

Dated: April 5, 2011.

**John J. Manfreda,**  
Administrator.

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

#### 28 CFR Part 94

[Docket No.: OJP (OVC) 1539]

RIN 1121-AA78

#### International Terrorism Victim Expense Reimbursement Program

**AGENCY:** Office of Justice Programs, Justice.

**ACTION:** Interim-final rule.

**SUMMARY:** The Office for Victims of Crime (OVC) is promulgating this interim-final rule for its International Terrorism Victim Expense Reimbursement Program (ITVERP) in order to remove a regulatory limitation on the discretion of the Director of OVC to accept claims filed more than three years after the date that an incident is designated as an incident of international terrorism.

**DATES:**

*Effective date:* This interim-final rule is effective April 11, 2011.

*Comment date:* Written comments must be submitted on or before June 10, 2011.

**FOR FURTHER INFORMATION CONTACT:**

Chandria Slaughter, Grant Program Specialist, International Terrorism Victim Expense Reimbursement Program, at 202-307-5983.

**SUPPLEMENTARY INFORMATION:**

#### I. Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov>. Information made available for public inspection includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you wish to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not wish it to be posted online, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also locate all the personal identifying information that you do not want posted online in the first paragraph of your comment and

identify what information you want the agency to redact. Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online.

If you wish to submit confidential business information as part of your comment but do not wish it to be posted online, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, the agency may choose not to post that comment (or to only partially post that comment) on <http://www.regulations.gov>. Confidential business information identified and located as set forth above will not be placed in the public docket file, nor will it be posted online.

If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

#### II. Background

ITVERP is a Federal program that provides reimbursement to nationals of the United States and Federal government employees (and certain family members of such individuals, under some circumstances), who are victims of international terrorism and who incur expenses as a result of such incidents. For further information, see the ITVERP Web site at <http://www.ojp.usdoj.gov/ovc/intdir/itverp>.

OVC is promulgating (pursuant to 42 U.S.C. 10603c and 42 U.S.C. 10604(a)) this interim-final rule to provide the Director of OVC with express discretionary authority to accept claims filed more than three years after the date that an incident is designated as one of international terrorism. Largely owing to considerations of administrative convenience, the present ITVERP rule regarding application deadlines limits the period within which OVC would entertain waivers of claim filing deadlines. Based on experience administering the program since it went into effect in 2006, OVC has determined that this limit on waivers of late claims may lead to denials of reimbursement for victims with otherwise meritorious claims, even under circumstances where tolling of the deadline would be appropriate.

The rule will allow the Director of OVC to toll or extend the deadline for a late-filed claim where the Director

finds good cause to do so. In the ordinary course, a showing of good cause generally would require that the claimant submit a written explanation—satisfactory to the Director—for missing the deadline. Examples of good cause include situations where a victim's treatment for injuries sustained in an incident were covered initially by collateral sources, but these sources later become unavailable after the filing deadline has expired; where outreach to overseas claimants has not been effective; and where a claimant's extended illness, living abroad in remote areas for extended periods of time, or barriers to accessing information about the program led to the late filing. Absent circumstances consonant with the foregoing, good cause would not exist; thus, for example, claimant's missing the deadline due to mere inattentiveness to the program's deadlines would not be sufficient to establish good cause.

The amended rule will not alter any existing regulatory deadlines, nor will it impose any new deadlines (or any burden whatsoever) on claimants, but instead merely will operate to relieve an administrative restriction, in the existing rule, on claim filing (such rule having been promulgated largely for the administrative convenience of OVC, which has found it, over the course of four years of program administration, to be unnecessary). This rule is being published in interim-final form, effective immediately, as there are presently ITVERP claims before OVC that might otherwise be unnecessarily denied or delayed.

#### III. Regulatory Requirements

##### *Executive Order 12866—Regulatory Planning and Review*

This regulation has been drafted in accordance with Exec. Order No. 12866, section 1(b), 58 FR 51, 735 (Sept. 30, 1993), Principles of Regulation. OJP has determined that this regulation is not a "significant regulatory action" under Executive Order No. 12866. Nevertheless, this regulation has been reviewed, in accordance with the general principles of Executive Order No. 12866, by the Office of Management and Budget.

##### *Administrative Procedure Act*

OVC's implementation of this rule as an interim-final rule, with provision for post-promulgation public comment, is based on findings of good cause pursuant to the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B) and (d)). This minor rule amendment merely alleviates a procedural restriction on

ITVERP claimants that might otherwise lead to the denial of meritorious claims from victims, even where such victims show good cause for delayed filing.

The rule would not adversely affect any segment of the public whatsoever, as it would not result in the denial of any additional claims, and therefore advance notice and public comment are unnecessary. The present rule clearly is one that “grants or recognizes an exemption or relieves a restriction,” and, therefore, waiver of the 30-day period prior to the rule’s taking effect is likewise appropriate here. See 5 U.S.C. 553(d)(1). The changes made by this interim-final rule remove an unnecessary administrative restriction on claim filing, and operate for the benefit of victims of international terrorism who may apply for the program.

As there are presently ITVERP claims before OVC that might otherwise be unnecessarily denied or delayed absent this amendment, it is impractical and contrary to the public interest to delay implementation of this rule. Moreover, the portion of the ITVERP rule amended by this interim-final rule directly affects only the Director of OVC, and the Director has “actual notice” of this rule, per 5 U.S.C. 553(b). OVC believes that the rule is noncontroversial and adverse comments will not be received, although comments on this rule are invited. Accordingly, OVC finds that “good cause” exists under 5 U.S.C. 553(b)(B) and 553(d) to make this rule effective upon publication in the **Federal Register**. Public comment after this rule is published is welcomed, and will be carefully reviewed to ensure that any substantive concerns or issues are addressed.

#### *Executive Order 13132—Federalism*

This regulation will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Exec. Order No. 13132, 64 FR 43, 255 (Aug. 4, 1999), it is determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### *Cost/Benefit Assessment*

This regulation has no cost to state, local, or tribal governments, or to the private sector. It merely alleviates an administrative restriction on victim claim filing by permitting the OVC Director to allow late filing where the Director determines that this is

appropriate. The ITVERP is funded by fines, fees, penalty assessments, and forfeitures paid by federal offenders, as well as gifts from private individuals, deposited into the Crime Victims Fund in the U.S. Treasury, and set aside in the Antiterrorism Emergency Reserve Fund, which is capped at \$50 million in any given year. The cost to the Federal Government consists both of administrative expenses and amounts reimbursed to victims. Both types of costs depend on the number of claimants, prospective as well as retroactive. This rule is not expected to significantly increase the number of eligible claimants, and therefore the negligible cost potentially associated with allowing certain late-filed claims to be processed is clearly outweighed by considerations of fairness in the program’s administration (given that the program is relatively new) and the benefit of ensuring that victims eligible for, and in need of, reimbursement for injuries and losses from overseas terrorism are provided such reimbursement. This regulation is not expected to substantially increase the overall budgetary impact of the ITVERP.

#### *Regulatory Flexibility Act*

This regulation will not have a significant economic impact on a substantial number of small entities. This regulation has no cost to State, local, or tribal governments, or to the private sector. The ITVERP is funded by fines, fees, penalty assessments, and bond forfeitures paid by Federal offenders, as well as gifts from private individuals, deposited into the Crime Victims Fund in the U.S. Treasury. Therefore, an analysis of the impact of this regulation on such entities is not required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### *Paperwork Reduction Act of 1995*

This rule contains no new information collection or record-keeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

#### *Unfunded Mandates Reform Act of 1995*

This regulation will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### **List of Subjects in 28 CFR Part 94**

Administrative practice and procedures, International terrorism, Victim compensation.

Accordingly, for the reasons set forth in the preamble, title 28, part 94, subpart A of the Code of Federal Regulations is amended as follows:

#### **PART 94—CRIME VICTIM SERVICES**

- 1. The authority citation for part 94 continues to read as follows:

**Authority:** Victims of Crime Act (VOCA), Title II, Secs. 1404C and 1407 (42 U.S.C. 10603c, 10604).

#### **Subpart A—International Terrorism Victim Expense Reimbursement Program**

- 2. Revise § 94.32 to read as follows:

##### **§ 94.32 Application deadline.**

For claims related to acts of international terrorism that occurred after October 6, 2006, the deadline to file an application is three years from the date of the act of international terrorism. For claims related to acts of international terrorism that occurred between December 21, 1988, and October 6, 2006, the deadline to file an application is October 6, 2009. At the discretion of the Director, the deadline for filing a claim may be tolled or extended upon a showing of good cause.

Dated: March 31, 2011.

**Laurie O. Robinson,**

*Assistant Attorney General.*

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#### **DEPARTMENT OF HOMELAND SECURITY**

#### **Coast Guard**

#### **33 CFR Part 117**

[Docket No. USCG–2011–0202]

#### **Drawbridge Operation Regulations; Harlem River, New York, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the 103rd Street (Wards Island) Pedestrian Bridge, mile 0.0, across the Harlem River at New York City, New York. The deviation is necessary to facilitate bridge rehabilitation. This deviation allows the