

September 20, 2021

OVC Bulletin:

VOCA Fix Exception RE: VOCA Compensation Eligibility Requirement to Promote Victim Cooperation with Law Enforcement

Overview

The Office for Victims of Crime (OVC) issues this clarification regarding a provision of the recently enacted [VOCA Fix to Sustain the Crime Victims Fund Act of 2021](#) (VOCA Fix), (Public Law No: 117-27), which amended the Victims of Crime Act (VOCA) of 1984 (codified at 34 U.S.C. § 20101 et seq.).

VOCA: The VOCA provision, codified at 34 U.S.C. § 20102(b), sets forth VOCA Compensation Program formula grant eligibility criteria for crime victim compensation programs, and, among other things, since 1984 has required that “such [compensation] program promotes victim cooperation with the reasonable requests of law enforcement authorities.” Section 2(b) of the VOCA Fix amended this provision with an exception to this requirement. The amended provision expressly allows a VOCA Victim Compensation State/Territory Administering Agency (SAA) to make exceptions to promoting victim cooperation with the reasonable requests of law enforcement authorities, and not jeopardize its VOCA eligibility, where “a program determines such cooperation may be impacted due to a victim’s age, physical condition, psychological state, cultural or linguistic barriers, or any other health or safety concern that jeopardizes the victim’s wellbeing.”

Compensation Guidelines: The OVC VOCA Victim Compensation Grant Guidelines (Compensation Guidelines), 66 Fed. Reg. 27158, have long encouraged and provided substantial flexibility to SAAs to consider the impact of any barriers, such as “age, psychological, cultural, and linguistic” and other barriers that “may affect the victim’s ability to cooperate with law enforcement.” Under section IV.B.3 of the Guidelines, SAAs “maintain the authority and discretion to establish their own standards for victim cooperation with the reasonable requests of law enforcement.”

I. Application of VOCA Fix, sec. 2(b)

The VOCA Fix went into effect immediately on July 22, 2021. The VOCA Fix, sec. 2(b) language applies only in the context of state victim compensation eligibility for the VOCA Compensation Program. It does not apply to any other OVC-funded programs.

II. Effect of VOCA Fix, sec. 2(b)

OVC has historically understood that SAAs have much discretion to interpret and apply the provision requiring them to promote victim cooperation with the reasonable requests of law enforcement, and provided some examples of SAA eligibility criteria that would serve to show promotion of cooperation. However, neither VOCA nor the Compensation Guidelines provided much guidance or direction as to how SAAs should address reasonable barriers to a victim’s cooperation. The VOCA Fix resolves any ambiguity that SAAs may have perceived regarding their ability to allow for exceptions to this requirement. It provides clear language and criteria that SAAs may consider justifying an exception to the promotion of victim cooperation with the reasonable requests of law enforcement requirement.

Please contact your OVC grant manager or [The OVC Center for VOCA Administrators](#) with questions or for technical assistance about updating your SAA victim compensation eligibility policies and procedures to allow the exceptions set forth in the VOCA Fix.