that funding will support and how these efforts will complement services in place or respond to an unmet need;
- (6) The amount of funding requested and the time frame for support; and
- (7) Description of outreach and coordination with other public and private entities in the process of preparing the request for assistance.

In addition, applicants, except federal agencies, must submit (1) SF 424, Application for Federal Funding and applicable assurances and forms; and (2) Budget and budget narrative including a description of all other federal and non-federal contributions (cash or in-kind).

#### To Request Training and Technical Assistance Support

Training and technical assistance may be requested by submitting a letter describing the nature of the problem; the type of expertise or assistance needed; the duration of assistance; and the projected outcomes of the technical assistance or training.

#### Application Processing and Turnaround Time

It is OVC's intention to provide rapid support to assist victims of terrorism and mass violence. Upon receipt of a letter of request and application, an OVC staff person will review the request, may contact the requesting agency to clarify any ambiguities, and make a recommendation to the OVC Director regarding the funding request in accordance with OVC's internal protocol for responding to incidents of terrorism and mass violence. The applicant can expect to receive notification regarding the determination from OVC within 5 business days. The applicant will be notified via telephone, Internet, or facsimile.

A determination by the OVC Director to make funding available will be followed by a complete review of the application including an analysis and approval of the budget by the Office of the Comptroller. Funds will be available upon completion of the review and written notification and acceptance of the award.

There is no specific due date for applications. However, the type of assistance available is subject to the time frame when the application is received, i.e., an applicant who submits a request 18 months after the catastrophic event will not be eligible to receive a "crisis response" grant.

#### H. Pre-Agreement Costs

Generally, since a community may incur substantial costs immediately following a terrorist act or mass violence event, OVC may, upon request, approve costs which were incurred prior to the start date of the award. The applicant should not assume that pre-agreement costs are covered without formal notification from OVC.

#### I. Amount of Funding Available per Incident

The amount of funding available is decided on a case-by-case basis based on factors such as the availability of other resources, the severity of the impact, and the number of people suffering from physical, emotional, or psychological injury. OVC will not provide total (100%) reimbursement to any jurisdiction or program for activities undertaken to assist victims of terrorism or mass violence. The amount of funding made available will be influenced by the availability of funding from other federal, state, local and private sources as well as support for services financed by private non-profit organizations such as the United Way, American Red Cross, and other charitable organizations in the wake of an act of terrorism or mass violence. In addition, funding amounts may be affected by the duration of the response. If amounts awarded are not expended by the end of the grant period, they must be returned to OVC for deobligation in accordance with the applicable provisions of the *OJP Financial Guide* and Section 1402(e) of VOCA.

#### J. Grant Period

The grant period for funding is negotiable within the parameters outlined in VOCA. Because of the nature of this funding program, OVC will not provide long-term funding to support a single terrorist or mass violence event, except for criminal justice support grants when an investigation and prosecution are prolonged. Specific time frames have been identified for each type of assistance. However, if special circumstances exist, funding and other assistance may be provided for an extended period of time, as determined by the OVC Director based upon justification provided by the applicant.

#### K. Requests for Reconsideration

The OVC Director may deny a request for funding, if the applicant fails to document the need for federal funds, if the purposes for which funding is being sought fall outside the statutory authority for the use of these funds, or if funding is unavailable, or for other reasons deemed appropriate by the OVC Director. Applicants may request reconsideration of the request based on additional information, changes in the circumstances, or the withdrawal or termination of funding from other sources. Requests for reconsideration should be sent to the OVC Director and should include the basis for

reconsideration of the initial request. The OVC Director will review the request and render a decision within 5 business days of the submission. The OVC Director may request additional information from the applicant or recommend alternative support from OVC such as technical assistance in lieu of direct funding.

#### L. Federal Monitoring and Oversight

Recipients of funds are subject to periodic reviews of financial and service delivery records and procedures by the Office of the Comptroller, the General Accounting Office, the DOJ Office of the Inspector General, OJP's Office of Civil Rights Compliance, or OVC. Recipients 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 program.

#### M. Suspension and Termination of Funding

If, after notice, OVC finds that the recipient has failed to comply substantially with VOCA, including its prohibitions of discrimination on the basis of race, color, religion, national origin, handicap, or sex, the *OJP Financial Guide* (effective edition), the terms outlined in the application or award document, the final Guidelines, or any implementing regulation or requirement, the OVC Director may suspend or terminate funding to the recipient agency and/or take other appropriate action. Under the procedures of 28 CFR Part 18, recipients may request a hearing on the suspension and/or termination of Emergency Reserve assistance.

#### N. Confidentiality and Privacy Requirements

Except as otherwise provided by federal law, pursuant to 42 U.S.C. 10604(d), no officer or employee of the Federal Government or recipients 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. 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. In addition to such research or statistical

information, no other records identifiable to a specific private person that are gathered by a recipient of VOCA funds for the purpose of providing victim assistance services as described in this Guideline may be released without the specific written consent of that private person, except as otherwise provided by federal law, including but not limited to Department of Justice authority to access information for auditing, monitoring, or oversight of the program. This is particularly important for victim service agencies that plan to develop victim databases containing specific victim information. These provisions are intended, among other things, to assure the confidentiality of information provided by crime victims to employees of VOCA-funded programs. There is nothing in VOCA or its legislative history to indicate that Congress intended to override or repeal, in effect, a state's existing laws governing the disclosure of information, which is supportive of VOCA's fundamental goal of helping crime victims.

### VIII. Reporting Requirements

#### A. Financial Reporting Requirements

As a condition of receiving funding, recipients must agree to comply with the general and specific requirements of the *OJP Financial Guide*, applicable Office of Management and Budget (OMB) Circulars, and Common Rules. This includes maintenance of books and records in accordance with generally-accepted government accounting principles. Copies of the *OJP Financial Guide* may be obtained by writing the Office of Justice Programs, Office of the Comptroller, 810 7th Street, NW., Washington, DC 20531 or can be accessed at the OJP Web-site at <http://www.ojp.usdoj.gov/FinGuide/>. Note: Financial Status Reports must be submitted to the Office of the Comptroller for each calendar quarter in which the grant is active. This report is due even if no obligations or expenditures were incurred during the reporting period.

#### B. Program Reporting Requirements

Recipients of Emergency Reserve dollars are required to submit semiannual and final progress reports containing the following information documenting how funds were expended to respond to terrorism and mass violence:

##### 1. Description of Services Provided

Provide a general description of the range of services provided for each type of assistance received. This should be a

narrative summation of the activities and efforts supported by Emergency Reserve dollars to include a description of coordination efforts, intra- and inter-agency protocols, new services and programs established, and other large-scale activities.

**Note:** This information will be used to assess service needs of victims and communities following a large-scale criminal disaster.

##### 2. Service Statistics

Provide detailed information on victims served, types of services rendered, number of victims assisted, amount of funding expended, purpose of each expenditure, e.g., hire staff, secure space, subcontract(s) for services (include the number of subcontracts, description of the activity subcontracted, the name of the contract recipient), conduct training, equipment, travel and transportation, etc.

**Note:** This information will be used for future revisions to these Guidelines, to inform the development of training and technical assistance by OVC, to document expenditure of funds, and to document the impact and effectiveness of the federal intervention.

##### 3. Description of Plans for Addressing Longer Term and Unmet Needs

Describe any on-going needs of the victims and community, any unmet needs, and resources available or needed to support services once these federal funds have been exhausted.

**Note:** This information will be used to assess the time frames for established types of assistance, the level of funding available from OVC, to identify additional sources of funding, and to make modifications to these Guidelines, as appropriate, to meet unmet needs.

##### 4. Evaluation/Assessment of the Effectiveness of the Response

Briefly describe findings of any assessment of the victim service strategy, victim satisfaction with services rendered, and lessons learned.

**Note:** This information will be used by OVC in planning future training and technical assistance activities, and to report to Congress on the effectiveness of interventions with victims in cases of terrorism or mass violence.

State agencies that administer the VOCA formula grants and receive Emergency Reserve dollars to respond to a case of terrorism or mass violence should report services and assistance rendered to victims on the state performance report, and provide a supplemental summary of the overall effort in accordance with section VIII(B)(1)(3)(4) above.

Dated: January 25, 2002.

**John W. Gillis,**

*Director, Office for Victims of Crime.*

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