

## 2015 & 2016 - Victims of Crime Act (VOCA) Special Conditions

The following program specific requirements are imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements. These requirements apply to this Agreement and must be passed on to subgrant award recipients.

### A. Standard OVP Conditions

1. **Future Funding:** The capacity for VOCA formula grant funds to provide future continuation dollars for projects is undetermined at this time. .
2. Grantee Agency shall notify the Division of Criminal Justice (DCJ) if the agency has obtained funding for a specific (CVS) funded position that totals more than 100% of the cost for that position. The agency must resolve the allocation of funds to the satisfaction of the DCJ.
3. Grantee Agency must notify DCJ immediately in writing, in the method determined by DCJ, of:
  - any CVS grant funded personnel changes;
  - any CVS grant funded position that is vacant for 45 days;
  - any change of an Official and/or employee who is listed as a responsible party on this CVS grant funded project.
4. **State Confidentiality of Victims Information:** The Grantee certifies that the signing authorities, all staff and volunteers assigned to the project have read and understand, state laws and applicable rules of professional conduct related to issues of confidentiality and privilege, particularly with respect to releasing identifying information about victims of crime, include, but not limited to, those found in C.R.S. §13-90-107.
5. **Colorado Victims Rights Act (Applies to Government Agencies only):** The Grantee Agency assures that the Grant signatories, all staff and all volunteers assigned to the funded project have read and understand the rights afforded to crime victims pursuant to §24-4.1-302.5 C.R.S., and the services delineated pursuant to §24-4.1-303 and 24-4.1-304 C.R.S., commonly known as the Victim Rights Act, and enabling legislation.

**B. Grantee Organizational Eligibility Requirements:** The Grantee will comply with the conditions of Victims of Crime Act (VOCA) of 1984, sections 1404(a)(2), and 1404(b)(1) and (2), **42 U.S.C. 10603(a)(2) and (b)(1) and (2)** (and the applicable program guidelines and regulations), as required. VOCA establishes eligibility criteria that must be met by all organizations that receive VOCA funds. These funds are to be awarded to grantees only for providing services to victims of crime through their staff. Each grantee organization shall meet the following requirements:

1. **Public or Non-profit Organization:** To be eligible to receive VOCA funds, organizations must be operated by a public or nonprofit organization, or a combination of such organizations, and provide services to crime victims.
2. **Record of Effective Services to Victims of Crime and Financial Support from Sources other than VOCA:** Demonstrate a record of providing effective services to crime victims and financial support from sources other than the VOCA fund. This includes having the support and approval of its services by the community, and having a history of providing direct services in a cost-effective manner.
3. **Substantial Financial Support from Sources Other than the Crime Victims Fund (New Programs):** Those programs that have not yet demonstrated a record of providing effective

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services to crime victims may be eligible to receive VOCA funding if it has substantial financial support from sources other than the Crime Victims Fund (VOCA). Substantial financial support is when at least 25% of the program's funding in the year of, or the year preceding the award comes from other 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 funds for match), then a program may count the used funding toward its match requirement.

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

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

- a. **Record Keeping.** VOCA grantees must maintain records that clearly show the source, the amount, and the period during which the match was allocated. The basis for determining the value of personal services, materials, equipment, and space and facilities must be documented. Volunteer services must be documented, and to the extent feasible, supported by the same methods used by the ~~subrecipient~~ grantee for its own paid employees (generally this should include timesheets substantiating time worked on the project).
  - b. **Exceptions to the Project Match Requirement:** The match requirement is waived for the following entities:
    - i. Federally Recognized Tribes or Projects that Operate on Tribal Lands
    - ii. Territories or possessions of the United States (except for the Commonwealth of Puerto Rico)
    - iii. The federal Office for Victims of Crime may waive the match requirement for other grantees if extraordinary need is documented by the State VOCA administrator. Grantees must apply to OVC (through the Office for Victims Programs) to request a match waiver.
5. **Volunteers:** The Grantee Agency must use volunteers unless the state grantee determines there is a compelling reason to waive this requirement. A "compelling reason" may be a statutory or

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contractual provision concerning liability or confidentiality of counselor/victim information, which bars using volunteers for certain positions, or the inability to recruit and maintain volunteers after a sustained and aggressive effort.

6. **Promote Community Efforts to Aid Crime Victims.** Promote, within the community, coordinated public and private efforts to aid crime victims. Coordination may include, but is not limited to, serving on state, federal, local, or Native American task forces, commissions, working groups, coalitions, and/or multi-disciplinary teams. Coordination efforts also include developing written agreements that contribute to better and more comprehensive services to crime victims. Coordination efforts qualify an organization to receive VOCA victim assistance funds, but are not activities that can be supported with VOCA funds.
7. **Help Victims Apply for Compensation Benefits.** Such assistance may include identifying and notifying crime victims of the availability of compensation, assisting them with application forms and procedures, obtaining necessary documentation, and/or checking on claim status.
8. Do Not Discriminate Against Victims because they Disagree with the way the State is Prosecuting the Criminal Case.

Revised 10/27/17:

- Section 14043g was editorially reclassified as section 12511 of Title 34, Crime Control and Law Enforcement.

### C. Other VOCA Requirements for Grantees:

1. **Comply with Federal Rules Regulating Grants.** The Grantee Agency must comply with the applicable provisions of the VOCA statute, the Program Guidelines and Rule, and the requirements of the Department Of Justice Grants Financial Guide as posted on the OJP website including any updated version that may be posted during the award period which includes maintaining appropriate programmatic and financial records that fully disclose the amount and disposition of VOCA funds received.
2. **Comply with State Criteria.** The Grantee Agency must abide by any additional eligibility or service criteria as established by the state grantee including submitting statistical and programmatic information on the use and impact of VOCA funds (including the quarterly federal PMT Subgrantee Data Report) , as requested by the State grantee.
3. **Services to Victims of Federal Crimes.** The Grantee Agency must provide services to victims of federal crimes on the same basis as victims of state/local crimes
4. **No Charge to Victims for VOCA-funded Services.** The Grantee Agency must provide services to crime victims, at no charge, through the VOCA-funded project. Any deviation from this provision requires prior approval by DCJ. Prior to authorizing grantees to generate income, OVC strongly encourages VOCA administrators to carefully weigh the following considerations regarding federal funds generating income for grantee organizations.
  - a. The purpose of the VOCA victim assistance grant program is to provide services to all crime victims regardless of their ability to pay for services rendered or availability of insurance or other third-party payment resources. Crime victims suffer tremendous emotional, physical, and financial losses. It was never the intent of VOCA to exacerbate the impact of the crime by asking the victim to pay for services.
  - b. Grantee must have the capability to track program income in accordance with federal financial accounting requirements. All VOCA-funded program income (including

match income), no matter how large or small, is restricted to the same uses as the VOCA grant and must be expended during the grant period in which it is generated.

Prior to the generation of Project Income, Grantee must obtain prior approval from DCJ.

**5. Confidentiality of Information:**

- a. VOCA grantees 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 –
  - i. 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
  - ii. 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 is described in paragraph (a)(ii) of this section is compelled by statutory or court mandate, VOCA grantees 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. Grantees may share:
  - i. 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;
  - ii. Court-generated information and law-enforcement-generated information contained in secure governmental registries for protection order enforcement purposes; and
  - iii. Law enforcement and prosecution-generated information necessary for law enforcement and prosecution purposes.
- d. Personally identifying information. In no circumstances may –
  - iv. A crime victim be required to provide a consent to release personally identifying information as a condition of eligibility for VOCA-funded services;
  - v. 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.

6. **Demographic Data.** The grantee will collect and maintain information on race, sex, national origin, age, and disability of victims receiving assistance, where such information is voluntarily furnished by the victim. **[Not applicable to grants funded 100% from federal grant 2015-VF-GX-0013, excluding match funds.]**
7. **Non-Profits.** All non-profit grantees of VOCA Assistance funding under this award are required to make their financial statements available online (either on the grantee's or another publicly available website). OVC will consider grantee organizations that have Federal 501(c)(3) tax status as in compliance with this requirement, with no further action needed, to the extent that such organization files IRS Form 990 or similar tax document (e.g., 990-EZ), as several sources already provide searchable online databases of such financial statements.

All non-profit grantees of VOCA Assistance funding under this award are required to certify their non-profit status. Grantees may certify their non-profit status by submitting a statement to DCJ (to be placed in the grant file) affirmatively asserting that the grantee is a non-profit organization, and indicating that it has on file, and available upon audit, either – 1) a copy of the grantee's 501(c)(3) designation letter; 2) a letter from the grantee's state/territory taxing body or state/territory attorney general stating that the grantee is a non-profit organization operating within the state/territory; or 3) a copy of the grantee's state/territory certificate of incorporation that substantiates its non-profit status. Grantees that are local non-profit affiliates of state/territory or national non-profits should have available proof of (1), (2) or (3), and a statement by the state/territory or national parent organization that the grantee is a local non-profit affiliate.

8. **Access to Records.** The Grantee authorizes Office for Victims of Crime (OVC) and/or the Office of the Chief Financial Officer (OCFO), and its representatives, access to and the right to examine all records, books, paper or documents related to the VOCA grant. The State will further ensure that all VOCA subgrantees will authorize representatives of OVC and OCFO access to and the right to examine all records, books, paper or documents related to the VOCA grant.
9. **Compliance with NEPA and National Historic Preservation Act.** The grantee understands that all OJP awards are subject to the National Environmental Policy Act (NEPA, 42 U.S.C. section 4321 et seq.) and other related Federal laws (including the National Historic Preservation Act), if applicable. The recipient agrees to assist OJP in carrying out its responsibilities under NEPA and related laws, if the grantee plans to use VOCA funds (directly or through subaward or contract) to undertake any activity that triggers these requirements, such as renovation or construction. (See 28 C.F.R. Part 61, App. D.) The recipient also agrees to comply with all Federal, State, and local environmental laws and regulations applicable to the development and implementation of the activities to be funded under this award.

The subject grant provides funds from the Victims of Crime Act of 1984 (VOCA) to enhance crime victim services in the State. These funds are awarded by the State to local community-based organizations that provide direct services to crime victims. None of the following activities will be conducted either under the OJP federal action or a related third party action: 1. New construction. 2. Any renovation or remodeling of a property either (a) listed on or eligible for listing on the National Register of Historical Places or (b) located within a 100-year floodplain. 3. A renovation which will change the basic prior use of a facility or significantly change its size. 4. Research and technology whose anticipated and future application could be expected to have an effect on the environment. 5. Implementation of a program involving the use of chemicals. Consequently, the subject federal action meets OJP's criteria for a categorical

exclusion as contained in paragraph 4.(b) of Appendix D to Part 61 of the Code of Federal Regulations. Additionally, the proposed action is neither a phase or a segment of a project which when viewed in its entirety would not meet the criteria for a categorical exclusion.

**10. Grantee integrity and performance matters:** Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS

The grantee must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP or OVW award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP or OVW awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of grantee obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at <http://ojp.gov/funding/FAPIIS.htm> and the OVW web site at <https://www.justice.gov/ovw/grantees>. (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.

**11. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination – 28 C.F.R. Part 38**

The grantee must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries. Part 38 of 28 C.F.R. a DOJ regulation, was amended effective May 4, 2016. Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to grantee organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to grantees that are faith based religious organizations. The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at <http://www.ecfr.gov>), by browsing to Title 28 – Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

**12. Effect of failure to address audit issues.** The grantee understands and agrees that the DCJ may withhold award funds, or may impose other related requirements if the grantee does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

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