

Subpart B—VOCA Victim Assistance Program

Sub-Recipient Program Requirements

(b) *Organizational capacity of the program.* For purposes of VOCA, at [42 U.S.C. 10603\(b\)\(1\)\(B\)](#), the following shall apply:

(1) *Record of effective services to victims of crime and support from sources other than the Crime Victims Fund.* A program has demonstrated a record of effective direct services and support from sources other than the Crime Victims Fund when, for example, it demonstrates the support and approval of its direct services by the community, its history of providing direct services in a cost-effective manner, and the breadth or depth of its financial support from sources other than the Crime Victims Fund.

(2) *Substantial financial support from sources other than the Crime Victims Fund.* A program has substantial financial support from sources other than the Crime Victims Fund when at least twenty-five percent of the program's funding in the year of, or the year preceding the award comes from such sources, which may include other federal funding programs. If the funding is non-federal (or meets the DOJ Grants Financial Guide exceptions for using federal funding for match), then a program may count the used funding to demonstrate non-VOCA substantial financial support toward its project match requirement.

[§ 94.113](#)

Use of volunteers, community efforts, compensation assistance.

(a) *Mandated use of volunteers; waiver.* Programs shall use volunteers, to the extent required by the SAA, in order to be eligible for VOCA funds. The chief executive of the State, who may act through the SAA, may waive this requirement, provided that the program submits written documentation of its efforts to recruit and maintain volunteers, or otherwise demonstrate why circumstances prohibit the use of volunteers, to the satisfaction of the chief executive.

(b) *Waiver of use of volunteers.* SAAs shall maintain documentation supporting any waiver granted under VOCA, at [42 U.S.C. 10603\(b\)\(1\)\(C\)](#), relating to the use of volunteers by programs.

(c) *Promotion of community efforts to aid crime victims.* Community served coordinated public and private efforts to aid crime victims may include, but are not limited to, serving on federal, State, local, or tribal work groups to oversee and recommend improvements to community responses to crime victims, and developing written agreements and protocols for such responses.

(d) *Assistance to victims in applying for compensation.* Assistance to potential recipients of crime victim compensation benefits (including potential recipients who are victims of

federal crime) in applying for such benefits may include, but are not limited to, referring such potential recipients to an organization that can so assist, identifying crime victims and advising them of the availability of such benefits, assisting such potential recipients with application forms and procedures, obtaining necessary documentation, monitoring claim status, and intervening on behalf of such potential recipients with the crime victims' compensation program.

§ 94.114

Prohibited discrimination.

(a) The VOCA non-discrimination provisions specified at [42 U.S.C. 10604\(e\)](#) shall be implemented in accordance with [28 CFR part 42](#).

(b) In complying with VOCA, at [42 U.S.C. 10604\(e\)](#), as implemented by [28 CFR part 42](#), SAAs and sub-recipients shall comply with such guidance as may be issued from time to time by the Office for Civil Rights within the Office of Justice Programs.

§ 94.115

Non-disclosure of confidential or private information.

(a) *Confidentiality.* SAAs and sub-recipients of VOCA funds shall, to the extent permitted by law, reasonably protect the confidentiality and privacy of persons receiving services under this program and shall not disclose, reveal, or release, except pursuant to paragraphs (b) and (c) of this section—

(1) Any personally identifying information or individual information collected in connection with VOCA-funded services requested, utilized, or denied, regardless of whether such information has been encoded, encrypted, hashed, or otherwise protected; or

(2) Individual client information, without the informed, written, reasonably time-limited consent of the person about whom information is sought, except that consent for release may not be given by the abuser of a minor, incapacitated person, or the abuser of the other parent of the minor. If a minor or a person with a legally appointed guardian is permitted by law to receive services without a parent's (or the guardian's) consent, the minor or person with a guardian may consent to release of information without additional consent from the parent or guardian.

(b) *Release.* If release of information described in paragraph (a)(2) of this section is compelled by statutory or court mandate, SAAs or sub-recipients of VOCA funds shall make reasonable attempts to provide notice to victims affected by the disclosure of the information, and take reasonable steps necessary to protect the privacy and safety of the persons affected by the release of the information.

(c) *Information sharing.* SAAs and sub-recipients may share—

(1) Non-personally identifying data in the aggregate regarding services to their clients and non-personally identifying demographic information in order to comply with reporting, evaluation, or data collection requirements;

(2) Court-generated information and law-enforcement-generated information contained in secure governmental registries for protection order enforcement purposes; and

(3) Law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.

(d) *Personally identifying information.* In no circumstances may—

(1) A crime victim be required to provide a consent to release personally identifying information as a condition of eligibility for VOCA-funded services;

(2) Any personally identifying information be shared in order to comply with reporting, evaluation, or data-collection requirements of any program;

(e) *Mandatory reporting.* Nothing in this section prohibits compliance with legally mandated reporting of abuse or neglect.

Sub-Recipient Project Requirements

§ 94.116

Purpose of VOCA-funded projects.

VOCA funds shall be available to sub-recipients only to provide direct services and supporting and administrative activities as set out in this subpart. SAAs shall ensure that VOCA sub-recipients obligate and expend funds in accordance with VOCA and this subpart. Sub-recipients must provide services to victims of federal crimes on the same basis as to victims of crimes under State or local law. Sub-recipients may provide direct services regardless of a victim's participation in the criminal justice process. Victim eligibility under this program for direct services is not dependent on the victim's immigration status.

§ 94.117

Cost of services; sub-recipient program income.

(a) *Cost of services.* Sub-recipients shall provide VOCA-funded direct services at no charge, unless the SAA grants a waiver allowing the sub-recipient to generate program income by charging for services. Program income, where allowed, shall be subject to federal grant rules and the requirements of the DOJ Grants Financial Guide, which, as of July 8, 2016, require in most cases that any program income be restricted to the same uses as the sub-award funds and expended during the grant period in which it is generated.

(b) *Considerations for waiver.* In determining whether to grant a waiver under this section, the SAA should consider whether charging victims for services is consistent with the project's victim assistance objectives and whether the sub-recipient is capable of effectively tracking program income in accordance with financial accounting requirements.

§ 94.118

Project match requirements.

(a) *Project match amount.* Sub-recipients shall contribute (*i.e.*, match) not less than twenty percent (cash or in-kind) of the total cost of each project, except as provided in paragraph (b) of this section.

(b) *Exceptions to project match requirement.* The following are not subject to the requirement set forth in paragraph (a) of this section:

(1) Sub-recipients that are federally-recognized American Indian or Alaska Native tribes, or projects that operate on tribal lands;

(2) Sub-recipients that are territories or possessions of the United States (except for the Commonwealth of Puerto Rico), or projects that operate therein; and

(3) Sub-recipients other than those described in paragraphs (b)(1) and (2) of this section, that have applied (through their SAAs) for, and been granted, a full or partial waiver from the Director. Waiver requests must be supported by the SAA and justified in writing. Waivers are entirely at the Director's discretion, but the Director typically considers factors such as local resources, annual budget changes, past ability to provide match, and whether the funding is for new or additional activities requiring additional match versus continuing activities where match is already provided.

(c) *Sources of project match.* Contributions under paragraph (a) of this section shall be derived from non-federal sources, except as may be provided in the DOJ Grants Financial Guide, and may include, but are not limited to, the following:

(1) *Cash; i.e.,* the value of direct funding for the project;

(2) *Volunteered professional or personal services,* the value placed on which shall be consistent with the rate of compensation (which may include fringe benefits) paid for similar work in the program, but if the similar work is not performed in the program, the rate of compensation shall be consistent with the rate found in the labor market in which the program competes;

(3) *Materials/Equipment,* but the value placed on lent or donated equipment shall not exceed its fair market value;

(4) *Space and facilities,* the value placed on which shall not exceed the fair rental value of comparable space and facilities as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality; and

(5) *Non-VOCA funded victim assistance activities,* including but not limited to, performing direct service, coordinating, or supervising those services, training victim assistance providers, or advocating for victims.

(d) *Discounts.* Any reduction or discount provided to the sub-recipient shall be valued as the difference between what the sub-recipient paid and what the provider's nominal or fair market value is for the good or service.

(e) *Use of project match.* Contributions under paragraph (a) of this section are restricted to the same uses, and timing deadlines for obligation and expenditure, as the project's VOCA funding.

(f) *Recordkeeping for project match.* Each sub-recipient shall maintain records that clearly show the source and amount of the contributions under paragraph (a) of this section, and period of time for which such contributions were allocated. The basis for

determining the value of personal services, materials, equipment, and space and facilities shall be documented. Volunteer services shall be substantiated by the same methods used by the sub-recipient for its paid employees (generally, this should include timesheets substantiating time worked on the project).

Sub-Recipient Allowable/Unallowable Costs

§ 94.119

Allowable direct service costs.

Direct services for which VOCA funds may be used include, but are not limited to, the following:

(a) *Immediate emotional, psychological, and physical health and safety*—Services that respond to immediate needs (other than medical care, except as allowed under paragraph (a)(9) of this section) of crime victims, including, but not limited to:

- (1) Crisis intervention services;
- (2) Accompanying victims to hospitals for medical examinations;
- (3) Hotline counseling;
- (4) Safety planning;
- (5) Emergency food, shelter, clothing, and transportation;
- (6) Short-term (up to 45 days) in-home care and supervision services for children and adults who remain in their own homes when the offender/caregiver is removed;
- (7) Short-term (up to 45 days) nursing-home, adult foster care, or group-home placement for adults for whom no other safe, short-term residence is available;
- (8) Window, door, or lock replacement or repair, and other repairs necessary to ensure a victim's safety;
- (9) Costs of the following, on an emergency basis (*i.e.*, when the State's compensation program, the victim's (or in the case of a minor child, the victim's parent's or guardian's) health insurance plan, Medicaid, or other health care funding source, is not reasonably expected to be available quickly enough to meet the emergency needs of a victim (typically within 48 hours of the crime): Non-prescription and prescription medicine, prophylactic or other treatment to prevent HIV/AIDS infection or other infectious disease, durable medical equipment (such as wheel-chairs, crutches, hearing aids, eyeglasses), and other healthcare items are allowed; and
- (10) Emergency legal assistance, such as for filing for restraining or protective orders, and obtaining emergency custody orders and visitation rights;

(b) *Personal advocacy and emotional support*—Personal advocacy and emotional support, including, but not limited to:

- (1) Working with a victim to assess the impact of the crime;

- (2) Identification of victim's needs;
 - (3) Case management;
 - (4) Management of practical problems created by the victimization;
 - (5) Identification of resources available to the victim;
 - (6) Provision of information, referrals, advocacy, and follow-up contact for continued services, as needed; and
 - (7) Traditional, cultural, and/or alternative therapy/healing (e.g., art therapy, yoga);
- (c) *Mental health counseling and care*—Mental health counseling and care, including, but not limited to, out-patient therapy/counseling (including, but not limited to, substance-abuse treatment so long as the treatment is directly related to the victimization) provided by a person who meets professional standards to provide these services in the jurisdiction in which the care is administered;
- (d) *Peer-support*—Peer-support, including, but not limited to, activities that provide opportunities for victims to meet other victims, share experiences, and provide self-help, information, and emotional support;
- (e) *Facilitation of participation in criminal justice and other public proceedings arising from the crime*—The provision of services and payment of costs that help victims participate in the criminal justice system and in other public proceedings arising from the crime (e.g., juvenile justice hearings, civil commitment proceedings), including, but not limited to:—
- (1) Advocacy on behalf of a victim;
 - (2) Accompanying a victim to offices and court;
 - (3) Transportation, meals, and lodging to allow a victim who is not a witness to participate in a proceeding;
 - (4) Interpreting for a non-witness victim who is deaf or hard of hearing, or with limited English proficiency;
 - (5) Providing child care and respite care to enable a victim who is a caregiver to attend activities related to the proceeding;
 - (6) Notification to victims regarding key proceeding dates (e.g., trial dates, case disposition, incarceration, and parole hearings);
 - (7) Assistance with Victim Impact Statements;
 - (8) Assistance in recovering property that was retained as evidence; and
 - (9) Assistance with restitution advocacy on behalf of crime victims.
- (f) *Legal assistance*—Legal assistance services (including, but not limited to, Start Printed Page 44534those provided on an emergency basis), where reasonable and where the need for such services arises as a direct result of the victimization. Such services include, but are not limited to:

(1) Those (other than criminal defense) that help victims assert their rights as victims in a criminal proceeding directly related to the victimization, or otherwise protect their safety, privacy, or other interests as victims in such a proceeding;

(2) Motions to vacate or expunge a conviction, or similar actions, where the jurisdiction permits such a legal action based on a person's being a crime victim; and

(3) Those actions (other than tort actions) that, in the civil context, are reasonably necessary as a direct result of the victimization;

(g) *Forensic medical evidence collection examinations*—Forensic medical evidence collection examinations for victims to the extent that other funding sources such as State appropriations are insufficient. Forensic medical evidence collection examiners are encouraged to follow relevant guidelines or protocols issued by the State or local jurisdiction. Sub-recipients are encouraged to provide appropriate crisis counseling and/or other types of victim services that are offered to the victim in conjunction with the examination. Sub-recipients are also encouraged to use specially trained examiners such as Sexual Assault Nurse Examiners;

(h) *Forensic interviews*—Forensic interviews, with the following parameters:

(1) Results of the interview will be used not only for law enforcement and prosecution purposes, but also for identification of needs such as social services, personal advocacy, case management, substance abuse treatment, and mental health services;

(2) Interviews are conducted in the context of a multi-disciplinary investigation and diagnostic team, or in a specialized setting such as a child advocacy center; and

(3) The interviewer is trained to conduct forensic interviews appropriate to the developmental age and abilities of children, or the developmental, cognitive, and physical or communication disabilities presented by adults.

(i) *Transportation*—Transportation of victims to receive services and to participate in criminal justice proceedings;

(j) *Public awareness*—Public awareness and education presentations (including, but not limited to, the development of presentation materials, brochures, newspaper notices, and public service announcements) in schools, community centers, and other public forums that are designed to inform crime victims of specific rights and services and provide them with (or refer them to) services and assistance.

(k) *Transitional housing*—Subject to any restrictions on amount, length of time, and eligible crimes, set by the SAA, transitional housing for victims (generally, those who have a particular need for such housing, and who cannot safely return to their previous housing, due to the circumstances of their victimization), including, but not limited to, travel, rental assistance, security deposits, utilities, and other costs incidental to the relocation to such housing, as well as voluntary support services such as childcare and counseling; and

(l) *Relocation*—Subject to any restrictions on amount, length of time, and eligible crimes, set by the SAA, relocation of victims (generally, where necessary for the safety

and well-being of a victim), including, but not limited to, reasonable moving expenses, security deposits on housing, rental expenses, and utility startup costs.

§ 94.120

Allowable costs for activities supporting direct services.

Supporting activities for which VOCA funds may be used include, but are not limited to, the following:

(a) *Coordination of activities*—Coordination activities that facilitate the provision of direct services, include, but are not limited to, State-wide coordination of victim notification systems, crisis response teams, multi-disciplinary teams, coalitions to support and assist victims, and other such programs, and salaries and expenses of such coordinators;

(b) *Supervision of direct service providers*—Payment of salaries and expenses of supervisory staff in a project, when the SAA determines that such staff are necessary and effectively facilitate the provision of direct services;

(c) *Multi-system, interagency, multi-disciplinary response to crime victim needs*—Activities that support a coordinated and comprehensive response to crime victims needs by direct service providers, including, but not limited to, payment of salaries and expenses of direct service staff serving on child and adult abuse multi-disciplinary investigation and treatment teams, coordination with federal agencies to provide services to victims of federal crimes and/or participation on Statewide or other task forces, work groups, and committees to develop protocols, interagency, and other working agreements;

(d) *Contracts for professional services*—Contracting for specialized professional services (e.g., psychological/psychiatric consultation, legal services, interpreters), at a rate not to exceed a reasonable market rate, that are not available within the organization;

(e) *Automated systems and technology*—Subject to the provisions of the DOJ Grants Financial Guide and government-wide grant rules relating to acquisition, use and disposition of property purchased with federal funds, procuring automated systems and technology that support delivery of direct services to victims (e.g., automated information and referral systems, email systems that allow communications among victim service providers, automated case-tracking and management systems, smartphones, computer equipment, and victim notification systems), including, but not limited to, procurement of personnel, hardware, and other items, as determined by the SAA after considering—

(1) Whether such procurement will enhance direct services;

(2) How any acquisition will be integrated into and/or enhance the program's current system;

(3) The cost of installation;

(4) The cost of training staff to use the automated systems and technology;

- (5) The ongoing operational costs, such as maintenance agreements, supplies; and
- (6) How additional costs relating to any acquisition will be supported;
- (f) *Volunteer trainings*—Activities in support of training volunteers on how to provide direct services when such services will be provided primarily by volunteers; and
- (g) *Restorative justice*—Activities in support of opportunities for crime victims to meet with perpetrators, including, but not limited to, tribal community-led meetings and peace-keeping activities, if such meetings are requested or voluntarily agreed to by the victim (who may, at any point, withdraw) and have reasonably anticipated beneficial or therapeutic value to crime victims. SAAs that plan to fund this type of service should closely review the criteria for conducting these meetings, and are encouraged to discuss proposals with OVC prior to awarding VOCA funds for this type of activity. At a minimum, the following should be considered:—
 - (1) The safety and security of the victim;Start Printed Page 44535
 - (2) The cost versus the benefit or therapeutic value to the victim;
 - (3) The procedures for ensuring that participation of the victim and offenders are voluntary and that the nature of the meeting is clear;
 - (4) The provision of appropriate support and accompaniment for the victim;
 - (5) Appropriate debriefing opportunities for the victim after the meeting; and
 - (6) The credentials of the facilitators.

§ 94.121

Allowable sub-recipient administrative costs.

Administrative costs for which VOCA funds may be used by sub-recipients include, but are not limited to, the following:

- (a) *Personnel costs*—Personnel costs that are directly related to providing direct services and supporting activities, such as staff and coordinator salaries expenses (including fringe benefits), and a prorated share of liability insurance;
- (b) *Skills training for staff*—Training exclusively for developing the skills of direct service providers, including paid staff and volunteers (both VOCA-funded and not), so that they are better able to offer quality direct services, including, but not limited to, manuals, books, videoconferencing, electronic training resources, and other materials and resources relating to such training.
- (c) *Training-related travel*—Training-related costs such as travel (in-State, regional, and national), meals, lodging, and registration fees for paid direct-service staff (both VOCA-funded and not);
- (d) *Organizational Expenses*—Organizational expenses that are necessary and essential to providing direct services and other allowable victim services, including, but not limited to, the prorated costs of rent; utilities; local travel expenses for service providers; and required minor building adaptations necessary to meet the Department of

Justice standards implementing the Americans with Disabilities Act and/or modifications that would improve the program's ability to provide services to victims;

(e) *Equipment and furniture*—Expenses of procuring furniture and equipment that facilitate the delivery of direct services (e.g., mobile communication devices, telephones, braille and TTY/TDD equipment, computers and printers, beepers, video cameras and recorders for documenting and reviewing interviews with children, two-way mirrors, colposcopes, digital cameras, and equipment and furniture for shelters, work spaces, victim waiting rooms, and children's play areas), except that the VOCA grant may be charged only the prorated share of an item that is not used exclusively for victim-related activities;

(f) *Operating costs*—Operating costs include but are not limited to—

- (1) Supplies;
- (2) Equipment use fees;
- (3) Property insurance;
- (4) Printing, photocopying, and postage;
- (5) Courier service;
- (6) Brochures that describe available services;
- (7) Books and other victim-related materials;
- (8) Computer backup files/tapes and storage;
- (9) Security systems;
- (10) Design and maintenance of Web sites and social media; and
- (11) Essential communication services, such as web hosts and mobile device services.

(g) *VOCA administrative time*—Costs of administrative time spent performing the following:

- (1) Completing VOCA-required time and attendance sheets and programmatic documentation, reports, and statistics;
- (2) Collecting and maintaining crime victims' records;
- (3) Conducting victim satisfaction surveys and needs assessments to improve victim services delivery in the project; and
- (4) Funding the prorated share of audit costs.

(h) *Leasing or purchasing vehicles*—Costs of leasing or purchasing vehicles, as determined by the SAA after considering, at a minimum, if the vehicle is essential to the provision of direct services;

(i) *Maintenance, repair, or replacement of essential items*—Costs of maintenance, repair, and replacement of items that contribute to maintenance of a healthy or safe environment for crime victims (such as a furnace in a shelter; and routine maintenance,

repair costs, and automobile insurance for leased vehicles), as determined by the SAA after considering, at a minimum, if other sources of funding are available; and

(j) *Project evaluation*—Costs of evaluations of specific projects (in order to determine their effectiveness), within the limits set by SAAs.

§ 94.122

Expressly unallowable sub-recipient costs.

Notwithstanding any other provision of this subpart, no VOCA funds may be used to fund or support the following:

(a) *Lobbying*—Lobbying or advocacy activities with respect to legislation or to administrative changes to regulations or administrative policy (*cf.* 18 U.S.C. 1913), whether conducted directly or indirectly;

(b) *Research and studies*—Research and studies, except for project evaluation under § 94.121(j);

(c) *Active investigation and prosecution of criminal activities*—The active investigation and prosecution of criminal activity, except for the provision of victim assistance services (*e.g.*, emotional support, advocacy, and legal services) to crime victims, under § 94.119, during such investigation and prosecution;

(d) *Fundraising*—Any activities related to fundraising, except for fee-based, or similar, program income authorized by the SAA under this subpart.

(e) *Capital expenses*—Capital improvements; property losses and expenses; real estate purchases; mortgage payments; and construction (except as specifically allowed elsewhere in this subpart).

(f) *Compensation for victims of crime*—Reimbursement of crime victims for expenses incurred as a result of a crime, except as otherwise allowed by other provisions of this subpart;

(g) *Medical care*—Medical care, except as otherwise allowed by other provisions of this subpart; and

(h) *Salaries and expenses of management*—Salaries, benefits, fees, furniture, equipment, and other expenses of executive directors, board members, and other administrators (except as specifically allowed elsewhere in this subpart).