

VOCApedia
Victims of Crime Act (VOCA) Victim Assistance Program Rule
<https://www.gpo.gov/fdsys/pkg/FR-2016-07-08/pdf/2016-16085.pdf>
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GENERAL PROVISIONS

1. When did the new VOCA Victim Assistance Program rule take effect?

Answer: The rule went into effect on August 8, 2016. (Posted August 2016; updated August 2018)

2. Does the new rule apply to awards already in effect, such as fiscal year (FY) 2014 and 2015 grants?

Answer: No, unless the state decides to apply the rule to such funding, which it may do under certain circumstances. In most cases, grant funds awarded by the Office for Victims of Crime (OVC) before the new rule took effect will continue to be subject to the VOCA Victim Assistance Program Guidelines; however, a state may choose to apply the new rule to any unobligated funding at the state or subrecipient level under such a grant.

Note: *All 2014 awards must have ended on September 30, 2017.*

OVC recommends that states adopt a bright-line approach and fund newly allowable services only with OVC grant funds awarded in FY 2016 and later, as this simplifies oversight and audit. The rule, however, does permit states to adopt alternative approaches. (Posted August 2016; updated August 2018)

3. If my state elects to use the new rule for awards already in effect, such as fiscal year (FY) 2015 grants, how do we document the election?

Answer: Discretionary decisions to apply the rule to grants awarded by the Office for Victims of Crime (OVC) before the rule's effective date must be documented, to facilitate monitoring and audit. The state should take care to ensure documentation is complete and retained in accordance with state and federal guidelines.

Example (state unobligated funding): A state wants to award unobligated funding from its FY 2015 VOCA victim assistance grant to an organization that will use it to provide services to incarcerated victims. Services to incarcerated victims are not allowable under the VOCA Victim Assistance Program Guidelines, but are allowable under the new VOCA rule. The state should note in the grant file (e.g., the solicitation, award documents, other communication to the recipient) that the funding for that award is subject to 28 CFR Part 94, Subpart A—not the VOCA guidelines. If the state does not include such a statement, an auditor would not know that the state had elected to allow the newly allowable use of funds, and would audit the grant according to the standards in the guidelines.

Example (subrecipient unobligated funding): A state awarded a subrecipient funding from an FY 2015 VOCA assistance grant. The subrecipient has funding remaining on its award that it has not yet obligated, and wants to use that funding to provide services to incarcerated victims. The subrecipient may NOT unilaterally use the funding for this activity, as this would violate the terms of its subaward, which is under the VOCA guidelines. Similarly, the state typically would not be able to compel the subrecipient to serve incarcerated victims, as this could not have been part of the subaward agreement. However, if BOTH the state and the subrecipient agree to modify the subaward, services to incarcerated victims would be allowable even though the subrecipient would be using FY 2015 money. (Note: OVC does not encourage states to take this approach, as it could be administratively burdensome or complicated, but permits it under the rule.) (Posted August 2016; updated August 2018)

4. Why didn't OVC just make the rule applicable to all VOCA assistance funding, including funding awarded in prior years?

Answer: A grant agreement is similar to a contract, and OVC cannot unilaterally change the terms of an agreement that it made in the past. Similarly, an agreement between a state and a subrecipient (unless otherwise specified in the agreement) typically is subject to the rules in effect when the agreement went into effect. Thus, in accordance with these principles, OVC applies the new rule to grants it awards after the effective date. OVC permits states to apply the rule to unobligated funding at the state level, should the state elect to do so. OVC also permits states to apply the rule to unobligated funding at the subrecipient level, though such changes to awards made in the past would (presumably) require the consent of both the state and the subrecipient. (Posted August 2016)

5. Does the new rule change how funding levels are determined for the states, or change the Crime Victims Fund "cap"?

Answer: No. The rule has no effect on the funding formulas for state administering agencies or the amount of funds awarded to the states from the Crime Victims Fund. (Posted August 2016)

6. Do the definitions of various terms change from the VOCA guidelines to the new rule?

Answer: Some definitions have changed. There are no meaningful changes to the definitions of the terms *crime victims*, *direct services*, and *victim of federal crime*. *Child abuse* is specifically defined in the rule to encompass a broad range of harm to children, and crimes that are considered child abuse under the law of the state administering agency's jurisdiction. Additionally, the term *spousal abuse*, terminology written into the statute in the 1980s, has been redefined to encompass

the more modern concepts of domestic violence (the term used in the VOCA Guidelines) and intimate partner violence. (Posted August 2016)

EVALUATION

1. What tools can state administrators and subgrantees use for project evaluations?

Answer: The Center for Victim Research was created to assist state administrators with project evaluations. Contact Susan Howley at showley@irsa.org or 202–842–9330. The [OVC Training and Technical Assistance Center](#) can also help identify tools that states and subgrantees can use for project evaluations. See 28 CFR 94.109(b)(5), 94.121(j). (Posted August 2018)

MATCH

1. What is the matching requirement?

Answer: Subrecipients must contribute 20 percent of the total project cost of each VOCA-funded project. Match contributions may be cash or in-kind. There is no match requirement for subrecipients that are federally recognized American Indian or Alaska Native tribes, projects that operate on tribal lands, subrecipients that are territories or possessions of the United States (except for the Commonwealth of Puerto Rico), or projects that operate therein. See 28 CFR 94.118. (Posted August 2016)

2. Is match able to be waived in part or in full?

Answer: Yes. OVC issued an updated match waiver approval process on June 27, 2019. This new process states that the state administering agency (SAA) may waive match (either in total or part) without OVC prior approval, provided that the SAA develops and implements an OVC-approved match waiver policy. Once OVC approves the state match waiver policy via GAN, the SAA is required to submit copies of all match waiver approval determinations made within 30 days of each decision. These can be submitted in bulk via GAN to the applicable federal award. Additionally, the SAA must submit a match waiver spreadsheet that outlines all match waivers approved within the federal fiscal year by no later than 90 days after the fiscal year end. (Posted August 2016; updated October 2019)

Original Answer: Yes. State administering agencies (SAAs) may apply to the Director of OVC to request a full or partial match waiver for specific subrecipients. Waiver requests must be supported by the SAA and justified in writing. Waivers are entirely at the discretion of the OVC Director, who 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 an additional match, versus continuing activities where match is already provided. *See* 28 CFR 94.118. (Posted August 2016)

3. Can SAAs determine whether to waive the match requirement for subrecipients?

Answer: It depends. If SAAs have an OVC-approved match waiver policy, then SAAs may determine whether to waive the match requirement for subrecipients. If, however, SAAs have not received OVC approval of a state match waiver policy, then SAAs may not determine match requirements for subrecipients. All determinations must be made in compliance with the state's OVC-approved match waiver policy. (Posted August 2018; updated October 2019)

Original Answer: No. SAAs cannot determine whether subrecipients receive match waivers. As stated above, states have initial review of such requests, but must then submit the requests to the Director of OVC for final review and consideration of a full or partial waiver. *See* 28 CFR 94.118 (Posted August 2018)

4. How does a subrecipient apply for a match waiver?

Answer: A subrecipient must apply for a match waiver through the state administering agency. *See* 28 CFR 94.118(b)(3). (Posted August 2018; updated October 2019)

Original Answer: A subrecipient must apply for a match waiver through the state administering agency, which then sends the waiver request to OVC. *See* 28 CFR 94.118(b)(3). (Posted August 2018)

5. A multi-year project is supported with funding from three fiscal years (FYs). Can an SAA submit a match waiver request for the multi-year project (e.g., FYs 2016, 2017, and 2018)?

Answer: Yes. A subrecipient may request a match waiver that covers more than 1 year of the project (e.g., one waiver to apply over a 3-year period). Additionally, a match waiver may be requested for multi-year projects that receive multi-year funding. *See* 28 CFR 94.118(b)(3). (Posted August 2018; updated October 2019)

Original Answer: Yes. A subrecipient may request a match waiver that covers more than 1 year of the project (e.g., one waiver to apply over a 3-year period).

Additionally, a match waiver may be requested for multi-year projects that receive multi-year funding. A match waiver may be requested at any point during the award period. The request must be precise in specifying the information needed for the OVC Director to determine whether a waiver is justified. *See* 28 CFR 94.118(b)(3). (Posted August 2018)

6. What may be used to meet the match requirement?

Answer: Contributions must be derived from nonfederal sources, except as may be provided in the DOJ Grants Financial Guide, and may include, but are not limited to, the following:

- a. *Cash* (i.e., the value of direct funding for the project).
- b. *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; however, 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.
- c. *Materials/equipment*, but the value placed on lent or donated equipment shall not exceed its fair market value.
- d. *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.
- e. *Non-VOCA-funded victim assistance activities*, including, but not limited to, performing direct services, coordinating or supervising those services, training victim assistance providers, and advocating for victims.

Additionally, any reduction or discount provided to the subrecipient shall be valued as the difference between what the subrecipient paid and what the provider's nominal or fair market value is for the good(s) or service(s). Contributions of match are restricted to the same uses, and the same timing deadlines for obligation and expenditure, as the project's VOCA funding. See 28 CFR 94.118. (Posted August 2016)

7. Can subgrantees use a vehicle as match (e.g., they have a vehicle to transport victims and want to use it as match)?

Answer: Yes, subgrantees may use an organization's vehicle to help meet the match requirement. However, subgrantees can only use *either* the vehicle's fair market value *or* the actual expenses (e.g., gas, insurance, maintenance) as match; they may not charge both as match. Additionally, the only portion of that cost that can be used as match is the portion associated with transporting victims. Subgrantees would need to provide supporting documentation of the in-kind match. See [DOJ Grants Financial Guide](#), III.3. (Posted August 2018)

8. How should volunteer on-call time be accounted for when used as a form of match?

Answer: Volunteer on-call time should be treated in the same manner that a paid employee in a similar situation would be compensated. See 28 C.F.R. § 94.118(f). The state administering agency should follow the guidance provided under the Fair Labor

Standards Act (FLSA) to determine the extent to which the duties of the on-call volunteer require that the volunteer can or cannot use his/her time effectively for his/her own purposes. Under regulations implementing the FLSA, an employee who is required—while on call—to remain so close to the employer’s premises that he/she cannot use the time effectively for his/her own purposes is working while on call. *See* FLSA, 29 CFR 785.17. (Posted August 2018)

9. What recordkeeping requirements apply to project match?

Answer: Each subrecipient must maintain records that clearly show the source(s) and amount(s) of the contributions used as match, and the period of time for which such contributions were allocated. The basis for determining the value of personal services, materials, equipment, and space and facilities must be documented. Volunteer services must be documented by the same methods used by the subrecipient for paid employees. Generally, this should include timesheets substantiating time worked on the project. *See* 28 CFR 94.118. (Posted August 2016)

10. May VOCA Assistance subrecipients use Housing and Urban Development (HUD) grant funds as matching/cost sharing for VOCA Assistance grant funds?

Answer: No. OVC is not aware of any exception that would permit HUD program funds to be used as matching/cost sharing for VOCA Assistance grant funds. In general, federal funds may not be used as match for VOCA funds. *See* 2 C.F.R. 200.306(b)(5). (Posted October 2019, updated November 2019)

Original Answer: No. HUD program funds are not an exception to the general prohibition that federal funds may not be used as match for VOCA funds. (Posted October 2019)

11. Can a subrecipient continue to use the same match each grant cycle (i.e., computers, equipment)?

Answer: Subrecipients may use the same source of match in different award cycles. In-kind contributions, including third party in-kind contributions, may be used to satisfy a subrecipient’s match requirement. The transaction to provide the match must be documented, and the use of match must be for allowable costs under the subaward. The valuation of in-kind contributions must be reasonable. *See* 28 C.F.R. § 94.118; 2 C.F.R. § 200.306; DOJ Grants Financial Guide, Chapter 3.3. To be clear, donated equipment, such as a computer, may not extend in perpetuity as match; they are limited to the fiscal year of the donation. (Posted October 2019)

12. May VOCA Assistance subrecipients use VOCA Assistance grant funds to cover cost-sharing (match) for an AmeriCorps or VISTA volunteer working with the subrecipient organization to provide victim services?

Answer: Yes, to the extent that the VOCA Assistance funds are allowed to be used as match by AmeriCorps. (Posted November 2019)

13. May VOCA Assistance subrecipients use Legal Services Corporation (LSC) funds as matching/cost sharing for VOCA Assistance grant funds?

Answer: Yes, to the extent permitted by LSC. LSC grant funds are “outside of [2 C.F.R.] 200.306(b)(5), as they are not ‘paid by the Federal Government under a Federal award[,]’ but rather, are paid by LSC, a nonprofit organization.” Use of LSC funds for match must comply with any restrictions that LSC places on such funds, and all other applicable match-related federal rules and requirements. *See* June 16, 2016 letter from OVC to LSC; LSC Program Letter 16-4 (generally permitting use of LSC funds as match for VOCA Assistance grant funds), available at <https://www.lsc.gov/program-letter-16-4>. (Posted November 2019)

14. How should a VOCA Assistance grantee or subrecipient value legal services used as project match (cost sharing)?

Answer: Volunteer (“pro bono”) legal services provided by an attorney not employed by the subrecipient (for example, an attorney with an outside firm) may be valued differently depending on whether the attorney is volunteering in a personal capacity or on behalf of their firm:

- Personal capacity time should be valued using [2 CFR 200.306\(e\)](#) – the subrecipient should value the time at the rate they normally pay for such services. If they do not pay for such services, then the rate is the market rate. Subrecipient policies and practice are relevant too. For example, if the subrecipient always values volunteer time at a fixed rate, it normally should not use a higher rate to value volunteer time for purposes of the federal grant. There may be exceptions to this – [2 CFR 200.459](#) indicates the subrecipient might also consider the reasonable value of the services rendered and the attorney’s qualifications/usual fees (*see* [28 CFR 94.118\(c\)\(2\)](#)), and these might factor into a subrecipient’s policy on valuing volunteer time.
- Organizational capacity time (i.e., volunteering on behalf of their firm – presumably pursuant to some agreement between the firm and nonprofit) should be valued using [2 CFR 200.306\(f\)](#) – the maximum rate is the rate that their firm typically bills for that attorney’s time.

Subrecipients should keep activity reports or equivalent documentation that adequately shows volunteer time/effort on the project. Also, valuation of

compensation must meet the requirements of any consultant rate limits set in the award conditions.

(Posted November 2019)

15. Can you please provide clarification on the correct match calculation for a VOCA award?

Answer: VOCA requires subawards to be matched at 20% of total project costs. The match calculation depends on whether the grantee is starting with the total project cost or the VOCA share as they calculate the match.

Starting with the total project cost, a \$125,000 total project would be multiplied by 20% to determine the amount of match that is required. $\$125,000 * 0.20 = \$25,000$. The VOCA share is the total project cost minus match, $\$125,000 - \$25,000 = \$100,000$.

Starting with the VOCA share, the user would first determine the total project cost by dividing the VOCA amount by 100% minus the 20% required match, as shown: $\$100,000 / (1.0 - 0.20) = \$125,000$. Then, as above, the total project cost would be multiplied by the match percentage to determine the required match. $\$125,000 * 0.20 = \$25,000$. A shortened calculation would also work by multiplying the VOCA share by 0.25 to determine the match amount. $\$100,000 * 0.25 = \$25,000$.

(Posted February 2020)

16. The VOCA Rule (§ 94.118) states that projects that operate on tribal lands are not subject to the match requirement. What documentation is required to support that the entity is operating on tribal lands? Is an MOU with the Tribe sufficient?

Answer: An MOU is acceptable, however, any document that shows the project is operating on tribal land would be sufficient. (Posted February 2020)

17. An SAA wonders about org capacity (28 CFR 94.112(b)) vs. match requirement. They have a brand new organization that doesn't have any record of financial support and are trying to determine if it meets organizational capacity. Would the in-kind and volunteer hours count as "substantial financial support"?

Answer: No. For the reasons discussed below, a brand new organization without any record of financial support must demonstrate that it has substantial financial support from sources other than the CVF. Here, in-kind and volunteer hours do not meet this threshold.

To be clear, the VOCA eligibility requirement that an organization demonstrate financial capacity is completely distinct from the match requirement. Under VOCA, an organization is eligible for funding if it demonstrates a "record of providing effective services to victims of crime and financial support from sources other than

the Crime Victims Fund; or substantial financial support from sources other than the Fund.” See 34 USC 20103(B)(1)(i) & (ii). This eligibility requirement goes to organizational capacity; see 28 CFR 94.112(b). An organization must meet these requirements in order to be eligible to be a subrecipient.

Here, because the organization is a “brand new organization that doesn’t have any record of financial support” they must show that they have “substantial financial support from sources other than the Fund,” as required by 34 USC 20103(b)(1)(B)(ii). This is because they cannot meet the first VOCA criteria, which requires a showing of both a record of providing effective services to crime victims and financial support from sources other than the CVF.

According to the VOCA Victim Assistances Rule, “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.” See 28 CFR 94 112(b)(2). Applying these facts, in-kind and volunteer hours do not qualify as financial sources outside of the CVF.

(Posted February 2020)

INDIRECT COST RATE

1. Assuming a subgrantee has an approved indirect cost rate, can indirect cost-related expenses be used as match?

Answer: Yes, but a subrecipient may count only *unrecovered* indirect costs as project match, and may do so only with the approval of the state administering agency. Unrecovered indirect costs are the difference between the amount of indirect costs charged to an award and the amount that *could* have been charged to the award under the subrecipient’s indirect cost rate. This includes indirect costs associated with matching funds. For example, a subrecipient that budgets the salary of a full-time employee as match may also include in that match amount the indirect costs associated with that employee’s salary, provided that those indirect costs are not recovered elsewhere. See Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR 200.306; October 9, 2015, [OVC Policy Change to VOCA Assistance Guidelines with regard to allowability of indirect costs to conform to 2 C.F.R. Part 200](#). (Posted August 2018)

2. May a state administering agency (SAA) charge indirect costs to an annual VOCA grant for administrative costs?

Answer: Yes. An SAA may charge a federally approved indirect cost rate to the VOCA grant, provided that the total amount charged does not exceed the 5-percent limit for training and administration. See 28 CFR 94.109. (Posted August 2018)

3. What easy-to-use guidance can OVC provide regarding indirect costs?

Explanation of indirect costs: Indirect costs are facility and administrative expenses that an organization incurs by undertaking a grant project that are not easily allocated to specific project costs and are NOT included as a direct cost in the grant budget. Costs included in an indirect cost rate can be charged directly; however, for administrative convenience, some organizations prefer to establish an indirect cost rate and charge that against a direct cost base instead. Where a rate is applied, indirect costs are not budgeted as specific cost items, but rather are bundled into the rate that is charged against certain direct costs under the grant. The specific costs included in an organization's indirect cost rate vary, but typically include things like utility costs, organizational accounting fees, and equipment depreciation.

Indirect costs may be charged to an award only if (a) the recipient has a current (unexpired), approved negotiated indirect cost rate; or (b) the recipient is eligible to use, and elects to use, the de minimis indirect cost rate described in the Part 200 Uniform Requirements, as set out at 2 CFR 200.414(f).

Negotiated rate: For federal grants, indirect cost rates are negotiated between the organization and a specific agency ("cognizant agency for indirect costs") that is designated to determine that organization's rate. (State administering agencies may approve rates for their subrecipients.)

De minimis rate: Certain organizations that have never before negotiated an indirect cost rate may be eligible to apply a de minimis 10-percent rate that does not require a negotiated rate agreement (details below).

Applying for an indirect cost rate: If an organization does not have a current federally approved rate, the organization may request one through its cognizant federal agency, which will review all documentation and approve a rate for the applicant entity; or, if the applicant's accounting system permits, applicants may propose to allocate costs in the direct cost categories. For assistance with identifying the appropriate cognizant federal agency for indirect costs, please contact the Office of the Chief Financial Officer (OCFO) Customer Service Center at 800-458-0786 or at

ask.ocfo@usdoj.gov. If DOJ is the cognizant federal agency, applicants may obtain information needed to submit an indirect cost rate proposal at www.ojp.gov/funding/Apply/Resources/IndirectCosts.pdf.

Indirect cost rates for subrecipients: State administering agencies are responsible for approving indirect cost rates for their subrecipients. See DOJ Grants Financial Guide, III.11. If a subrecipient has an established federally approved rate, the state administering agency must honor that indirect cost rate.

Additional information: Additional information about indirect costs can be found on page 100 of the [DOJ Grants Financial Guide](#).

4. Can SAAs use cost allocations plans, which are “pooled,” as indirect costs?

Answer: A cost allocation plan is a type of indirect cost rate utilized by a state agency. VOCA caps the administrative and training expense at 5 percent of the grant funds. Those administrative funds can be charged directly or indirectly (cost allocation plan), but not both. Regardless of the method used (direct/indirect), the amount charged to the grant cannot exceed the 5-percent cap. (Posted August 2018)

5. If a subrecipient has a federally negotiated indirect cost rate, can an SAA cap that rate at 10% (or any other amount)?

Answer: SAAs are expected to honor a subrecipient’s federally negotiated indirect cost rate. The FAQs for the Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200 offers guidance:

.331-6 Pass-through Entities and Indirect Cost Rate Negotiation

If the subrecipient already has a negotiated F&A rate with the Federal government, the negotiated rate must be used. It also is not permissible for pass-through entities to force or entice a proposed subrecipient without a negotiated rate to accept less than the de minimis rate. The cost principles are designed to provide that the Federal awards pay their fair share of the costs recognized under these principles. See section 200.100(c). Pass-through entities may, but are not required, to negotiate a rate with a proposed subrecipient who asks to do so.

(Posted October 2019)

6. Can nonprofits use a CAP instead of a federally negotiated or de minimis rate?

Answer: No. Cost allocation plans are discussed in appendices V and VI to 2 C.F.R. Part 200. The use of a cost allocation plan is only permitted by a state, local government, or Indian tribe. Nonprofit organizations do not have authority to use a

cost allocation plan in lieu of a negotiated or de minimis indirect cost rate agreement. See 2 C.F.R. § 200.27. (Posted October 2019)

- 7. Can pass-through agencies approve indirect costs for matching? Is it the SAA's responsibility as the pass-through entity to follow up with subgrantee and see what indirect costs reimbursement was exactly used for?**

Answer: States can develop their own indirect cost rate; see section 200.306(c) of the Uniform Requirements. States are responsible for basic monitoring of what reimbursed indirect costs were actually used for. (Posted October 2019)

- 8. What should SAAs do if a subrecipient submits an initial budget that includes indirect costs (salaries, rent, etc.), but later submits a financial status report that includes these same expenses as direct costs?**

Answer: Costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If an SAA believes a subrecipient is inappropriately charging expenses to a subaward, the SAA should take steps to ensure that the subrecipient is not reimbursed for inappropriate expenses. Monitoring and technical assistance may be needed to ensure continued compliance with the subgrant terms and conditions. (Posted October 2019)

- 9. Can states have a policy to exclude victim/client rental assistance from the distorting costs list when determining MTDC? The SAA feels that this would provide a fairer way for subrecipients (focused on housing) to obtain some indirect costs. And, whom do the subrecipients negotiate with for the federally negotiated rate if they don't receive funds directly from a federal agency?**

Answer: No, SAAs may not have a policy to exclude victim/client rental assistance from the distorting costs list when determining modified total direct cost (MTDC). Subrecipients may, however, choose to negotiate for an indirect cost rate not based on MTDC. See 2 C.F.R. § 200.68.

Subrecipients who only have pass-through funding (i.e., do not receive any direct grants from the Federal government) may negotiate an indirect cost rate with the SAA. See Section 3.11 of the DOJ Grants Financial Guide, which states that “[d]irect recipients of Federal funding are responsible for approving indirect cost rates for their subrecipients. Such rates must be consistent with the requirements of 2 C.F.R. § 200. The Federal awarding agency will not approve indirect cost rates beyond the direct recipient level; however, subrecipients who are also direct recipients of Federal awards may already have a Federally approved indirect cost rate. If a subrecipient has negotiated an indirect cost rate with the Federal government, then that rate applies.”

Subrecipients who do receive direct funding from the Federal government may negotiate an indirect cost rate with their cognizant Federal agency. Information on

cost allowability may be found in the Appendices to Part 200 or by contacting the cognizant Federal agency.

(Posted October 2019)

10. If a subrecipient is using de minimis for indirect costs, can they also charge VOCA for a percentage of grant administrative costs as a direct cost?

Answer: This question is being researched, and the answer is expected to be included in the December 2019 update. (Posted November 2019)

11. If a subrecipient is using the 10% de minimis rate can they bill for the entire de minimis amount in one quarter, or do they need to spread it out through all four quarters of the year?

Answer: All bills for indirect cost should be based on quarterly or monthly actual expenditures, not award amounts. For example, if the total actual expenditures for the 1st quarter is \$20,000, then the grantee can claim \$2,000 of indirect costs (10% of Modified Total Direct Costs – MTDC) for that quarter. (Posted November 2019)

12. If a subrecipient has a federally negotiated indirect cost rate/elects to use de minimis, is shelter rent considered an indirect cost or direct service cost? (The SAA recognizes that “rental costs” are excluded from MTDC calculation, however, is it an exception if a domestic violence shelter is funded and provides direct services?)

Answer: Rent can be considered direct or indirect depending on the circumstances of the subrecipient and the nature of the programming. So it is not possible for us to say categorically whether shelter rent is an indirect cost or a direct cost.

2 C.F.R. § 200.68 defines MTDC and clearly states that rent is excluded from MTDC when calculating indirect costs. So if a subrecipient is determining the indirect costs they are entitled to, they must subtract rental costs as they determined their MTDC upon which the indirect rate is applied.

So, for example, a subrecipient is eligible for and has elected to use the 10% de minimis. They incurred the following costs during the period they are requesting reimbursement:

- Personnel \$10,000
- Fringes \$2,000
- Subaward \$40,000
- Rent \$3,000
- Equipment \$7,000
- Travel \$4,000

The costs above total to \$66,000. The subrecipient is allowed to recover 10% of the modified total direct costs, so must first remove distorting items according to §200.68. Rent and equipment are excluded, as are the portion of each subaward greater than \$25,000.

\$66,000 - \$15,000 (portion of subaward in excess of \$25k) - \$3,000 (rent) - \$7,000 (equipment) = \$41,000, the MTDC.

The subrecipient may then claim indirect costs of 10% of the MTDC, \$4,100.

(Posted November 2019)

13. If an organization negotiates an indirect cost rate agreement, can they back-charge indirect costs (assuming their budget allows for it)?

Answer: Indirect costs would be eligible for the period covered by the negotiated indirect cost rate agreement. (Posted February 2020)

VOLUNTEERS

1. Must VOCA-funded programs use volunteers? Are there any exceptions to this requirement?

Answer: Yes, and yes. VOCA requires programs to use volunteers, to the extent required by the state administrative agency (SAA), in order to be eligible to receive 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 demonstrates why circumstances prohibit the use of volunteers, to the satisfaction of the chief executive. SAAs shall maintain documentation supporting any waiver granted under VOCA (*see* 34 U.S.C. 20103(b)(1)(C)), relating to the use of volunteers by programs. *See* 28 CFR 94.113. (Posted August 2016; updated August 2018)

2. May subrecipients use VOCA funds to train volunteers?

Answer: Yes. SAAs may allow subrecipients to use VOCA funds to train volunteers in how to provide direct services, when such services will be provided primarily by volunteers. Such use of VOCA funds will not count against the limit on SAA administrative and training funds. (Posted August 2016)

3. Can an SAA award a subrecipient funding solely for volunteer training?

Answer: Yes. As discussed in the preamble to the final rule, OVC intends that volunteer trainings may be funded by a state as either a stand-alone project or as part of a direct service project. If volunteer trainings are funded as stand-alone activities, however, they should be activities that leverage resources for direct victim

services (e.g., a stand-alone project to train volunteers so that more volunteers are available to provide direct services). See 28 CFR 94.120(f). (Posted August 2018)

4. How may SAAs utilize VOCA funds for training and administration?

Answer: SAAs may use up to the amount prescribed by VOCA at 42 U.S.C. 10603(b)(3) for training and administration. As of July 8, 2016, the amount is 5 percent of a state's annual VOCA grant. To use VOCA funds for training or administration, an SAA must notify OVC of its decision either at the time of application for the VOCA grant or within 30 days of such decision. Such notification shall indicate what portion of the amount will be allocated for training and what portion for administration. If VOCA funding will be used for administration, the SAA shall follow the rules and submit the certification required in 28 CFR 94.108 regarding supplanting. SAAs shall ensure that each training and administrative activity funded by the VOCA grant occurs within the award period, and shall maintain sufficient records to substantiate the expenditure of VOCA funds for training or administration. See 28 CFR 94.107. (Posted August 2016)

5. If an agency is not using volunteers as match, do the volunteers have to provide a direct service? For example, would an agency be allowed to use their Board of Directors to meet the volunteer requirement if not using as match?

Answer: The issue here is whether the VOCA statutory mandate that an eligible VOCA Victim Assistance organization must utilize volunteers in providing effective services to victims of crime (34 U.S.C. § 20103(b)(1)(c)) means that volunteers must provide "direct services." Nothing in VOCA nor in the final rule requires that volunteers provide direct services (see e.g. § 94.113(a)). While SAAs have the discretion to require subrecipients to use volunteers for direct services, SAAs also have the authority to waive the use of volunteers altogether. See § 93.113(a). SAAs, therefore, have broad discretion in applying, or waiving, the volunteer requirement for subrecipients. (Posted October 2019)

6. If an agency has several different programs who use volunteers, but the program will not be using volunteers for the program supported by VOCA funding, does this meet the volunteer requirement?

Answer: Yes. See § 94.113(a). (Posted October 2019)

7. When volunteers are limited, what is the process for working with subgrantees?

Answer: See section § 94.113(b) of the Final Rule, "Waiver of use of volunteers. SAAs shall maintain documentation supporting any waiver granted under VOCA, at

34 U.S.C. 20103(b)(1)(C), relating to the use of volunteers by programs. States should maintain policies on when and how they waive volunteers.” (Posted October 2019)

PASS-THROUGH ENTITIES

1. Can a state pass through funding to another entity, such as another state agency or a coalition, to administer VOCA funds?

Answer: Yes. States have broad latitude in structuring their administration of VOCA funding. VOCA funding may be administered by the state or by other means, including the use of pass-through entities (such as coalitions of victim service providers), to make determinations regarding award distribution and to administer funding. All of the same financial and reporting requirements that apply to states apply to the pass-through organization. See 28 CFR 94.103(c). (Posted August 2018)

2. How can an SAA determine if a subrecipient is entering into a third-tier subaward or a procurement contract?

Answer: OJP has developed a toolkit to assist recipients of OJP grants and cooperative agreements in understanding which (if any) of the recipient’s proposed actions OJP will consider subawards or procurement contracts for purposes of federal grants administrative requirements: <https://www.ojp.gov/funding/pdfs/SubawardProcurementToolkit.pdf>. The same underlying principles discussed in this toolkit apply to agreements entered into by subrecipients. As stated in the DOJ Financial Guide, “when determining whether an entity receiving federal award funds from the recipient is a subrecipient or a contractor, the legal document executed between the recipient and the entity receiving federal award funds from the recipient is NOT the driving determinant. The *substance* of the activity that has been contracted or subawarded will be the major factor considered.” Additional information can be located in 2 C.F.R. § 200.330. (Posted February 2020)

SUPPLANTING

1. What is supplanting and what are the rules concerning it?

Answer: Supplanting, for purposes of the VOCA Victim Assistance Program and consistent with the DOJ Grants Financial Guide, is the deliberate reduction of state or local government funds otherwise available for victim assistance, because of the availability of VOCA funds.

In the context of state use of VOCA victim assistance funds for administrative purposes, where a state decreases its administrative support for the state crime

victim assistance program, the state administering agency (SAA) must submit, upon request from OVC, an explanation for the decrease. Additionally, in each year that an SAA uses VOCA funds for administration, it shall establish and document a baseline level of non-VOCA funding required to administer the state victim assistance program, based on SAA expenditures for administrative costs during that fiscal year and the previous fiscal year, prior to expending VOCA funds for administration. See 28 CFR 94.108. (Posted August 2016)

- 2. If a state administering agency (SAA) previously used VOCA funding to pay for a position but the SAA subsequently absorbed the cost, can it restore the position back to a VOCA-funded position?**

Answer: It depends. If the SAA changes the position from state-funded to VOCA-funded but adds another state-funded victim assistance position or victim assistance activity of equivalent cost, the state will not have decreased its overall support for victim services; therefore, no supplanting will have occurred. Supplanting may have occurred, however, if the SAA simply changes the position from state-funded to VOCA-funded, such that the state's funding for victim assistance falls below its baseline for administrative costs. In the latter case, if the funding for the position was changed *deliberately* to replace available state funding with federal funding, supplanting likely will have occurred. OVC typically does not consider state funding fluctuations that occur because of statewide legislative/budget processes to be supplanting. In such cases of legislatively mandated budget cuts, an SAA's decision to support a position with VOCA funds may not necessarily indicate supplanting. (Posted August 2018)

PRIORITY ALLOCATIONS

- 1. What are the priority categories of crime types?**

Answer: The rule does not change the priority categories, which are set by statute. The priority categories of crime victims are the three categories for which state administering agencies must allocate a minimum of 10 percent of each year's VOCA grant per category. The categories are specified at 42 U.S.C. 10603(a)(2)(A) and include victims of sexual assault, spousal abuse, and child abuse. (In addition to the priority categories, SAAs also are required to allocate a minimum of 10 percent of each year's VOCA grant to underserved victims of violent crime.) See 28 CFR 94.104. (Posted August 2016)

- 2. When should states verify priority allocations?**

Answer: States should verify priority allocations annually in the subgrant award report. If the scope of a subaward changes in a way that affects the priority and

underserved area allocations, then these allocations should be updated in the OVC Performance Measurement Tool within 30 days (as with any subgrantee award report updates). (Posted August 2018)

3. What qualifies when determining awards for underserved victims of crime?

Answer: The new rule uses the same approach as the VOCA Victim Assistance Guidelines. State administering agencies (SAAs) must identify such services for underserved victims of violent crime by the type of crime they experience (e.g., elder abuse), the characteristics of the victim (e.g., victims who identify as lesbian, gay, bisexual transgender, queer, or questioning [LGBTQ]), or both (e.g., victims of violent crime in high-crime urban areas). Underserved victims differ among jurisdictions, but some examples of often-underserved victim populations include, but are not limited to, DUI/DWI victims; survivors of homicide victims; American Indian/Alaska Native victims in certain jurisdictions with insufficient victim service resources; victims of physical assault; adults molested as children; victims of elder abuse; victims of hate and bias crimes; victims of kidnapping; child victims and adult survivors of child pornography; child victims of sex trafficking; victims of violent crime in high-crime areas; LGBTQ victims; victims of federal crimes; victims of robbery; and victims of gang violence. *See* 28 CFR 94.104. (Posted August 2016)

4. How must SAAs count the use of funds for underserved victims of crime who are not victims of violent crime?

Answer: The VOCA statute requires funding be allocated to projects serving “previously underserved populations of victims of *violent crime*.” States may still fund services for underserved victims of nonviolent crimes, such as identity theft, with VOCA assistance grant funds, but cannot count those services toward meeting the required allocation for the underserved victim category. *See* 42 U.S.C. 10603(a)(2)(B). (Posted August 2016)

5. When reporting the allocation of subawards among priority categories and types of underserved victims, how should SAAs allocate those dollars used to provide services to individuals who may be underserved and who are also victims of a priority category crime?

Answer: SAAs may count funds allocated to such projects in either the priority category or the underserved category, but not both. *See* 28 CFR 94.104. (Posted August 2016)

6. Are states able to deviate from the underserved and priority percentages requirement?

Answer: Yes, if they request and receive an exception from the underserved and priority allocation requirements pursuant to 28 CFR 94.104(d). The OVC Director

may approve an allocation that differs from the underserved and priority percentages requirement in response to a written request from the SAA that demonstrates (to the satisfaction of the Director) that there is good cause therefor. The VOCA Victim Assistance Guidelines also permit exception requests, but OVC records indicate that these are extremely rare. (Posted August 2016)

- 7. Is the 10% children category for VOCA intended to apply only to children who were victims of “primary abuse,” or can “secondary abuse” – such as witnessing domestic violence or trauma – meet the requirements of the 10% child abuse priority category?**

Answer: If the law of the relevant SAA defines “child abuse” to include “secondary abuse,” then yes, secondary abuse could be a form of child abuse in that jurisdiction. Under the VOCA rule, SAAs must allocate a minimum of 10% of each year’s VOCA grant to four priority categories, including “child abuse.” See § 94.104(b). “Victim of child abuse” means a “victim of crime, where such crime involved an act or omission considered to be child abuse under the law of the relevant SAA jurisdiction.” See § 94.102. This definition of “child abuse” requires a criminal act or omission where such conduct is a crime under the law of the relevant SAA. Therefore, in order to meet the requirements of the 10% child abuse priority category, there must be a showing that the criminal act or omission was child abuse under the law of the relevant SAA. (Posted October 2019)

- 8. How should SAAs compute priority category allocations: is it 10% of the total VOCA award (including the funds sent for administrative purposes), or is it 10% of the funds sent for programmatic purposes, exclusive of administrative funds?**

Answer: The 10% minimum allocations are based upon the total VOCA award. See § 94.104(a). (Posted October 2019)

MONITORING

- 1. Can there be coordination of federal site visits, and a coordination of reports required by different federal programs?**

Answer: The offices within the U.S. Department of Justice, Office of Justice Programs (e.g., OVC and the Office of the Chief Financial Officer) attempt to coordinate onsite visits, when possible. It is not possible for OVC to coordinate with other federal agencies to arrange site visits. It is not possible for OVC and other federal agencies to coordinate reports because each federal agency is statutorily mandated to execute unique programs and collect unique data. (Posted August 2018)

- 2. What are the requirements for monitoring subrecipients?**

Answer: Unless the Director of OVC grants a waiver, state administering agencies (SAAs) shall develop and implement a monitoring plan in accordance with the

requirements of 28 CFR 94.106 and 2 CFR 200.331. The monitoring plan must include a risk assessment plan. SAAs must conduct regular desk monitoring of all subrecipients. In addition, SAAs shall conduct onsite monitoring of all subrecipients at least once every 2 years during the award period, unless a different frequency based on risk assessment is set out in the monitoring plan. SAAs must also maintain copies of site visit results and other documents related to compliance. See 28 CFR 94.106. (Posted August 2018)

3. What is a subrecipient's responsibility regarding collecting a rental deposit for a victim as part of the provision of transitional housing?

Example: A local program uses VOCA funds to pay for the first month's rent as a security deposit on an apartment for a victim. The victim moves after 18 months of living in the apartment, and the landlord returns the security deposit to the victim. Is the local program responsible for collecting the security deposit from the victim?

Answer: Transitional housing expenses, including rental and security deposits, are allowable, subject to any restriction on the amount, length of time, and eligible crimes set by the state administering agency. See 28 CFR 94.119(k) & (l). OVC encourages subgrantees to have an agreement in place with the landlord that the full/remaining deposit will be returned to the subgrantee and not the victim at the end of the lease. In the event that a subgrantee has not made an agreement with the landlord, the subgrantee should make a good faith effort to collect the security or rental deposit from the victim and document such efforts. (Posted August 2018)

4. How should state administering agencies (SAAs) monitor gas cards, bus cards, gift cards, etc.?

Answer: Some victim service organizations use gift cards to provide for the short-term needs of victims. In past audits of Office of Justice Program grant programs, the DOJ Office of the Inspector General has questioned grantee costs where there was inadequate internal control over gift card use or inadequate supporting documentation for what was purchased with the cards. SAAs should ensure that VOCA-funded projects that use gift cards to support services have written policies and internal controls regarding the purchase and use of such cards, and that such cards are used only as reasonably necessary. Such policies should address what approvals are required to purchase the cards, how the cards are stored and accounted for, what items may be purchased with the cards, and what supporting documentation is required for purchases. For example, if an organization allows staff social workers to use gift cards to purchase emergency items for a victim of domestic violence, it should require the social worker to obtain prior approval from an office manager and/or supervisor, and, after purchase, to file the receipts with the written approval documentation. The organization should record the amount of the gift card in its general ledger when purchasing the gift card, track the actual amount spent on the gift card that was used for grant-related services,

and make adjustments for any amount spent on the gift card that was not used for grant-related services. (Posted August 2018)

5. What standard and comprehensive questions can SAAs ask subgrantees regarding civil rights to help ensure that subgrantees are complying with their civil rights obligations?

Answer: See the [Federal Civil Rights Compliance Checklist](#), which the Office of Civil Rights encourages SAAs to either use or adapt when monitoring subgrantees for civil rights compliances. Additionally, as a reminder, all SAAs must submit a “Methods of Administration” to the Office of Civil Rights every 3 years, setting forth how they are monitoring subrecipients’ compliance with civil rights. (Posted August 2018)

6. How long should an assistance program hold on to supporting documentation? Is there a difference between what is legally required and what the Office of Inspector General (OIG) is expecting?

Answer: All financial records, supporting documents, and other pertinent grant records must be retained for a period of 3 years from the date of the submission of the final expenditure report. See DOJ Grants Financial Guide, III.16, p. 126. Typically, OIG tests grantee compliance with what is legally required, including recordkeeping requirements. If there is an active OIG audit started before the expiration of the record retention period, a grantee may be required to retain records pertinent to that audit for longer, typically until the audit findings have been resolved and final action taken. (Posted August 2018)

7. Are SAAs expected to collect supporting data with every subrecipient financial report?

Answer: No. SAAs should instruct subrecipients to maintain data and documentation supporting their financial reports. SAAs should have access to this documentation, and, as needed, review it to verify the information submitted in the financial report. See also Question and Answer #6 under “Monitoring” within this document. (Posted August 2018)

8. What is the extent of the state’s responsibility to validate and verify the data collected by subgrantees?

Answer: SAAs are expected to verify and validate data. According to 2 CFR 200.331, primary grantees must monitor the activities of subrecipients as necessary to ensure that subawards are used for authorize purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subawards; and that subaward performance goals are achieved. Pass-through entity monitoring of subrecipients must include review of financial and performance reports required by the pass-through entity.

When verifying data, SAAs should consider the five Cs:

1. **Completeness:** Reports should be complete, with all required questions answered. For the most part, system validations and analyst verifications ensure that reports are complete, but occasionally these checks miss something.
2. **Correctness:** Information reported should correctly represent the activities completed by the subgrantee. When reviewing reports for correctness, data should be compared to the solicitation, application, and any other grant documents or guidance to ensure that subgrantees are doing what they are supposed to be doing.
3. **Correlation:** Subgrantee activities should show a parity with progress in spending down award funds. If a subgrantee has spent only 5 percent of their funds but has reported completing 80 percent of their activities, something is probably off in the data.
4. **Consistency:** Reports should be consistent over time. How and what a subgrantee reports should change only because their activities are changing, not because they are reporting in a different manner.
5. **Comprehensiveness:** Data reported should cover the major activities that occurred during the reporting period. The report should document important milestones and challenges.

(Posted August 2018)

9. **A subgrantee is split-funding their staff based on a percentage split (for example, they receive 65% VOCA funds, 35% State funds). Do they need to bill for actual service delivery hours, rather than percentage splits? Most advocates could bill to either funding source, so the allocation is made by their accountant when doing payroll.**

Answer: The rules regarding supporting documentation for personnel costs are found in section 3.9 of the DOJ Grants Financial Guide. The DOJ Grants Financial Guide requires grant recipients to retain documentation supporting the costs charged to grants; when a recipient works on multiple programs, the documentation must support a reasonable allocation or distribution of costs among the programs. Generally, this sort of documentation would be a timesheet or some other type of activity report that has been certified by the employee and approved by a supervisor.

It does get murky when talking about separate awards that cover substantially similar services. For instance, if there is a full-time employee who does nothing but direct victim advocacy, which would be completely permitted under both VOCA and VAWA awards, it can be difficult to determine which hours get billed to which awards. The DOJ Grants Financial Guide does allow that “[i]n cases where two or

more grants constitute one identified activity or program, salary charges to one grant may be allowable after written permission is obtained from the awarding agency.”

(Posted October 2019)

10. Must SAAs review all source documentation from a subrecipient before issuing a reimbursement?

Answer: SAAs have the discretion to determine their internal reimbursement procedures, including the scope of source documents that must be reviewed prior to issuing a reimbursement. OVC encourages SAAs to implement policies and procedures that balance the administrative burden on subrecipients and their need for predictable cash flows with the duty SAAs have to protect grant funds from waste, fraud, and abuse. (Posted November 2019)

11. Can subrecipients choose not to provide timesheets for 100% grant-funded positions if someone signs a certification/affidavit? How often would the affidavit need to be re-signed – monthly with each reimbursement or solely with the grant award? Can the SAA do this as well as the subrecipients?

Answer: This question is being researched, and the answer is expected to be included in the February 2020 update. (Posted February 2020)

12. Is it allowable for a subrecipient’s staff (employees and/or supervisors) to sign off on time worked using electronic signatures, or do they need actual signatures? If it is allowable, what documentation would the SAA need as to the authenticity of the signature or the timekeeping process?

Answer: Electronic timesheets are allowable. The SAA would need to make sure that their subgrantee has a written policy establishing the use of electronic timekeeping systems and that they have a secure, verifiable electronic signature system (for example, one that only allows the actual person to use the signature, keeps an audit trail, date stamp, etc.). (Posted February 2020)

REPORTING

1. What types of reports must a state administering agency (SAA) submit?

Answer: Generally, SAAs must submit subgrant award reports and performance reports. See 28 CFR 94.105. Other reports may be required by the solicitation, depending on cross-cutting federal requirements for that fiscal year (e.g., FFATA subaward reports, submission of the Methods of Administration to the OJP Office for Civil Rights within 90 days of award, FAPIIS reporting). (Posted August 2016)

2. What is an SAA responsible for when submitting a subgrant award report (SAR)?

Answer: The SAA must submit an SAR within 90 days of the subaward start date using the [OVC Performance Measurement Tool](#). See 28 CFR 94.105; [fiscal year 2018 VOCA Victim Assistance solicitation](#). More information about the SAR is available [here](#). (Posted August 2016; updated August 2018)

3. What is an SAA responsible for when submitting a performance report?

Answer: SAAs must submit performance report data to OVC on a quarterly basis via the [OVC Performance Measurement Tool](#) (PMT). Additionally, SAAs must export the data from PMT and upload it into OJP's Grants Management System on an annual basis. See 28 CFR. 94.105; the [fiscal year 2016 VOCA Victim Assistance solicitation](#). More information about performance reporting is available [here](#) and [here](#). (Posted August 2016)

4. What is an SAA's responsibility to report fraud, waste, abuse, and similar misconduct?

Answer: SAAs must promptly notify OVC of any formal allegation or finding of fraud, waste, abuse, or similar misconduct involving VOCA funds. Additionally, SAAs must promptly refer any credible evidence of such misconduct to the DOJ Office of the Inspector General. Finally, SAAs must apprise OVC in a timely fashion of the status of any ongoing investigations. See 28 CFR 94.105. (Posted August 2016)

5. Are there any best practices for testing subrecipient PMT data for accuracy?

Answer: Key items to look for when reviewing subrecipient data for accuracy are:

- Does the subgrantee's data seem reasonable based on their award's purpose, the amount of subaward funding awarded, and subgrantee resources?
- Is this subgrantee prorating their data? If so, are they using an appropriate method for prorating and calculating the VOCA program portion properly?
- Question 3, New Individuals
 - If it is the first quarter of the subaward, does Question 1 (all individuals served) equal Question 3 (new individuals served)?
 - If the subgrantee indicated they cannot track new individuals (after the first quarter of the subaward), then is the number of new individuals zero (0)?
- Question 4A–C, Demographics
 - Do the race/ethnicity, gender, and age categories total the number of new individuals?

- Question 5A, Types of Victimitizations
 - Should any victimization types described as “Other” be reported in an existing victimization category?
 - Is the total number of victimizations greater than or equal to the sum of Question 1 (total number of individuals served) + Question 2 (total number of anonymous contacts).
 - If a number greater than zero (0) was entered for the number of individuals experiencing hate crime or other victimization types, then is a narrative explanation included?
- Question 8A–E, Direct Services:
 - Are the number of individuals who received services per each main category of service (in Question 8) less than or equal to the total number of individuals served plus anonymous contacts (Question 1+ Question 2)?
 - Is the sum of services provided for each main service category (in Question 8) greater than or equal to the number of people who received that category of service?
 - If the subgrantee had data that needed clarification last quarter, does that data appear to be accurate this quarter?

(Posted October 2019)

- 6. If an SAA does not use their full 5% administrative and training costs, and choose to subaward 97% (as opposed to 95%), do they need to submit a GAN? A recent site visit led them to believe that.**

Answer: No, a GAN is not required for this change. However, the SAA should revise their “Statement Regarding Use of Administrative and Training Funds” document that was submitted with their grant application and email the revised document to their Grant Manager. The Grant Manager will upload this to their award within GMS. (Posted October 2019)

- 7. Are VOCA subgrantees required to have a survey/feedback tool for clients, or is this a best practice recommendation?**

Answer: Neither the Federal award terms and conditions nor the VOCA Rule mandate a requirement for victim satisfaction surveys. However, the SAA has the discretion to include this as a requirement for program funding. Additionally, the VOCA Rule supports the use of VOCA funds to improve the delivery of victim services through victim satisfaction surveys and needs assessments. See 94.121 (g)(3). (Posted November 2019)

8. **An SAA is sending notifications to subgrantees about the criminal background check requirements that are new under FY 2019 awards. Currently, their subrecipients do state background checks. Does this requirement require the background check to be a *Federal* background check?**

Answer: Background investigations are mandated by a condition on FY 2019 VOCA Victim Assistance awards if the purpose of some or all of the activities to be carried out under the award (by the recipient or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age. (If the purpose is not specifically to benefit minors, the condition does not apply.) The condition does not require Federal background checks. Recipients and subrecipients may review the specific requirements of the condition, including the checks that must be conducted, on the OJP website under the description of the condition “Determination of suitability to interact with participating minors”: <https://www.ojp.gov/funding/Explore/LegalOverview2019/MandatoryTermsConditions.htm#15>. (Posted February 2020)

ELIGIBILITY

1. **Are state coalitions eligible to receive program funds?**

Answer: Yes. State coalitions are eligible if they are providing “direct services” or “services to victims of crime” and meet the other VOCA statutory and regulatory eligibility requirements. VOCA sets forth the criteria for determining the eligibility of a “victim assistance program,” which includes, but is not limited to, a program that (a) is operated by a public agency or a nonprofit organization . . . and provides services to victims of crime, (b) demonstrates a record of providing effective services to victims of crime . . . , and (c) uses volunteers in providing such services. *See* 34 U.S.C. 20103(b)(1)(A)-(F). The new VOCA rule provides that “direct services” or “services to victims of crime” are services described in VOCA and services that (1) respond to the emotional, psychological, or physical needs of crime victims; (2) assist victims with stabilizing their lives after victimization; (3) assist victims with understanding and participating in the criminal justice system; or (4) restore a measure of security and safety for the victim. *See* 28 CFR 94.102(1)-(4).

Additionally, the “coordination of activities” is an allowable cost for activities supporting direct services. Specifically, “coordination of activities” that facilitate the provision of direct services includes, but is not limited to, statewide coordination of victim notification systems, crisis response teams, multidisciplinary teams, coalitions to support and assist victims, and other such programs; and salaries and expenses of such coordinators. *See* 28 CFR 94.120(a). As noted in the preamble, the new rule gives states the latitude to allow subrecipients to use VOCA funds for activities coordinating victim services.

Additionally, if a state coalition is being used as a pass-through organization, the coalition is eligible to receive administrative and training funding. *See* 28 CFR 94.103(c). State administering agencies are limited to using 5 percent of their VOCA assistance funds for administrative and training purposes. *See* 34 U.S.C. 20103(b)(3); 28 CFR 94.107(a). (Posted August 2018)

2. How must state administering agencies (SAAs) determine which organizations receive funds and in what amounts?

Answer: SAAs have the sole discretion to determine which organizations receive funds and in what amounts, subject to the requirements of VOCA and the provisions in the DOJ Grants Financial Guide relating to conflicts of interest. SAAs must maintain a documented methodology for selecting all competitive and noncompetitive subrecipients. Additionally, SAAs are encouraged to award funds through a competitive process, when feasible. Typically, such a process entails an open solicitation of applications and a documented determination, based on objective criteria set in advance by the SAA (or pass-through entity, as applicable). *See* 28 CFR 94.104(e). (Posted August 2016)

3. Are SAAs permitted to use their annual VOCA grants to fund their own direct service projects?

Answer: Yes. As was permitted by the VOCA Victim Assistance Guidelines, an SAA may use no more than 10 percent of its annual VOCA grant to fund its own direct service projects, unless the Director of OVC grants a waiver. *See* 28 CFR 94.104(f). (Posted August 2016)

4. May SAAs make awards to faith-based and neighborhood programs?

Answer: Faith-based and neighborhood programs are eligible to receive VOCA awards if they meet other eligibility requirements of VOCA and the SAA. SAAs must ensure that such programs comply with all applicable federal laws, including 28 CFR Part 38 (the U.S. Department of Justice's regulation on partnerships with faith-based and other neighborhood organizations, which was revised on April 4, 2016). In particular, 28 CFR 38.2 allows faith-based and religious organizations to retain their independence and carry out their mission, including the definition, development, practice, and expression of their religious beliefs, provided that they do not use direct federal financial assistance, whether received through a prime award or a subaward, to support or engage in any explicitly religious activities, including activities that involve overt religious content, such as worship, religious instruction, or proselytization. *See* 28 CFR 94.112(a)(1). (Posted August 2016)

5. May SAAs make awards to crime victim compensation programs?

Answer: Yes. SAAs may provide VOCA victim assistance funding to compensation programs only for the purpose of providing direct services that extend beyond the essential duties of the staff administering the compensation program. Such services include, but are not limited to, crisis intervention, counseling, and providing information, referrals, and followup for crime victims. *See* 28 CFR 94.112(a)(2). (Posted August 2016)

6. May SAAs make awards to victim service organizations located in an adjacent state, including awards to tribal organizations across state lines?

Answer: Yes. SAAs may award VOCA funds to otherwise eligible programs that are physically located in an adjacent state, but in making such awards, the SAA shall provide notice of such award to the SAA of the adjacent state, and coordinate, as appropriate, to ensure effective provision of services, monitoring, auditing of federal funds, compliance, and reporting. *See* 28 CFR 94.112(a)(3). (Posted August 2016; updated August 2018)

7. When making an award, how must an SAA assess the organizational capacity of a program to ensure that the program is eligible to receive VOCA funding?

Answer: When making a VOCA award, an SAA must determine that the program has either a record of effective services to victims of crime and support from sources other than the Crime Victims Fund OR substantial financial support from sources other than the Crime Victims Fund.

A program has demonstrated a record of effective services to victims of crime 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.

A program has substantial financial support from sources other than the Crime Victims Fund when at least 25 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. *See* 28 CFR 94.112(b). (Posted August 2016)

8. Can law enforcement apply for VOCA funding?

Answer: Law enforcement agencies may be eligible for VOCA funding for activities that support victim services specifically, such as a law enforcement advocate position. (Posted October 2019)

ACTIVITIES THAT SUPPORT DIRECT SERVICES

1. What are allowable costs for activities that support direct services?

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

1. Coordination of activities.
2. Supervision of direct service providers.
3. Multi-system, interagency, multidisciplinary response to crime victim needs.
4. Contracts for professional services.
5. Automated systems and technology.
6. Volunteer trainings.
7. Restorative justice.

See 28 CFR 94.120. (Posted August 2016)

2. What types of “restorative justice” are allowable expenses to be covered by VOCA victim assistance funding?

Answer: Restorative justice activities support 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. Victims must always have the opportunity to withdraw from participation, and there must be a reasonably anticipated beneficial or therapeutic value to the crime victim. Ultimately, the state administering agency (SAA) maintains the discretion to determine what restorative justice activities it wishes to fund, and has the responsibility of monitoring and overseeing the program. *See 28 CFR 94.120(g). (Posted August 2018)*

3. What are coordination activities?

Answer: Coordination activities that facilitate the provision of direct services include, but are not limited to, statewide coordination of victim notification systems, crisis response teams, multidisciplinary teams, coalitions to support and assist victims, and other such programs; as well as the salaries and expenses of such coordinators. *See 28 CFR 94.120(a). (Posted August 2016)*

4. Can subrecipients be funded to provide only coordination activities?

Answer: Yes. The new VOCA rule gives state administering agencies the latitude to allow eligible subrecipients to use VOCA funds for activities involving the coordination of victim services. The preamble of the rule provides that most of the changes to the final rule expanded state flexibility in the use of VOCA funding. “Some changes, like allowing more flexibility to coordinate and leverage community resources . . . impose no costs but allow states to use existing funding more efficiently.” See 28 CFR 94, Preamble I.C.

5. If VOCA victim assistance funds are used to support a coordinator position, what, if any, are the restrictions on the coordinator regarding management activities?

Answer: Costs for coordination activities that facilitate the provision of victim services, including the salary of a coordinator, are allowable. Coordination activities may include, but are not limited to, organizing meetings of various victim service organizations, leading/participating in multidisciplinary teams, and sharing information (as appropriate) between service providers to coordinate services or advocacy for victims. Coordinators may have supervisory roles over direct service providers in an organization, provided that the SAA determines that funding a supervisory position is necessary to effectively facilitate direct victim services. While management activities such as those performed by the executive directors, board members, or other top-level administrators of a victim service organization should not be funded with VOCA funds, coordination activities and roles that are integral to facilitating direct services typically would not fall within the category of disallowed management-related costs. See 28 CFR 94.120(a)-(b); 94.121(a); 94.122(h). (Posted August 2018)

6. Can a grantee provide services to abuse victims who are also perpetrating abuse?

Answer: Yes, in principal. The question is, what is the driving service? If it is victim services for the victim/now perpetrator, then victim assistance funds can be used for that purpose. In the final rule, OVC removed the prohibition on perpetrator rehabilitation and counseling, as the prohibition unnecessarily prevented States and communities from fully leveraging all available resources to provide services to these victims, who have been shown to have a great need for such services. States and VOCA-funded subrecipients may set eligibility criteria for their victim service projects, and thereby determine, in accordance with VOCA and this rule, whether and how such victims might be served by VOCA-funded projects. See Preamble, §94.119 “Services to Incarcerated individuals.” (Posted October 2019)

7. Is staffing residential counselors for children while parents are in opioid treatment allowable?

Answer: Costs related to providing mental health counseling and care, including residential care, for children who are crime victims as a result of their parents' or caretakers' substance abuse may be allowable if those services are provided by a person who meets professional standards to provide these services in the jurisdiction in which the care is administered. See 94.119(c). (Posted October 2019)

8. If a subgrantee is paying an employee a full time salary from VOCA funds, can they pay the employee \$1 for every hour they are "on-call" in addition to their pay?

Answer: SAAs may authorize subrecipients to pay stipends to employees in addition to their base pay as compensation for being available to take calls outside of normal hours. In order to be allowable under the subaward, the subrecipient must compensate all employees, not only those funded by VOCA or other Federal grants, in the same manner. SAAs and subrecipients must comply with Federal, state, and local labor laws. (Posted February 2020)

ALLOWABLE EXPENSES

1. May a state administering agency (SAA) use VOCA funds to support statewide automated victim information and notification (SAVIN) systems?

Answer: Yes. See 28 CFR 94.120(e). (Posted August 2018)

2. Can VOCA funds pay for HIV/preventive medicines?

Answer: Yes. Costs are allowable, on an emergency basis (i.e., when the state compensation program, the victim's health insurance plan [or, in the case of a minor child, the victim's parent's or guardian's health insurance plan], Medicaid, or another healthcare 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]), for non-prescription and prescription medicine, prophylactics, or other treatment to prevent HIV/AIDS infection or other infectious diseases. See 28 CFR 94.119(a)(9). (Posted August 2018)

3. Can a victim and/or a service provider be reimbursed for transportation expenses for travel beyond the typical court proceedings (e.g., to transport a victim to counseling)?

Answer: Yes, as long as the underlying service necessitating the transportation is an allowable expense under the VOCA rule. The rule provides that "transportation of

victims to receive services and to participate in criminal justice proceedings” is an allowable direct service cost. See 28 CFR 94.119(i). (Posted August 2018)

4. Can an SAA fund a standalone public awareness campaign with program dollars?

Answer: Certain standalone public awareness campaigns may be allowable uses of program dollars under the new VOCA rule, so long as the campaigns are related to raising awareness about crime victimization. For example, supporting public awareness and education presentations 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 is an allowable cost for supporting direct services. See 28 CFR 94.119(j). (Posted August 2018)

5. May VOCA victim assistance funding be used to support repairs to housing, including a home or apartment, used by a victim who is experiencing housing relocation or transition resulting from a victimization?

Answer: Yes. SAAs may use VOCA victim assistance funding to fund window, door, and lock replacement or repair. See 28 CFR 94.117(a)(1)(viii). (Posted August 2018)

6. May VOCA victim assistance funds be used to support building adaptations to comply with the Americans with Disabilities Act?

Answer: Yes. States may use VOCA victim assistance funding to support required minor building adaptations that are necessary to meet DOJ’s standards for implementing the Americans with Disabilities Act. States are responsible for monitoring and overseeing modifications to property and ensuring compliance with all applicable laws, rules, and regulations. See 28 CFR 94.121(d). (Posted August 2018)

7. What are direct services for personal advocacy and emotional support?

Answer: Personal advocacy and emotional support services include, but are not limited to, the following:

1. Working with a victim to assess the impact of a crime.
2. Identification of a 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 followup contact for continued services, as needed.

7. Traditional, cultural, and/or alternative therapy/healing (e.g., art therapy, yoga).

See 28 CFR 94.119(b). (Posted August 2016)

8. What are direct services for mental health counseling and care?

Answer: Mental health counseling care includes, but is not limited to, outpatient 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 the professional standards to provide these services in the jurisdiction in which the care is administered. *See 28 CFR 94.119(c). (Posted August 2016)*

9. Can VOCA victim assistance funds be used to support “capacity evaluations,” which can be used to determine if a victim has the necessary decision-making ability regarding a particular need?

Answer: Yes. Capacity evaluations, which are particularly relevant for older victims of crime, are an allowable use of VOCA victim assistance funding. Capacity evaluations facilitate the provision of victim services and help inform service providers and investigators about how to interact with the victims.

10. Can mental health counseling be provided in-house?

Answer: Yes. Under the same standards as under mental health counseling and care, mental health counseling can be provided through in-house treatment so long as the treatment is directly related to the victimization. *See 28 CFR 94.119(c). (Posted August 2018)*

11. Can funds be used for alternative forms of therapy/support?

Answer: Yes. Direct services for which VOCA funds may be used include, but are not limited to, personal advocacy and emotional support, including traditional, cultural, and alternative therapy/healing, such as art therapy and yoga. This list of examples is not exhaustive; other alternative forms of therapy may be supported with VOCA victim assistance funds. SAAs have the discretion to determine which alternative forms of therapy VOCA funds may support. *See 28 CFR 94.119(b)(7). (Posted August 2018)*

12. What are direct services for peer support?

Answer: Peer support includes, but is not limited to, activities that provide opportunities for victims to meet other victims, share experiences, and provide self-help, information, and emotional support. See 28 CFR 94.119(d). (Posted August 2016)

13. What are allowable direct service costs for forensic medical evidence collection examinations?

Answer: Forensic medical evidence collection examinations for victims are allowable 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. Subrecipients 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. Subrecipients are also encouraged to use specially trained examiners such as Sexual Assault Nurse Examiners. See 28 CFR 94.119(g). (Posted August 2016)

14. If a Sexual Assault Nurse Examiner (SANE) is VOCA grant-funded to perform sexual assault forensic medical examinations, can court preparation and testimony time be considered paid time and paid with grant funds?

Answer: VOCA Victim Assistance funds can be used to fund the time of a SANE's testimony in court in support of the victim service they provide. The court preparation and testimony are related to the services provided to the victim, and therefore are allowable.

15. When may forensic interviews be allowable direct service costs?

Answer: Forensic interviews may be allowable direct services 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 multidisciplinary investigation and diagnostic team, or in a specialized setting such as a child advocacy center.
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.

See 28 CFR 94.119(h) (Posted August 2016)

16. What are the parameters related to forensic medical evidence collection and the covered costs, and is there a limit?

Answer: Forensic medical evidence collection examinations for victims are an allowable expense to the extent that other funding sources such as state appropriations are insufficient and STOP Violence Against Women Act funds cannot be used. Except as otherwise noted in the rule and VOCA, there is no limit to the amount of funding used to support forensic medical evidence collection. *See* 28 CFR 94.119(g). (Posted August 2018)

17. Are there established criteria for who can collect medical evidence and for what crime types?

Answer: Forensic medical evidence collection examiners are encouraged to follow relevant guidelines or protocols issued by the state or local jurisdiction. Subrecipients are encouraged to provide appropriate crisis counseling and/or other types of victim services that are offered to the victims in conjunction with the examination. Subrecipients are also encouraged to use specifically trained examiners such as Sexual Assault Nurse Examiners. The state has the discretion to determine the amount of funding and the types of crimes for which VOCA victim assistance funding may be used. *See* 28 CFR 94.119(g). (Posted August 2016)

18. Is it allowable to lease or purchase a vehicle with VOCA funds?

Answer: Yes, provided that the SAA determines that the lease or purchase of the vehicle is essential to the provision of direct services. Administrative costs for which VOCA funds may be used by subrecipients include leasing or purchasing vehicles. *See* 28 CFR 94.121(h). (Posted August 2016)

19. If a tribal subgrantee wants to assist tribe members in a nonadjacent state with eligible relocation services to another state, is it allowable?

Answer: Yes, so long as the SAA authorizes the expense. Relocation expenses—generally, those expenses that are necessary for the safety and well-being of a victim—are allowable expenses. *See* 28 CFR 94.119(l). (Posted August 2018)

20. What research and evaluation costs can be supported with VOCA Victim Assistance Program funding?

Answer: VOCA victim assistance funds cannot be used to support research. Under the new rule, research and studies are unallowable expenses. *See* 28 CFR 94.122(b).

SAAAs may use their administrative funds, which are capped at 5 percent, for program evaluation, which includes, but is not limited to, surveys or studies that measure the effect or outcome of victim services. *See* 28 CFR 94.109(b)(5). Additionally, subrecipients may use VOCA funds to support evaluations of specific projects in order to determine their effectiveness within the limits set by the SAA. *See* 28 CFR 94.121(j). (Posted August 2018)

21. Can VOCA-funded evaluation results be published in academic journals?

Answer: Yes, VOCA-funded evaluations may be published in academic journals. SAAAs and subgrantees retain the copyright on materials produced with VOCA Victim Assistance Program funding; however, the U.S. Department of Justice retains a license to use the material. (Posted August 2018)

22. Can VOCA funds be used to support batterer intervention programs?

Answer: It depends. All VOCA Victim Assistance-funded activities must be for the purpose of providing assistance to victims of crime. The driving factor for states to consider is whether the funding is being used to provide services to victims of crime. VOCA Victim Assistance-funded programs shall only expend VOCA Victim Assistance funding for “providing services to victims of crime.” *See* 34 U.S.C. § 20103(b)(2). A state considering funding a batterer intervention program must determine if the program is using funding to provide services to victims of crime who are also batterers. If the state determines that the program is providing services to victims of crime (who are also batterers), then the program may be supported with VOCA Victim Assistance funding. If, however, the program is not providing services to victims of crime (who are also batterers), then the program may not be funded with VOCA Victim Assistance funding. (Posted August 2018)

23. Can VOCA funds be used to make repairs to subrecipient facilities such as shelters and rape crisis centers that have been damaged by a storm? Specifically, would the following be considered allowable expenses: making repairs to replace floors, drywall, electrical systems, HVAC units, or roofs that have been damaged as a result of flooding or winds due to a natural disaster, which are necessary for the facility and not covered by insurance or another federal funding stream (e.g., the Federal Emergency Management Agency)?

Answer: 28 CFR 94.119(a)(8) allows for expenses for direct services associated with the immediate emotional, psychological, and physical health and safety (other than medical care) of crime victims, including window, door, or lock replacement or repair, and other repairs necessary to ensure victim’s safety.

28 CFR 94.121(d) allows for organizational expenses to support building modifications that would improve a program’s ability to provide services to victims.

28 CFR 94.122(e) covers expressly unallowable subrecipient costs. No VOCA funds may be used to fund or support capital expenses, including capital improvements, property losses and expenses, and construction (except as specifically allowed elsewhere in this subpart).

In this circumstance, if the repairs or replacements due to the hurricane or natural disaster are necessary to ensure victims' safety in the shelters and rape crisis centers, including replacing floors, drywall, electrical systems, HVAC units, or roofs, then this would be allowable under the rule as an exception to prohibited construction. *See* 28 CFR 94.119(a)(8), 94.121(d), 94.122(e). (Posted September 2018)

24. Can VOCA funds be used to pay for excess staffing time (including overtime) for staff who have to remain at a facility past their normal workdays in order to keep a shelter open during a storm and its aftermath?

Answer: Yes. Overtime is an allowable expense under the rule and the DOJ Grants Financial Guide. (Posted September 2018)

25. Can VOCA funds be used to pay for hotel accommodations for victims who may have to be put up somewhere else while a shelter is out of service?

Answer: Yes. The rule sets forth a non-exhaustive list of examples of allowable direct service costs, including costs associated with the immediate emotional, psychological, and physical health and safety of victims, such as emergency shelter. This may include hotel expenses in these circumstances. *See* 28 CFR 94.119(5). (Posted September 2018)

26. Are court filing fees an allowable expense?

Answer: Yes, assuming the fees are directly related to the victimization. The VOCA final rule, § 94.119, allows for legal assistance services, where reasonable and where the need for such services arises as a direct result of the victimization, including those actions (other than tort actions) that, in the civil context, are reasonably necessary as a direct result of the victimization. (Posted October 2019)

27. Can VOCA funds be used for construction of a new facility?

Answer: Recipients cannot use OVC funds for construction of a new facility. *See* § 94.122(e). (Posted October 2019)

28. Can VOCA funds be used for adaptations and repairs to an existing facility, other than for ADA compliance?

Answer: Recipients may be able to fund facility modifications incidental and necessary for the project where the modifications are minor (*i.e.*, not capital expenses):

- i. Ordinary repairs and maintenance typically are minor.
- ii. Modifications that do not materially increase the value or useful life of a building are minor.
- iii. Modifications that do not change the basic prior use of a facility or its size (*i.e.*, footprint), are more likely to be minor.
- iv. Modification costs that are below the organization's capitalization threshold for real property assets are more likely to be minor.

See §§ 94.119(a)(8), 94.121(d), 94.122(e); 2 C.F.R. §§ 200.13, 200.462(a), 200.452, 200.439(b)(1) (Posted October 2019)

29. Can subrecipients use VOCA funds to make repairs on a leased building?

Answer: This is really contingent upon what the terms of the lease are. If the terms of the lease cover certain expenses, like replacing a broke furnace or air conditioning system, then the rental company would cover those expenses. If the terms of the lease allow for modifications that are necessary to support victim services within the scope of the project, then VOCA funds may be used to make repairs under those circumstances. (Posted October 2019)

30. Can grantees use VOCA funds to make repairs or improvements to a Designated Historical Building? How does OVC support a project that requires a 106 Review?

Answer: The requirements in the National Historic Preservation Act applicable to OJP generally apply if the building being modified is more than 50 years old, or listed in the National Register of Historic Places. If this is the case, then the grantee should consult (or have the subrecipient consult) with their State Historic Preservation Officer (SHPO) to see if there are historic preservation issues. GSA has a relatively concise explanation of the 106 process here: <https://www.gsa.gov/node/81644>. (Posted October 2019)

31. Can a grantee use VOCA funds to lease or purchase a mobile home or trailer?

Answer: Yes, under certain circumstances subrecipients may use their administrative costs to lease or purchase a mobile home or trailer as determined by the SAA after

considering, at a minimum, if the vehicle is necessary to the provision of direct services. The mobile home or trailer should be for the use of the victim-serving program. See § 94.121(h). (Posted October 2019)

32. Can VOCA funds be used to pay for processing medical evidence, such as for sexual assault evidence collection kits (SAECKs)?

~~**Original Answer:** VOCA funds can be used for processing both current and backlogged SAECKs and other forensic medical evidence. See § 94.119(g). Please note—OVC/OJP expects to update this answer with further guidance and clarification. (Posted October 2019)~~

Answer: Effective February 24, 2020: Using VOCA Victim Assistance funds to pay for the processing of medical evidence is not allowable.

As noted in our October 2019 response, OVC is providing this follow-up clarification, changing our previous response to this question. Upon further discussion and analysis, we have determined that using VOCA funds for the processing of medical evidence is NOT allowable. We set forth the revised explanation below.

VOCA includes in “services to victims of crime” the “payment of all reasonable costs of a forensic medical examination of a crime victim, to the extent that such costs are otherwise not reimbursed or paid”. The VOCA rule (and preamble) specifically address only forensic medical evidence collection examinations, not the processing of medical evidence. See 94.119(g).

Pursuant to 94.122(c), investigatory costs generally are unallowable. In contrast to the specific language regarding forensic medical evidence collection examinations, there is no such language addressing the processing (i.e., testing) of medical evidence in VOCA or 94.119(g). Thus, in light of the statutory and regulatory language, and past treatment of these costs, such processing is more appropriately characterized as an investigatory cost unallowable under the VOCA Victim Assistance Program.

Application: Any states that allowed VOCA funds to be used to pay for the processing of sexual assault medical evidence between November 1, 2019, and February 24, 2020, will not be penalized. During that period of time, OVC’s initial answer adopted in response to a grantee question, was that VOCA funds could be used to pay for these expenses. As of February 24, 2020, upon additional consideration, VOCA funds may no longer be used for these expenses. (Originally posted October 2019; updated February 2020)

33. Can VOCA funds pay for victim advocates to notify victims about the results of evidence testing?

Answer: Yes, VOCA funds may be used to pay for victim advocates to notify victims about the results of evidence testing as this is an allowable personal advocacy and emotional support direct service, and/or, if applicable, the facilitation of participation in criminal justice and other public proceedings arising from the crime. See § 94.119(b) & (e). (Posted October 2019)

34. Are tips – like tipping an Uber driver for taking a victim to an appointment – an allowable expense?

Answer: Yes, provided that the subrecipient's policies allow for reimbursements. Organizations should have a written policy and follow it, and amounts need to be reasonable. Tips are allowed under Federal Travel Regulations:

§301-10.420 When may I use a taxi, shuttle service or other courtesy transportation?

(a) When authorized and approved by your agency, your transportation expenses in the performance of official travel are reimbursable for the usual fare plus tip for use of a taxi, shuttle service or other courtesy transportation (if charges result)...

§301-10.421 How much will my agency reimburse me for a tip to a taxi, shuttle service, courtesy transportation driver, or valet parking attendant?

(a) An amount that your agency determines to be reasonable.

(Posted October 2019)

35. Can states use VOCA funds to pay bills in arrears (rent, utilities, car payments) for domestic violence or other victims trying to leave an offender? Are there any limits?

Answer: Yes, the VOCA rule allows costs for relocation to be borne by a subrecipient. The rule permits SAAs to set limits on amounts, length of time, and eligible crimes. States have the discretion to allow programs to make payments in arrears on behalf of victims. However, VOCA funds cannot be used to pay a mortgage. See § 94.119(k) & (l). (Posted October 2019)

36. Can a contracted therapist charge a cancellation fee for no-show appointments?

Answer: All costs charged to VOCA awards must be reasonable, allowable, and allocable. The DOJ Grants Financial Guide defines 'reasonable' as "those costs that a prudent person would have incurred under the circumstances prevailing at the time the decision to incur the cost was made." SAAs may set their own policies regarding the payment of cancellation fees for contracted therapists, provided that the SAA

takes care to minimize costs and to only reimburse expenses that are reasonable. The state should be consistent in following their own statutes, policies, procedures when reimbursing providers for cancelation fees. (Posted October 2019)

37. What types of medications and medical expenses are considered allowable under VOCA Assistance?

Answer: VOCA funds can be used to fund a very limited number of medical expenses. These costs are often approved on an emergency basis and under certain circumstances. Costs may include prescription and non-prescription medications, prophylactic or other treatment to prevent HIV/AIDS infection or other infectious disease, durable medical equipment, and other healthcare items. See 28 C.F.R. § 94.119(a)(9). (Posted October 2019)

38. Are state, federal, and local taxes on travel expenses allowable VOCA expenses?

Answer: It depends on the organization's travel policy. 2 CFR 200.474 sets out rules for travel costs, and this does not prohibit taxes on travel expenses. If an organization follows the FTR, then taxes are allowable, though federal travelers may be exempt from state and local lodging taxes in certain states, and thus exempt travel taxes would be unallowable expenses for those travelers. (Posted October 2019)

39. Are legal malpractice insurance for an on-staff attorney and commercial liability and bonding insurance allowable expenses for a subrecipient?

Answer: Yes, Personnel costs that are directly related to providing direct services and supporting activities, including malpractice and bonding insurance, are allowable expenses for a subrecipient. See § 94.121 "Allowable subrecipient administrative costs." (Posted October 2019)

40. May a subrecipient use VOCA funds for the purchase, installation, and monthly access fees for doorbell cameras, as a service for domestic violence survivors, where the subrecipient has developed a partnership with local law enforcement agencies? (The subgrantee, not the victim, would own the equipment and there would be a protocol for how long the equipment is in place.)

Answer: Yes, VOCA allows for expenses for direct services associated with the immediate emotional, psychological, and physical health and safety (other than medical care) of crime victims, including window, door, or lock replacement or repair, and other repairs necessary to ensure a victim's safety. The intent of the VOCA rule is that direct services include efforts that restore a measure of security and safety for the victim as a direct service. See § 94.102(4) & 94.119(a)(8). (Posted October 2019)

41. Does ownership vs. leasing of a building make a difference in the allowability of building modifications?

Answer: This question is being researched, and the answer is expected to be included in the December 2019 update. (Posted November 2019)

42. Would VOCA be able to pay for medication management (i.e. a person who is a medication manager) for VOCA-funded clients where they are receiving psychiatric services and also psychotropic medications for their conditions related to trauma?

Answer: Yes, this personnel cost can be considered an extension of the psychiatric services being provided to the victim. See § 94.119 (c) and 119(B)(3). (Posted November 2019)

43. Can VOCA funds be used to treat parents of children who are victims of sexual assault with group sessions?

Answer: The VOCA definition of “crime victim” or “victims of crime” covers both primary and secondary victims; see 20107(e). Your program needs to classify the specifics of these terms for subrecipients. In addition, however the SAA classifies these terms, PMT reporting will include the total number of all individuals who receive services funded by VOCA plus match funds. See 94.102. (Posted November 2019)

44. Can agencies use their VOCA housing grants to pay rent for victims in situations where the victim and perpetrator are both on a lease, the perpetrator has left, and the victim needs to come up with rent quickly?

Answer: This is a permissible use of VOCA funds and within the intent of the language found in § 94.119(L), “Allowable direct service costs: Relocation expenses.” (Posted November 2019)

45. May subrecipients bill their VOCA subawards for staff membership dues, which are related to the victim services funded under the subaward, such as national organizations or social work licensing?

Answer: Yes, SAAs may allow costs of membership dues such as to national victim service organizations or other professional organizations where those costs are directly associated with providing services to victims of crime and are reasonable. SAAs are reminded that expenses directly or indirectly associated with lobbying are unallowable. Organizational expenses that are necessary and essential to providing direct services and other allowable victim services are permitted. See 28 C.F.R. 94.121(d). (Posted November 2019)

46. If a direct service provider gets VOCA and other federal funding, but the other funding is only for personnel and benefits, how are equipment costs allocated when there is nothing in the budget for that?

Answer: In order to determine the allocation, the purpose of the item needs to be examined. In the event the item is not exclusively for victim-related activities, the VOCA grant may only be charged the prorated share of the cost. *See* § 94.121. (Posted November 2019; updated February 2020)

Original Answer: This question is being researched, and the answer is expected to be included in the December 2019 update. (Posted November 2019)

47. Is it permissible for VOCA to pay copays for counseling services when a victim is already covered by a form of medical insurance?

Answer: Yes, copays for counseling services would be an allowable expense. *See* § 94.117 and 94.119(c). (Posted November 2019)

48. Can on-call victim advocates who travel to a hospital to be with victims and their families be reimbursed for their travel?

Answer: Subrecipients may cover travel expenses for on-call victim advocates to travel to a hospital to support victims of crime when the subrecipient's policy is to reimburse similar travel costs without regard to the source of funding being used to pay for the travel. (Posted November 2019)

49. If a grantee buys a car for a program, what happens to the car after the end of the award? If they sell it, what happens to the proceeds? Is there a difference if the SAA purchases and leases the car to the subrecipient, versus letting the subrecipient purchase it themselves?

Answer: A car is considered "equipment," and the same "disposition of equipment" rules set forth in the [DOJ Grants Financial Guide](#) apply. *See* Section 3.7, "Disposition of Equipment."

Yes, there is a difference in how a State and a subrecipient must dispose of equipment. "A State recipient must dispose of equipment acquired under the award in accordance with State laws and procedures" (*see* Section 3.7 of the DOJ Grants Financial Guide). Recipients and subrecipients other than States must dispose of the equipment according to the procedures set forth in the DOJ Grants Financial Guide.

(Posted November 2019)

50. Per the VOCA Rule § 94.119, “Allowable direct service costs,” certain medical costs are allowable in emergency situations only. Is drug detox an allowable expense under VOCA? (Human Trafficking victims usually need immediate detox since addiction is a tool of control by traffickers.)

Answer: Yes. “Substance-abuse treatment [is allowable] so long as the treatment is directly related to the victimization.” See § 94.119(c). (Posted February 2020)

51. Can VOCA funds pay for food for victims? The two most common examples include snacks for when children are getting a forensic exam or for when victims need to be transported for long distances.

Answer: Food costs can be considered emergency costs under a circumstance, as described here, where an immediate need is present and there is no immediate access available due to the program’s location. See 28 C.F.R. § 94.119(a)(5). (Posted February 2020)

52. Can an SAA use VOCA funds for the (pro-rated) purchase of Y-screening tests? (Y-screening is useful in sexual assault cases.) This tool will be invaluable to the testing of sexual assault forensic kits and the beginning of closure for victims.

Answer: This question is being researched, and the answer is expected to be included in the February 2020 update. (Posted February 2020)

53. Can VOCA funds pay for safe exchange and supervised visitation activities/projects?

Answer: So long as the activities are related to supporting or providing services to victims, VOCA Victim Assistance funds may be used to pay for safe exchange and/or supervised visitation activities and projects. The driving question that an SAA must consider is whether the activity is victim service-based. (Posted February 2020)

54. Is there a limitation to items a program can purchase as office supplies, such as cleaning wipes or Tylenol?

Answer: SAAs can set limitations on specific costs or cost categories. Costs incurred must be necessary and reasonable to the provision of direct services to victims. (Posted February 2020)

55. Can VOCA funds be used to assist trafficking victims with expunging their records?

Answer: Yes, if the legal services are not torts and the services are directly related to the victimization. *See* 28 CFR 94.119(f)(2). (Posted February 2020)

56. Can VOCA program funds be used to pay for standalone multi-disciplinary teams (MDTs) (assuming the applicant meets the eligibility requirements)? Specifically, does the MDT have to be a component of a larger victim services project?

Answer: No, an MDT does not have to be a component of a larger victim services project so long as the activities leverage resources for direct victim services.

The question assumes that the applicant is “eligible” under VOCA. One of the “eligibility” criteria under VOCA is that the victim assistance program provides services to victims of crime. *See* 34 USC § 20103(b)(1)(a). In the hypothetical in this question, the applicant has met this requirement – the program provides services to victims of crime.

The Rule allows for VOCA assistance funds to be used to support direct services, including the coordination of activities such as multidisciplinary teams. Specifically, “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 multidisciplinary 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.” *See* 94.120.

In the Preamble of the Rule, we explain, “OVC intends that these [coordination activities] may be funded by a State [as either part of a direct service project or a stand-alone project]. If they are funded as stand-alone activities, however, they should be activities that leverage resources for direct victim services (e.g., a stand-alone project to train volunteers may make more volunteers available to provide direct services).”

To further clarify, VOCA Assistance funds may be used to support some lethality review teams, such as a DV lethality review team. For example, some lethality review teams develop protocols for responding to victims in different professions, such as prosecutors, medical professionals, victim service advocates, and first responders. VOCA Victim Assistance funds may be used to

support lethality review teams in those instances. The critical question is whether the coordinated activities are leveraging resources for direct victim services.

(Posted February 2020)

SUBRECIPIENT AWARD PERIOD TIMING

- 1. A subrecipient has a 2015 award that ends on September 30, 2018. Due to a recent natural disaster, the subrecipient wants to make repairs to its shelter. If the subrecipient obligates funds to conduct repair work on or before September 30, 2018, may activities to complete the repairs occur after September 30, 2018?**

Answer: If the subgrantee elects to spend remaining 2015 funds on repairs to its shelter, it must obligate those funds by September 30, 2018, and it has 90 days to complete performance on the obligated funds (i.e., they have the liquidation period of the award to complete performance). Therefore, the subgrant will end on September 30, 2018, but the subgrantee will file its final Federal Financial Report on December 31, 2018, noting its final expenditures for the award.

Essentially, **the subgrantee will not be incurring any new obligations on the 2015 award beginning October 1, 2018**, but will make its final drawdowns related to the obligations that were incurred prior to September 30, 2018. To be clear, the subgrantee only has 90 days to complete performance on obligations made with funds expiring on September 30, 2018. No new obligations on the 2015 funds may be made after September 30, 2018. (Posted September 2018)

- 2. Can states request an extension on formula grants? Is this an extension of the liquidation period or the project period?**

Answer: States cannot request a project period extension on formula grants. Pursuant to VOCA, the award period (project period) is the year that the award is issued plus the three subsequent years. See 34 U.S.C. § 20101(e). The project period will never change, but the ability to liquidate funds can be extended in limited circumstances. It's OJP's requirement that the award be closed out within 90 days of the award end date. If the liquidation period is extended beyond the 90 days, there also needs to be an OVC approval to extend the end date of the closeout. It's OVC's expectation that all OVC awards be liquidated and closed within 90 days unless exceptional circumstances apply. See DOJ Grants Financial Guide Section 3.2. (Posted October 2019)

- 3. If a subrecipient declines to accept funds from an earlier VOCA award (e.g., FY2017), can the unobligated funds be re-routed to another VOCA subrecipient without going through a competitive process?**

Answer: Yes, as long as the decision is properly documented and doesn't conflict with the SAA's policy or state laws and regulations. In this case, the additional funding would be issued as a new or new supplemental award with all of the usual paperwork required (award contract, conditions, certifications, budget with narrative, etc.). The VOCA rule does not contain a competition requirement but OVC does encourage SAAs to use a competitive process where feasible. The rule requires States to have a documented method of making all funding decisions. See § 94.104(e). (Posted October 2019)

- 4. Grant awards (VOCA Victim Assistance) are year plus three awards. What documentation would OVC expect an SAA to have in place should they desire to "commit" funds prior to award date? For example, federal FY 2019 grants are not awarded until September 2019; can the SAA use non-federal funds (assuming no supplantation) or other federal award funds from October 2018 to September 2019 and then re-commit funds once received?**

Answer: The SAA may (at its own risk) obligate non-VOCA Assistance funds for activities and then reimburse the costs of those activities that are allowable under the VOCA Victim Assistance Final Rule once the VOCA Award is made.

The grantee must maintain their normal financial and programmatic records that would normally be required for any other VOCA Victim Assistance Subaward. The SAA must make sure to have adequate drawdown policies and procedures that (along with general grant financial management and subaward selection policies) would address how a state handles this VOCA transaction. (Posted October 2019)

- 5. Can state administrators close out a VOCA award prior to the specified year-end close out date?**

Answer: Yes. If a grant is currently under review by OCFO or OIG, however, state administrators will not be able to close out the grant. (Posted October 2019)

TRAINING

- 1. Can only the administrative and training percentage (5 percent) of VOCA victim assistance funding be used for developing training?**

Answer: The answer depends on who is being trained and for what purpose. State administering agencies (SAAs) may use the administrative and training percentage of their VOCA victim assistance funding to develop trainings. See 28 CFR 94.107,

94.109, & 94.110. This amount is currently restricted to 5 percent of the state's total VOCA victim assistance award. *See* 34 USC 20103(b)(3).

Subrecipients may use their VOCA victim assistance funding to support the “training [of] volunteers on how to provide direct services, when such services will be provided primarily by volunteers.” This training would not be subject to the 5-percent administrative and training restriction. *See* 28 CFR 94.120(f). Training exclusively for developing the skills of direct service providers, including paid staff and volunteers, including the development of materials and resources relating to the training, are allowable uses of VOCA victim assistance funding. *See* 28 CFR 94.121(b). These expenses do not fall within the 5-percent restriction on training and administration. *See* 28 CFR 94.107(e). (Posted August 2018)

2. What are allowable training costs?

Answer: VOCA funds may be used only for training activities that occur within the award period, and all funds for training must be obligated prior to the end of such period. Allowable training costs generally include, but are not limited to, statewide/regional training of personnel providing direct assistance and allied professionals, including VOCA-funded and non-VOCA-funded personnel, as well as managers and board members of victim service agencies; and training academies for victim assistance. *See* 28 CFR 94.110. (Posted August 2016)

3. When should training expenses be considered state administrative expenses, and when should they be considered subrecipient expenses?

Answer: Expenses associated with the general training of a large number of service providers should be considered expenses that fall under the state's administrative costs. Expenses associated with the training of subrecipient staff should be considered expenses that fall under the subrecipient's budget. (Posted August 2018)

4. Can SAAs use VOCA funds to pay for the cancellation of events? For example, if an SAA is hosting a training or workshop and for some reason needs to cancel (and has to pay due to time or other restrictions), what is the appropriate allowable amount that the SAA can charge to VOCA?

Answer: The costs for cancelling training events or workshops are unallowable. (Posted October 2019)

5. Are substance abuse treatment programs designed to serve victims, which include the benefit of preventive treatment although prevention is not the driving factor, an allowable cost?

Answer: Yes, so long as the driving factor is a treatment program that benefits victims of crime. In this hypothetical case, a substance abuse treatment program is serving victims of crime. Any prevention activities related to substance abuse treatment are secondary in nature; the priority issue is treating the underlying trauma and problem causing the addiction issue. (Posted October 2019)

6. Is it allowable to use VOCA funds to prepay for meals at a training retreat if it is held at a remote location with no other food and beverage option for the attendees?

Answer: Using award funds to pay for food and beverage is only permitted when OVC gives prior written approval in response to a formal request from DAC.

DOJ only approves these requests when it deems food and beverage costs to be necessary. Food and beverages are necessary when there is a need to cover essential material in a limited time period, and due to the overall length of event, it is impractical for attendees to seek refreshments or meals elsewhere without missing important event information. There should be several hours of substantive/instructional material presented before and after a refreshment or meal. When providing a full meal, substantive/instructional material related to the event topic must be presented during the meal for it to be considered necessary. Food and/or beverages are not necessary when they are provided merely for the pleasure or convenience of the attendees.

Any events where food and/or beverages will be served must be supported with a formal agenda. The agenda must specifically include the times during the event when food and/or beverages will be provided. The event where food and/or beverages will be served must be mandatory for, and open to, all participants. Conference attendees must decrease their M&IE reimbursement requests if food and/or beverages are served.

If food and beverage costs are expressly permitted by DOJ, cost thresholds must be followed. The cost of refreshments plus any hotel service costs (e.g., labor costs for room setup, taxes, tips) plus the effect of your indirect cost rate (if applicable), cannot exceed 23% of the locality M&IE rate per attendee per day. The cost of any meal provided, plus any hotel service costs, cannot exceed 150% of the locality M&IE rate per meal. Food and/or beverages provided may not be related directly to amusement and/or social events. Any event where alcohol is being served is considered a social event and, consequently, no costs associated with that event are allowable.

Detailed food and beverage information, including cost thresholds, may be found at <https://ojp.gov/financialguide/DOJ/pdfs/foodandbeverage.pdf>.

(Posted October 2019)

7. Can an SAA use program income (VOCA training registration fees) from the administration portion of a grant to cover food for the VOCA trainings?

Answer: Program income may be used for food and beverage costs. The portion of costs that program income covers does not apply to conference cost thresholds, either. For example, if the grantee has program income they are using towards logistical planning and the logistical planning is \$2,500 over the threshold, if they cover at least \$2,500 of logistical planning with program income, then they would not be over the threshold. (Posted February 2020)

8. A lot of Child Advocacy Centers do presentations such as Stewards of Children. Is this considered allowable since it is not simply prevention, but focused on identifying crime victims by helping participants recognize and react responsibly to child sexual abuse?

Answer: If the presentation is designed to identify crime victims and provide information and referrals to victims about services and their rights, it may be allowable. The driving question is whether the presentation is raising public awareness and education “designed to inform crime victims of specific rights and services and provide them with (or refer them to) services and assistance.” See 94.119(j). (Posted February 2020)

9. For training funds, how are consultant rates for trainers or presenters substantiated as required in the DOJ financial guide?

Answer: The grantee should negotiate a fair market value for any consultants paid with grant funds. Organizations could talk to other organizations to determine what is reasonable to pay for similar services, and document those conferrals. The question to answer is, if the non-profit were using its own funds to pay for the consultant, as opposed to using federal dollars, what would the non-profit ordinarily pay? The non-profit is responsible for documenting what it would normally pay under similar circumstances. (Posted February 2020)

10. Do SAAs need OVC’s prior approval to provide technical assistance and training on grant compliance and reporting requirements for subrecipients, as if it were conference planning?

Answer: VOCA Victim Assistance and Victim Compensation formula awards are made as grants, and thus are exempt from the conference prior approval requirements. Awards made as cooperative agreements do require prior

approval. Cooperative agreement recipients should work with their grant manager to comply with prior approval and other conference cost limitations. (Posted February 2020)

11. Can VOCA pay to send a non-VOCA funded employee to receive training using VOCA dollars?”

Answer: Yes, as long as they are a direct service staff member. *See 94.121(c).*
(Posted February 2020)

ADMINISTRATIVE COSTS

1. What are allowable state administering agency (SAA) administrative costs under a VOCA victim assistance award?

Answer: Funds for administration may be used only for costs directly associated with administering a state’s victim assistance program. Where allowable administrative costs are allocable to both the crime victim assistance program and another state program, the VOCA grant may be charged no more than its proportionate share of such costs. Costs directly associated with administering a state victim assistance program generally include the following:

- *Salaries and benefits* of SAA staff and consultants to administer and manage the program.
- *Training* of SAA staff, including, but not limited to, travel, registration fees, and other expenses associated with SAA staff attendance at technical assistance meetings and conferences relevant to the program.
- *Monitoring compliance* of VOCA subrecipients with federal and state requirements; support for victims’ rights compliance programs; provision of technical assistance; and evaluation and assessment of program activities, including, but not limited to, travel, mileage, and other associated expenses.
- *Reporting* and related activities necessary to meet federal and state requirements.
- *Program evaluation*, including, but not limited to, surveys or studies that measure the effect or outcome of victim services.
- *Program audit costs* and related activities necessary to meet federal audit requirements for the VOCA grant.
- *Technology-related costs*, generally including grant management systems, electronic communications systems and platforms (e.g., web pages, social media), geographic information systems, victim notification systems, and other automated systems; related equipment (e.g., computers, software, fax and copying machines, TTY/TDDs); and related technology support services necessary to administer the program.

- *Memberships* in crime victim organizations that support the management and administration of victim assistance programs, and publications and materials such as curricula, literature, and protocols relevant to the management and administration of the program.
- *Strategic planning*, including, but not limited to, the development of strategic plans, both service and financial, including conducting surveys and needs assessments.
- *Coordination and collaboration efforts* among relevant federal, state, and local agencies and organizations to improve victim services.
- *Publications*, including, but not limited to, developing, purchasing, printing, and distributing training materials, victim services directories, brochures, and other relevant publications.
- *General program improvements*, such as enhancing overall SAA operations relating to the program and improving the delivery and quality of program services to crime victims throughout the state.

See 28 CFR 94.109. (Posted August 2016)

2. What is the allowability of costs at the administrator level regarding strategic plans?

Answer: Costs associated with strategic planning, such as the development of service or financial strategic plans, conducting surveys, and needs assessments, are allowable as administrative costs for the SAA where those costs are directly associated with administering the victim assistance program. Where costs are allocable to both the crime victim assistance program and another State program, the VOCA grant may be charged no more than its proportionate share of such costs. See 28 C.F.R. 94.109. (Posted November 2019)

CONFIDENTIALITY

1. What guarantees of confidentiality must VOCA-funded programs make?

Answer: The program rules at 28 CFR 94.115 describe the nondisclosure and confidentiality rules that apply to state administering agencies (SAAs) and subrecipients of VOCA funds. In general, SAAs and subrecipients of VOCA funds shall, to the extent permitted by law, reasonably protect the confidentiality and privacy of persons receiving services under the VOCA-funded program. They shall not disclose, reveal, or release 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.

In no circumstances may a crime victim be required to provide a consent to release personally identifying information as a condition of eligibility for VOCA-funded

services. Additionally, in no circumstances may any personally identifying information be shared in order to comply with reporting, evaluation, or data-collection requirements of any program.

SAAAs and subrecipients of VOCA funds also may not disclose, reveal, or release any individual client information without the informed, written, reasonably time-limited consent of the person about whom information is sought.

Consent for release may not be given by the abuser of a minor, the abuser of the other parent of a minor, or by an incapacitated person. If a minor or a person with a legally appointed guardian is permitted by law to receive services without their parent's or guardian's consent, the minor or person with a guardian may consent to release of information without additional consent from the parent or guardian. See 28 CFR 94.115. (Posted August 2016)

2. What exceptions are there to the confidentiality requirements?

Answer: If release of information is compelled by statutory or court mandate, SAAs and subrecipients 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. Nothing in the VOCA confidentiality provisions prohibits compliance with legally mandated reporting of abuse or neglect. See 28 CFR 94.115. (Posted August 2016)

3. What information may VOCA SAAs and subrecipients share?

Answer: SAAs and subrecipients may share the following:

- Non-personally identifying data in the aggregate regarding services provided to clients, and non-personally identifying demographic information, in order to comply with reporting, evaluation, or data collection requirements.
- Court-generated information and law enforcement-generated information contained in secure governmental registries for protection order enforcement purposes.
- Law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.

See 28 CFR 94.115. (Posted August 2016)

VOCA-FUNDED PROJECTS

1. What projects may be funded with VOCA victim assistance funds?

Answer: VOCA funds shall be available to subrecipients only to provide direct services and supporting and administrative activities, as set out in the program rules. State administering agencies (SAAs) shall ensure that VOCA subrecipients obligate and expend funds in accordance with VOCA. Subrecipients must provide services to victims of federal crimes on the same basis as to victims of crimes under state or local law. *See 28 CFR 94.116. (Posted August 2016)*

2. Must VOCA-funded projects only serve victims who are participating in the criminal justice process?

Answer: No. Subrecipients may provide direct services regardless of a victim's participation in the criminal justice process. *See 28 CFR 94.116. (Posted August 2016)*

3. Should VOCA-funded projects take the immigration status of a victim into account when determining eligibility for services?

Answer: No. Under this program, victim eligibility for direct services is not dependent on the victim's immigration status. *See 28 CFR 94.103(a), 94.116.* This principle derives from the nature of services provided by most VOCA-funded victim service providers in light of the Personal Responsibility Work Opportunity Reconciliation Act of 1996, and was communicated to all VOCA victim assistance (and victim compensation) state administering agencies (SAAs) in a June 28, 2010, OVC Director memorandum. *(Posted August 2016)*

4. Must VOCA-funded services be provided free of charge?

Answer: Yes. Subrecipients must provide VOCA-funded direct services at no charge, unless the SAA grants a waiver allowing the subrecipient 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 subaward funds and expended during the grant period in which it is generated. *See 28 CFR 94.117. (Posted August 2016)*

5. What must SAAs consider when reviewing a request for a waiver allowing the subrecipient to generate program income by charging for services?

Answer: When reviewing a request for a waiver allowing the subrecipient to generate program income by charging for services, the SAA should consider whether charging victims for services is consistent with the project's victim assistance

objectives and whether the subrecipient is capable of effectively tracking program income in accordance with financial accounting requirements. See 28 CFR 94.117. (Posted August 2016)

PROHIBITED ACTIVITIES

- 1. What are “active investigation and prosecution of criminal activities” that are expressly unallowable subrecipient costs under 28 CFR 94.122(c)?**

Answer: The new VOCA rule prohibits the use of VOCA victim assistance funding to support the “active investigation and prosecution of criminal activity, except for the provision of victim assistance services (e.g., emotional support, advocacy, legal services) to crime victims, under 28 CFR 94.119, during such investigation and prosecution.” See 28 CFR 94.122(c). (Replaces August 2016 FAQ #76; updated August 2018)

- 2. Can victims of domestic violence bring medical marijuana with them while in shelter?**

Answer: When facing a question regarding the best practice about managing a patient’s prescription substance, SAAs should look to and consistently apply shelters’ written policies for all prescription substances. (Posted October 2019)

- 3. An SAA of the VOCA Victim Assistance grant has a subrecipient that used grant funds to purchase equipment with an FMV over \$5,000. The subrecipient is closing and will be providing the assets to the primary recipient. What are acceptable uses for the equipment and does the primary recipient need to request approval from OJP prior to donating or disposing of the equipment?**

Answer: Subgrantees follow the policies and procedures of their awarding organization. Those policies and procedures may be more restrictive than Federal standards but minimally as restrictive. When an organization has equipment purchased with Federal funds and it is no longer to be used for the original program, it may be used to support any other agency program. If no other agency program, then any other Federal program. If no other Federal program, then any program. If no program and disposal will occur, then the recipient must request disposition instructions from the awarding agency as well as provide the fair market value of the item. The awarding agency will have the right to its fair share of the proceeds realized and provide direction in its disposal instructions. Information on this can be found in the [DOJ Grants Financial Guide](#). (Posted November 2019)

- 4. Are VOCA grantees and subgrantees subject to the Hatch Act?**

Answer: The only grant programs that carry the same prohibition about running for partisan political office that State and local employees must abide by are the

Head Start and Community Services Block Grant programs. A private sector employee may run for state office, even though their position is 100% funded with Federal funds. However, keep in mind that a grant recipient (or subrecipient) whose position is funded 100% with Federal funds may not lobby ANY government entity (Federal, State, or local). (Posted February 2020)

- 5. An SAA has subgrantees who work in capacities where they are asked to testify as subject matter experts in their field in front of the legislature (e.g. to testify to the medical impact of nonfatal strangulation seen within their patient population). Is this activity in violation of the no lobbying special condition on VOCA awards?**

Answer: Activities to provide education, such as testifying in front of a legislature to educate on a subject matter, do not constitute lobbying. (Posted February 2020)

FRINGE BENEFITS

- 1. Can VOCA funds be used to pay maternity leave for a grant-funded position? If yes, how would agencies report on activities in the PMT since the money would be used to pay for leave and not for providing services?**

Answer: Family leave is explicitly listed in the VOCA rule as an allowable expense. Leave is a fringe benefit that must be allocated equitably to federal and non-federal funding sources and consistently across time periods based on the organization's account basis (cash or accrual). In the PMT you may report on the activity of the position, such that work being done by someone else (even non-VOCA funded) filling in for the employee is counted while the employee is on family leave. If you decide to count these non-VOCA funded activities in the PMT, you must provide a written response detailing the period of absence within the reporting period and the number of victims served by the non-VOCA funded employee in the "Additional Comments" text box at the end of the reporting form. (Posted October 2019)

- 2. Can subrecipients use VOCA funds to pay for self-insured health insurance pools?**

Answer: Under 2 C.F.R. 200.431(c) and .447(d), a state administering agency (SAA) may permit a subrecipient to budget/charge to a VOCA-funded subaward the cost of health insurance as a fringe benefit compensation for VOCA-funded positions. The cost of health insurance could be the cost of purchasing it, or the cost of funding contributions to a health care self-insurance reserve. The health insurance must be a benefit provided under the subrecipient's established written policies, the costs of health insurance benefits must be allocated appropriately, and the costs must be charged directly or indirectly according to the subrecipient's accounting practices. Coverage may include spouses, children, etc., pursuant to the subrecipient's established written policies.

For self-insurance programs, the amounts contributed to a reserve must be reasonable and updated at least biennially, and the costs of such contributions must be allocated in proportion to the claim levels of the activity/unit insured, not at the individual employee level. See 2 C.F.R. 200.447(d). The costs to be allocated are the contributions to the reserve fund, not the payments from the reserve fund.

Differences between subrecipient activities/organizational units in health care payments from the reserve would not be addressed at the individual employee level, but rather, at the activity/unit level. Such differences are less likely in the context of health insurance than, say, severance pay, where claims and payouts presumably would be higher in highly compensated activities/units. Consequently, we presume that most organizations with self-funded health insurance reserves would allocate reserve contributions on a per employee/per time period basis, to whichever funding source pays the employee. These would either be directly charged under the subrecipient budget as a fringe benefit, or lumped into the subrecipient's indirect cost rate, depending on the subrecipient's accounting practices.

(Posted October 2019)

3. Are student loan reimbursements eligible to be billed to a VOCA Victim Assistance grant as part of a personnel package?

Answer: Yes, provided that the subrecipient offers the benefit to all employees regardless of salary funding source. (Posted October 2019)

4. Can a subrecipient take out volunteer insurance?

Answer: Grant funds may be used for insurance costs, such as liability or volunteer insurance, where those costs are in connection with the general conduct of activities being performed under the subaward. In order to be permissible, the types, extent, and cost of coverage must be in accordance with the subrecipient's policies and sound business practices. The costs of insurance or contributions to reserves covering the risk of loss of, or damage to, Federal Government property, are unallowable unless specifically required or approved by the Federal government. Costs for business interruption or similar insurance must exclude coverage of management fees. Costs of insurance with respect to any costs incurred to correct defects in the subrecipient's materials or workmanship are unallowable. Costs of insurance should be allocated appropriately across funding sources. See 2 C.F.R. 200.447 and 28 C.F.R. 94.121(a). (Posted October 2019)

SOLE SOURCE

1. **What is the dollar threshold that triggers OVC prior approval for awarding sole source contracts? And does that new threshold apply to all active OJP awards and awards going forward, even the ones awarded prior to the DOJ Grants Financial Guide change and with outdated conditions showing the old threshold?**

Answer: Recipients and subrecipients may use a simplified acquisition threshold of \$250,000 for federal grants administrative purposes, consistent with OMB memorandum M-18-18. That threshold applies to all new noncompetitive procurements made under active OJP awards and all new awards going forward, even awards with terms or conditions specifying a different threshold (including the award condition entitled “Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$150,000”). See [DOJ Grants Financial Guide](#) III.3.8. (Posted October 2019)