

ATTORNEY GENERAL[61]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 915.83, the Attorney General hereby gives Notice of Intended Action to amend Chapter 9, “Victim Assistance Program,” Iowa Administrative Code.

The rules in Chapter 9 describe the administration of the victim services support program as provided in Iowa Code chapters 13 and 236. These amendments clarify the administration of the support program.

Any interested person may make written suggestions or comments on these proposed amendments before March 27, 2015. Any written suggestions or comments should be directed to Donna Phillips, Crime Victim Assistance Division, Iowa Department of Justice, 321 East 12th Street, Lucas State Office Building, Ground Floor, Des Moines, Iowa 50319; telephone (515)281-5044; e-mail donna.phillips@iowa.gov. Persons who wish to convey their views orally should contact the individual identified above.

Also, there will be a public hearing on April 3, 2015, at 10 a.m. in the Conference Room, Crime Victim Assistance Division, 321 East 12th Street, Lucas State Office Building, Ground Floor, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

After analysis and review of this rule making, the Attorney General does not require annual expenditures in excess of \$100,000.

The Attorney General does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Attorney General’s general rules regarding waivers or as these rules allow.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 13.31.

The following amendments are proposed.

ITEM 1. Amend **Chapter 9**, Division III title, as follows:

DIVISION III
VICTIM SERVICES ~~GRANT~~ SUPPORT PROGRAM

ITEM 2. Amend rule 61—9.50(13) as follows:

61—9.50(13) Administration of the victim services ~~grant~~ support program. The victim services ~~grant~~ support program of the Iowa department of justice shall administer the victim services ~~grants~~ program funds as provided in Iowa Code chapters 13 and 236. All questions, comments, requests for information, or applications for ~~grant~~ funds shall be directed to the victim services ~~grant~~ support program. Requests should be addressed to: Crime Victim Assistance Division, Iowa Department of Justice, 321 East 12th Street, Lucas State Office Building, Ground Floor, Des Moines, Iowa 50319, telephone (515)281-5044.

ITEM 3. Amend the following definitions in rule **61—9.51(13)**:

“*Applicant*” means a public or private nonprofit ~~program~~ or local or statewide government agency that provides direct services to and advocacy on behalf of crime victims, ~~or~~ training and education to professionals and community agencies on crime-related issues, crime prevention, justice support, crime investigation and prosecution, and technical assistance to crime victim service providers and that makes ~~a request~~ an application for funds from the victim services ~~grant~~ support program.

“Competitive grant application” means ~~a grant for~~ the process by which the division solicits a request for proposals (RFP) applications for funding from eligible applicants, reviews the applications for eligibility and completeness, and then convenes ~~a grant~~ an application review committee to recommend ~~grant funding~~ awards to the crime victim assistance board.

“Focus grant application” means a one-time ~~grant~~ application for specific activities, including but not limited to training, travel, or materials, awarded at the discretion of the division directly to a ~~program~~ that has received a competitive grant in the fiscal year ~~funded agency~~.

“Funding stream” means a distinct source of federal or state funding available ~~for grants to~~ distribute to agencies that are eligible to receive these funds.

“Grant Award” means ~~a competitive or focus grant award~~ funds awarded to a local or statewide government or private nonprofit agency.

“Grantee Application” means a competitive or focus proposal for funding from a local or statewide government agency or private nonprofit agency that is awarded or receives funds from the crime victim assistance division.

“Grant Application review committee” means a ~~division~~ committee designated by the director to review ~~grant~~ applications.

“Program” means the victim services ~~grant~~ support program of the Iowa department of justice.

ITEM 4. Rescind the definition of “RFP” in rule **61—9.51(13)**.

ITEM 5. Adopt the following **new** definition in rule **61—9.51(13)**:

“Funded agency” means a local or statewide government or private nonprofit agency that is awarded or receives funds from the division.

ITEM 6. Amend rule 61—9.52(13) as follows:

61—9.52(13) Program description. Any eligible local or statewide government or private nonprofit agency or a combination thereof may apply for and receive ~~a grant~~ funding through the program. The program shall operate as a competitive and focus ~~grants application~~ program and be administered by the department. A contractual agreement specifying the terms of the ~~grant~~ award shall be executed between the department and the approved applicant.

ITEM 7. Amend rule 61—9.53(13) as follows:

61—9.53(13) Availability of grants awards. ~~In any year in which federal or state funds are available, the division shall administer grants with eligible applicants. The division will administer an application process every three years unless otherwise directed by the board.~~ The amount of the funds awarded shall be contingent upon the ~~funds available~~ availability of funding from the applicable funding stream. The director shall announce the opening of an application ~~period~~ process through public notice including but not limited to notice to current ~~grantees~~ funded agencies and other eligible agencies identified by the program. Applications must be received by the designated due date and time.

9.53(1) Competitive ~~grants applications~~ will be awarded based on the availability of funds, history and demonstration of quality of services provided, compliance with the requirements of the division, number of victims served or ~~eases investigated and prosecuted~~ other statistical information that demonstrates success and cost-effective use of funds, population served, and geographical distribution of funds ~~in~~ across the state. A preference shall be given to continued funding of ~~successful grantees~~ agencies that have demonstrated success.

9.53(2) Focus ~~grants applications~~ will be awarded at the discretion of the director and of the deputy attorney general who oversees the division. Funds utilized for focus ~~grants applications~~ must comply with all applicable state and federal rules and regulations. The award total of focus ~~grants applications~~ from one funding source may not exceed 3 percent of the funds available ~~from the funding source~~ in one state fiscal year.

ITEM 8. Amend rule 61—9.54(13) as follows:

61—9.54(13) Application requirements. Applicants shall submit applications to: ~~Crime Victim Assistance Division, Iowa Department of Justice, 321 East 12th Street, Lucas State Office Building, Ground Floor, Des Moines, Iowa 50319.~~ Applications shall be in the form prescribed by the division and shall be available upon request to all interested parties through IowaGrants.gov or the Iowa grants enterprise management system (GEMS) unless otherwise directed by the division.

9.54(1) To be included in the review process and considered for funding, an application shall be received in the offices of the division by 4:30 p.m. on the due date by the designated deadlines and shall be in the format required by the division. ~~Applications may be delivered to the division during regular business hours anytime prior to the deadline.~~ An extension of the filing deadline may be requested of the ~~director or grant~~ victim services support program administrator prior to the deadline and may be granted for good cause. If the victim services support program administrator denies the extension, the applicant can file with the director within seven days of the denial a written appeal outlining the reason for reconsideration regarding extension of the deadline. The determination of a good-cause extension by the ~~division~~ director shall be final.

9.54(2) An applicant shall have on file with the division current copies of the applicant's table of organization for all its agencies and articles of incorporation ~~as required~~ if the applicant is not a state or local government agency.

9.54(3) An applicant shall have on file with the division evidence of any insurance coverage the applicant carries for liability or property.

9.54(4) The division may allow combined applications from two or more criminal justice agencies if a combined application will encourage cooperation between those agencies on behalf of crime victims. Each agency receiving funds under a combined application shall sign a ~~grant contract~~ separate contracts for the use of the awarded funds.

ITEM 9. Amend rule 61—9.55(13) as follows:

61—9.55(13) Contents of application. Each application shall contain the following information:

9.55(1) A paragraph describing the agencies or units of government requesting the funds.

9.55(2) A description of services for which funding is being requested. The description shall include, but not be limited to, the following:

- a. The geographical area to be served.
- b. The crime victim population to be served.
- c. Victim eligibility requirements for the applicant's services.
- d. A description of substantial financial support from other sources.
- e. The intended use of volunteers, if any.
- f. The stated goals and objectives of the and the measurable activities for which program funds will be utilized.
- g. A description of the proposed ~~victim service, training, or technical assistance~~ services to be implemented during the funding year.
- h. The amount of ~~grant~~ funds requested.
- i. The amount of cash or in-kind resources or combination thereof which is committed where required by the division.
- j. ~~A description of how the proposed victim service, training, or technical assistance will provide or improve services to victims of crime.~~
- ~~k.~~ j. Proof of coordination with appropriate agencies at the local level.
- ~~l.~~ k. A total program budget for all services provided by the applicant's crime victim program.
- ~~m.~~ l. A proposed budget for the requested ~~grant~~ funds.
- ~~n.~~ m. A list of other anticipated sources of income, including written commitments, if possible, and plans for continued funding of the ~~grant~~-funded activities.
- ~~o.~~ n. Other information identified ~~in the RFP~~ by the division as necessary for the division to make an informed funding decision.

~~p. o.~~ Signed certified assurances as required by statute or regulation.

ITEM 10. Amend rule 61—9.56(13) as follows:

61—9.56(13) Eligibility requirements. Funds must be used only to provide victim services, or justice support to victims of crime, ~~and training, community education, crime prevention, crime investigation and prosecution,~~ or technical assistance to victim service providers and allied professionals. Program ~~grants funds~~ shall not be used to supplant other available or mandated funds. An applicant must meet the following requirements:

9.56(1) The applicant shall be a public agency, ~~or private nonprofit organization,~~ local or state government agency, or combination thereof, that provides services to crime victims or training and technical assistance to victim service providers and allied professionals.

9.56(2) The applicant shall provide services to victims of crime through crime victim centers, law enforcement ~~officers, prosecutors,~~ agencies, prosecution agencies, state departments, culturally specific programs, faith-based agencies, and other allied professionals. Services provided to victims by ~~crime victim centers, the above-mentioned agencies~~ shall include but are not limited to crisis intervention ~~law enforcement and court; civil and criminal court support and advocacy;~~ group and individual counseling, support, therapy, and follow-up counseling; housing and economic advocacy; personal advocacy; medical advocacy and support; client assistance; emergency shelter and housing; transportation; ~~and information and referral; crime victim compensation advocacy; victim registration and notification; and other services that promote victims' safety and self-sufficiency and offender accountability.~~ The funded agencies may provide training for community education, crime prevention, and technical assistance as they relate to crime and victimization.

9.56(3) An applicant providing services to victims of domestic abuse, sexual abuse, and other violent crimes must also provide or arrange safe shelter and housing for victims and their children when needed at no cost to the victims. ~~To ensure staff training and best practice standards, preference will be given to domestic abuse programs certified by the Iowa Coalition Against Domestic Violence.~~

9.56(4) An applicant providing services to victims of sexual abuse must also provide support to victims at the time of an evidentiary sexual abuse examination. ~~To ensure staff training and best practice standards, preference will be given to sexual abuse programs certified by the Iowa Coalition Against Sexual Assault.~~

9.56(5) The applicant shall promote within the community a coordinated public and private effort to assist victims.

9.56(6) ~~The applicant shall be an equal opportunity employer and provide services on an equal opportunity basis.~~

9.56(7) ~~The applicant shall comply with applicable federal and state statutes and rules, all requirements specified in the grant between the department and any outside funding source, and all requirements in the RFP or any other contractual document.~~

9.56(8) The applicant shall assist victims in seeking state compensation benefits.

9.56(9) ~~The applicant shall have a grievance procedure established for victims, employees and volunteers.~~

9.56(10) The applicant shall ensure that all employees and volunteers of crime victim centers that provide direct services to victims are trained as victim counselors as defined in Iowa Code section 915.20A.

9.56(11) ~~The applicant shall provide services within the geographical service area without regard to a victim's ability to pay.~~

9.56(12) ~~An existing program must document results of prior programming that demonstrate that the needs of victims have been met effectively and that the applicant has financial support from other sources.~~

9.56(4) To ensure staff training and best practices, preference will be given to domestic abuse programs certified by the Iowa Coalition Against Domestic Violence.

9.56(5) An applicant providing services to victims of sexual abuse must also provide support to victims at the time of an evidentiary sexual abuse examination.

9.56(6) To ensure staff training and best practices, preference will be given to sexual abuse programs certified by the Iowa Coalition Against Sexual Assault.

9.56(7) The applicant shall promote within the community a coordinated public and private effort to assist crime victims.

9.56(8) The applicant shall be an equal opportunity employer and provide services on an equal opportunity basis.

9.56(9) The applicant shall comply with applicable federal and state statutes and rules, all requirements specified in the funding documents between the department and any outside funding source, and all requirements in the funding application and any other contractual document.

9.56(10) The applicant shall assist victims in seeking state crime compensation benefits.

9.56(11) The applicant shall have a grievance procedure established for victims, employees, and volunteers.

9.56(12) The applicant shall ensure that all crime victim center employees and volunteers who provide direct services to victims are trained as victim counselors as defined in Iowa Code section 915.20A.

9.56(13) The applicant shall provide services within the geographic service area without regard to a victim's ability to pay.

9.56(14) If the applicant is currently a funded agency, the applicant must document results of prior programming that demonstrate that the needs of victims have been met effectively and that the applicant has financial support from other sources.

ITEM 11. Amend rule 61—9.57(13) as follows:

61—9.57(13) Selection process. The division shall conduct a preliminary review of each application to ensure that the applicant is eligible, the application is complete, and the proposed ~~victim service, training or technical assistance~~ services are consistent with the division's mission of providing quality assistance to crime victims and crime victim programs throughout the state.

9.57(1) In selection of competitive ~~grantees~~ applicants, the division may utilize generally accepted methods of ~~grant~~ application review including but not limited to checklists, quality scales, written comments by ~~grant~~ application review committee members, and formulas based on past funding, population, clients served and available funds.

9.57(2) In selection of competitive ~~grantees~~ applicants, the division shall establish a ~~grant~~ an application review committee. The committee shall submit recommendations for ~~grant~~ funding awards to the director. The director shall submit to the board the recommendations of the ~~grant~~ application review committee and any alternative recommendations by the program staff.

a. The committee shall be comprised of representatives from the crime victim assistance board and experts in the fields of victim services, ~~grant~~ program administration and management, ~~and~~ criminal justice, and any other related field pertinent to the applications.

b. The division shall provide the committee with information related to the applicant's performance with previous ~~grants~~ awards, the quality and quantity of services provided, and community support for the applicant.

c. The committee shall review the content of the ~~grant~~ applications and information provided by the division and members of the committee regarding the applicant and the geographical area to be served.

9.57(3) The board shall consider the recommendations of the ~~grant~~ application review committee and the director to determine final competitive ~~grant~~ awards to the extent that funds are available and to the extent to which applications meet the ~~RFP~~ application criteria. The board may reject any or all applications.

9.57(4) In selection of ~~grantees~~ a funded agency for a focus ~~grant~~ application, a written proposal shall be solicited from current ~~grantees~~ funded agencies. Interested ~~grantees~~ funded agencies shall submit a proposal to the director outlining the purpose, cost, and outcome of the proposed ~~grant~~ program. The director shall submit a recommendation to the deputy attorney general for criminal justice, ² who shall make a final decision based on the availability of funds and the merits of the proposal.

ITEM 12. Amend rule 61—9.59(13) as follows:

61—9.59(13) Request for reconsideration.

9.59(1) An applicant may file with the board a request for reconsideration of the denial or of the amount of an award. The request for reconsideration must be submitted within ten working days of the date the notice of decision is mailed or otherwise issued by the director to the grantee applicant. The request must state grounds for reconsideration. The board or a committee designated by the board chairperson shall review the request in a timely manner. A decision of the board or designated committee shall constitute final agency action.

9.59(2) At the time a request for reconsideration is received by the director, notice that a request for reconsideration has been filed shall be sent to all approved applicants whose funds may be affected by the request.

9.59(3) Funds shall not be disbursed pending a request for reconsideration to the extent that the funds are affected by the outcome of the request. Every applicant that would be adversely affected shall be notified if a request for reconsideration is approved, and grant awards shall be reduced as necessary.

ITEM 13. Amend rule 61—9.60(13) as follows:

61—9.60(13) Contract agreement.

9.60(1) A contract shall be negotiated by the department and the applicant.

9.60(2) Prior to entering into a contract, the department or the board may require modification of the proposed program, submission of further information or documents, or other stipulation of the applicant. The required modification, information, document, or stipulation shall be specified in the notification of grant award or contract.

9.60(3) The applicant or the department may request a modification of the program budget to reflect the amount, expenses and activities allowed by the grant award. Both parties must agree to any modification of the grantee program budget.

9.60(4) In the event of a state, federal, or other audit, the grantee funded agency shall be responsible for the audit and liable for payment of any funds required to conduct the audit, to compensate for any grant award disallowance, or to repay any funds received or spent contrary to the contract, these rules, or applicable law.

9.60(5) Funds shall be spent to meet the program proposals as provided in the contract. Expenditures shall be reimbursed pursuant to regular reimbursement procedures of the state of Iowa. Claims for reimbursement shall be made on uniform forms designated by the division and published in the policy manual, which is available on the division's Web site. In addition, the division will reimburse only those expenditures allowed by the funding streams. The policy manual identifies the types of expenditures allowed by the funding streams.

9.60(6) The grantee funded agency shall sign the certified assurances for the grant program at the time of application and at any time requested by the division.

9.60(7) Nothing in these rules shall be construed as limiting the remedies available to the state or the program for improper use of grant funds or other breach of the grantee's funded agency's duties under the contract and applicable law.

9.60(8) The contract will include provisions requiring the funded agency to provide the department with any information required by the funding stream.

9.60(9) The contract will include provisions related to the division's monitoring of the funded agency's performance of the contract, including but not limited to, on-site inspections, technical assistance, desk audits, and review of financial information.

9.60(10) If applicable, the contract will also include provisions required for compliance with Iowa Code chapter 8F.

ITEM 14. Amend rule 61—9.61(13) as follows:

61—9.61(13) Performance reports. Performance reports shall be submitted to the division from all grantees funded agencies. Failure to submit reports by the due date shall may result in suspension of

financial payments to the grantee funded agency by the program until such time as the report is received. Delinquent or inadequate reports from prior grants awards may detrimentally influence ~~the award of grants funding~~ for the following year future awards.

ITEM 15. Amend rule 61—9.62(13) as follows:

61—9.62(13) Termination. Contracts may be terminated for the following reasons:

9.62(1) Termination by grantee funded agency. The grantee funded agency may terminate the contract at any time during the contract period by providing notice to the division.

9.62(2) Termination by department. The department may terminate a contract upon a ten-day notice when the grantee funded agency or any of its subcontractors fail to comply with the grant funding award stipulations, rules, regulations, standards, or conditions. The department may terminate a contract when there is a reduction of funds by executive order or otherwise.

9.62(3) Termination for cause. If the grantee funded agency fails to fulfill its obligations under the agreement properly or on time, or otherwise violates any provision of the agreement, the board may terminate the agreement by written notice to the grantee funded agency. The notice shall specify the acts or omissions relied on as cause for termination. All finished or unfinished products and services provided by the grantee funded agency shall, at the option of the department, become state property. The department shall pay the grantee funded agency fair and equitable compensation for satisfactory performance prior to receipt of notice of termination minus any funds owing to the department, e.g., damages for breach, improperly spent funds.

ITEM 16. Amend rule 61—9.63(13) as follows:

61—9.63(13) Financial statement supplied. Within 45 days of the termination, the grantee funded agency shall supply the department with a financial statement detailing all costs incurred up to the effective date of the termination.

ITEM 17. Amend rule 61—9.64(13) as follows:

61—9.64(13) Indemnification. The grantee funded agency shall defend, indemnify, and hold harmless the state of Iowa, its officers, agents and employees and any of the state's federal funding sources for:

1. Grantee's The funded agency's performance or nonperformance of a contract entered into or violation of these rules.

2. Grantee's The funded agency's activities with subcontractors and all other third parties, or any other act or omission by a grantee the funded agency, its agents, officers, and employees.

ITEM 18. Amend rule 61—9.65(13) as follows:

61—9.65(13) Records. Grantees Funded agencies shall keep statistical records of services provided and any other records as required by the division. The division shall have immediate access during working hours to records pertaining to the contract. No notice need be provided the grantee funded agencies prior to inspection of the records.