

September 20, 2021

OVC Bulletin:

OVC September 2021 Updated Match Waiver Approval Process

I. Overview

The Office for Victims of Crime (OVC) issues this revised Match Waiver Approval Process due to the passage of the [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.). The VOCA Fix, sec. 3, codified at 34 U.S.C. § 20103(a)(7) and (8), allows State Administering Agencies (SAAs) to waive the VOCA Assistance Program matching requirement, which, for the VOCA Assistance Program, is currently set out in 28 C.F.R. § 94.118. It requires SAAs to establish and make public match waiver policies that describe how to request waiver, the eligibility criteria for waiver, and the decision/notification process; and report waiver approvals to OVC. It also requires that SAAs issue waivers for subrecipients during a pandemic national emergency, and for one year after it ends, including the national pandemic period beginning on March 1, 2020, which is ongoing. SAAs should not penalize subrecipients for inquiring about, seeking, and/or receiving reasonable and justified match waivers.

II. Applicability

The VOCA Fix went into effect on July 22, 2021. This updated OVC Match Waiver Approval Process is effective immediately and supersedes prior OVC Match Waiver Process guidance issued in March 2020. This updated process applies to all match for active VOCA victim assistance formula awards, beginning with Federal Fiscal Year (FFY) 2018 formula awards, that remains unmet at the time of the waiver. “Unmet match” means matching contributions where the contribution or activity to be accounted for as match has not already been accounted for and reported as match. SAAs are not required to waive match for subawards that are closed, or for the portion of a match requirement that has been met (*i.e.*, accounted for and reported as match). This Applicability section applies to both the normal match waiver by SAAs under the VOCA Fix (addressed in Section III), Implementation of SAA Match Waiver Processes, and the temporary emergency waiver, National Emergency Waiver (addressed in Section IV).

III. Implementation of SAA Match Waiver Processes

A State Administering Agency (SAA) may waive match (either in total or part) without OVC prior approval, provided that the SAA complies with the VOCA Fix requirements, and the OVC processes, set forth below. VOCA Fix supersedes the administrative rule at 28 C.F.R. § 94.118(b)(3) that otherwise would require SAAs to submit waiver requests to OVC, provided the SAA meet its requirements.

- A. **Statutory requirements.** The SAA must establish a match waiver policy that is consistent with 34 U.S.C. § 20103(a)(7)(B) (Section 3 of the VOCA Fix), which requires that the policy be made public and include—
 - i. the manner in which an eligible crime victim assistance program can request a match waiver,
 - ii. the criteria used to determine eligibility of the match waiver, and

- iii. the process for decision making and notifying the eligible crime victim assistance program of the decision.
- B. Criteria for Match Waiver.** SAAs should generally encourage subrecipients to meet match requirements. In considering waivers, OVC recommends that SAAs select criteria that focus on whether match is beneficial for victim services under the circumstances. OVC recommends that SAAs consider, at a minimum, the following four criteria—
- i. practical and/or logistical obstacles to providing match (e.g., natural disasters, mass violence incidents, or when public agencies do not engage in private fundraising and may have limitations on soliciting contributing funds),
 - ii. local resource constraints (e.g., a rural community with limited local funding availability or volunteer capacity),
 - iii. increases to VOCA funding where local funding availability has not increased to the same degree, and
 - iv. past ability to provide match – subrecipients typically should be expected to justify a decrease in the dollar amount of match from the prior year (e.g., by describing a change in circumstances).
- C. Match Waiver Determinations.** Determinations of match waiver for subrecipients must be in writing. Waivers are to be applicable only for the duration of the VOCA subaward (i.e., not in perpetuity) and determinations must be filed in the appropriate subrecipient project file. Determinations should include, at a minimum, the following information—
- i. match determination,
 - ii. justification, and
 - iii. amounts waived for each federal award for which match is waived. (OVC recommends that SAAs consider clarifying in their determinations (or policy) that the waiver amount creates an equivalent match waiver percentage to be applied should the project budget change. This practice avoids having to revise match waiver determinations upon subsequent budget changes.)
- D. Waivers for a Class of Subrecipients.** SAAs may issue waivers that apply to more than one subaward provided that the SAAs include reasonable and adequate justification pursuant to their policies. SAAs may allow subrecipients to decline match waivers.
- E. Reporting Match Waivers to OVC.** The SAA shall submit to OVC via upload to JustGrants, Grant Award Modification (GAM) or other method, as requested by OVC, a match waiver spreadsheet (using the revised OVC template) listing all subrecipient match waivers approved in a FFY, for each relevant federal award, by no later than 120 days after fiscal year end.
- F. Monitoring.** SAAs can expect monitoring of waiver determinations to focus on whether they were reasonable and adequately justified under the SAA’s policy. SAAs are expected to monitor each subrecipient’s compliance with match appropriately throughout their subawards.
- G. Updating Current SAA Processes.** If a current SAA match waiver process does not meet the requirements set out above, the SAA shall revise it prior to waiving match, and, in the interim, should submit subrecipient match waiver requests to OVC for OVC Director review,

except as otherwise noted below in Section IV (allowing an interim process for national emergency mandatory match waiver).

IV. National Emergency Pandemic Mandatory Match Waiver

- A. **Mandatory Match Waiver:** The VOCA Fix, section 3(b), provides the following: “Beginning on the date a national emergency is declared under the National Emergencies Act (50 U.S.C. § 1601 et seq.) with respect to a pandemic and ending on the date that is one year after the date of the end of such national emergency, SAAs shall issue waivers for any matching requirement, in its entirety, for all eligible crime victim assistance programs contracted to provide services at that time.” 34 U.S.C. 20103(a)(8). The national emergency with respect to the current pandemic began on March 1, 2020, and is ongoing as of September 2021. SAAs **must** issue match waivers during this time. OVC understands “any matching requirement, in its entirety” to mean the entirety of match required in an open VOCA subaward that remains unmet at the time of the waiver (see Sec. II, above).
- B. **Implementation of Mandatory Match Waiver:** SAAs may implement the national emergency pandemic waiver requirement pursuant to reasonable processes (e.g., requiring subrecipients to submit subaward budget modification requests), as needed for appropriate management of VOCA Assistance award funds. OVC recommends that SAAs update their current processes to address both normal waiver (Sec. III) and pandemic emergency mandatory waiver (Sec. IV). SAAs may, however, use an interim process as needed to implement the mandatory waiver in a timely manner. At a minimum, under any interim process—
- i. SAAs shall comply with Sec. III.C. (Match Waiver Determinations) and (if applicable) III.D (Waivers for a Class of Subrecipients), except that no further justification beyond the fact that the match is subject to mandatory waiver is required; and Sec. III.E (Reporting Match Waiver to OVC).
 - ii. SAAs should submit either their updated or interim process to OVC as soon as they are in place, but no later than December 31, 2021.
- C. **Expiration of the National Emergency Pandemic Period:** At the conclusion of a national emergency pandemic period, SAAs should honor all match waivers granted during that period until they expire at the end of the applicable VOCA subaward for which match was waived. New VOCA subawards or discrete renewals or continuations made after the end of that period would no longer qualify for mandatory match waiver. Any match waiver requests for those subawards should be considered under the SAAs ordinary match waiver process, outlined in Section III.

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FREQUENTLY ASKED QUESTIONS

Application of Match Waiver Process

- 1) The VOCA Fix states that the chief executive of each state must establish and make public a policy regarding match waivers. Does this mean the policy must come from our Governor's office?**

Under the Victims of Crime Act, the term "chief executive" includes a person designated by a chief executive to perform the functions of the chief executive. (See 34 U.S.C. § 20103(d)(5))

- 2) During a national emergency pandemic period, can SAAs waive all match required of a subrecipient, including match already provided by the subrecipient, at the time of match waiver?**

During a national emergency pandemic period, SAAs are not required to waive match for the portion of a match requirement that has been met (*i.e.*, accounted for and reported as match). For example, if a subrecipient must provide \$25,000 in match for its VOCA program and has provided \$10,000 in match at the time of the match waiver, the SAA must waive \$15,000 of the remaining match in its match waiver. The SAA has the discretion to waive the previously met match of \$10,000.

- 3) Must SAAs waive all match required of subrecipients under the National Emergency Waiver provision?**

SAAs must waive any unmet matching requirement at the time of the waiver for all active subawards during a national pandemic emergency period.

OVC believes that this approach to the statute will enable states to move forward in implementing the waiver process in the most efficient manner, to the benefit of the victim services provided by their subrecipient organizations, and consistent with the urgency underlying the national emergency waiver provision. The administrative burden of re-opening closed subawards, or re-calculating, altering budgets, and amending federal and state reporting to reflect waiver of match already met, could undermine SAAs ability to implement the waiver in a timely manner for subrecipient projects with unmet match, and for new subawards during the pandemic emergency period. Moreover, OVC under its March 2020 processes in place prior to VOCA Fix, already allowed SAAs some discretion to waive match. It is likely that many subrecipients that were unable to meet match under existing subawards expiring in FY 2021 already were granted match waivers, and thus OVC anticipates that subrecipients in this 'split' situation of having met some, but not all, of their match requirement is likely to be limited. Consequently, on the balance, taking into account the limits of administrative resources, OVC views it as reasonable, and in furtherance of the statutory "emergency" mandate, that SAAs

focus efforts on implementing waiver requests for open awards where match has not already been met.

4) Are SAAs obligated to increase their subaward amount awarded to a subrecipient to offset matching funds that the subrecipient would otherwise have used in VOCA-funded programming?

SAAs are not obligated to increase their awarded subaward amounts. An SAA may also offer subrecipients the opportunity to decline receiving a match waiver, or the subrecipient may provide voluntary match to support the VOCA-funded project.

5) Is an SAA required to return or reimburse matching funds previously provided by a subrecipient?

When issuing match waivers, SAAs do not have to waive match that has been met, and thus are not required to return or reimburse matching funds provided (i.e., met) by the subrecipient prior to the match waiver.

6) For upcoming subawards that will be awarded in a future Request for Proposal (RFP) or continuation process, can the SAA remove the match requirement at the time of application instead of issuing later match waivers?

During a national emergency pandemic period, SAAs may waive match in advance for applicants in upcoming Requests for Proposal or continuation subawards. If an SAA waives match in advance in an upcoming RFP or continual process, the SAA must clearly document that no match is required in the application materials and subaward agreement; document its decision and justification in its federal award file(s); and include the match amounts waived in the match waiver spreadsheet it will submit to OVC.

7) Does OVC's Match Waiver Approval Process impact the ability of SAAs to request retroactive match waivers from the OVC Director stemming from Office of the Inspector General audits, state audits, etc.?

No, SAAs seeking retroactive match waivers from the OVC Director should contact their grant manager for technical assistance.

8) What does OVC mean by "waivers applicable to a class of subrecipients?"

Under this new OVC match waiver policy, OVC clarifies that SAAs may issue waivers that apply to more than one subaward at a time. SAAs have the discretion to issue "multi-subaward waivers" to a group of subrecipients or "blanket match waivers" on behalf of all subrecipients, provided that the SAA includes reasonable and adequate justification pursuant to their own policies and

meets VOCA Fix requirements and OVC processes outlined in OVC's Match Waiver Approval Process.

SAA and Subaward Documentation

1) Do existing subaward budgets have to be modified to reflect match waivers?

SAA's must ensure subaward budgets accurately reflect a subrecipient's required match.

2) Does an SAA need to amend a subrecipient's Subgrant Award Report (SAR) once a match waiver is issued?

The SAR is not a financial reporting tool, however, it should be regularly updated to match the amounts found in the SAA's financial system. SAA's must amend a subrecipient's SAR within 30 days of the SAA having notice of an allocation or match change taking effect. At this time, SAA's cannot amend a SAR after the end of the close-out period. (See *OVC Clarification for Victim Assistance Grantee PMT Reporting*, sent December 17, 2019.)

3) Does an SAA need to amend Federal Funding Accountability and Transparency Act (FFATA) reporting once a match waiver is issued?

SAA's do not need to amend FFATA reporting because it does not include matching amounts.

Data Reporting

1) If a FFY 2018 VOCA Assistance Grant is extended for another year to September 30, 2022, will the PMT system allow for SARs to be inputted beyond the current end date of September 30, 2021?

Yes, the PMT is updated regularly (usually every 3 months) with award information from JustGrants that will change the original VOCA award end date to the extended end date. Subaward start and end dates must fall within the project period of the federal award(s) it is associated with.

2) If a subrecipient has match staff/volunteers and match is waived under the National Emergency Waiver provision, should the subrecipient report the services provided by those staff/volunteers?

Following a match waiver, the subrecipient should report only services or activities provided by VOCA-funded individuals. Data for services or activities provided by match staff or volunteers prior to the match waiver are not affected and should remain. If a subrecipient is permitted to

decline a match waiver, or chooses to provide voluntary match, future services or activities provided by match staff or volunteers should continue to be recorded in the PMT. All subrecipients will continue to be required to report the number of volunteers utilized in a VOCA-funded program.

3) If a subrecipient has staff with salaries funded in part by VOCA and in part by other funding sources, which is contributed to the program as match, does the subrecipient need to pro-rate service data if match is waived?

Yes. PMT data should reflect the percentage of the individual's time that is paid for by the VOCA grant. For example, if an individual is 75 percent VOCA-funded and 25 percent match funded and the subgrantee receives a match waiver, only 75 percent of the services provided by that individual would be reported (or however the subgrantee chooses to pro-rate their services). Please see the Suggested Prorating Strategies for Victim Assistance Subgrantees for more options.