

Negotiated Rulemaking and Comment Summary

November 16, 2021 10:00am MTN

Negotiated Rulemaking DOCKET 16.05.04

Video meeting as published in the Administrative Bulletin

SEE attached attendee lists

Facilitator: Heather Anne Cunningham, Executive Director
Bureau: Idaho Council on Domestic Violence and Victim Assistance

Call to Order and Outline Meeting Format

I. Purpose of Meeting

A. Overview: Funding Formula changes are critical to make sure all programs are funded fairly across the state and that demand for services is taken into account. The formulas in our IDAPA rules (16.05.04) have not been revised since 1990. Most states had formula funding in those days but have moved away from this structure in the years since. We need to strike a balance between need for services and protecting rural programs where numbers may not be as high. How might we change the rules to make more sense and allow for resources to be expended where they are most needed while also ensuring the availability of services statewide?

B. A brief review of current formulas:

1. IDAPA 16.05.04 § 022, Domestic Violence Grants, allocates State dedicated funds, with a minimum of 51% going to programs and the remainder available to fund operations of the Council, which does not receive General Funds other than roughly \$14,000 per year, so anything which cannot be funded by a federal grant must use dedicated funds. These funds are distributed based on the number of marriage licenses per County and population, with no relationship to shelters in a region or need.
2. IDAPA 16.05.04 § 024, Family Violence (FVPSA) Grants, allocates FVPSA funds equally throughout the 7 public health district regions without regard to need. These funds are formula funds based on population and are roughly \$1 million annually currently.
3. IDAPA 16.05.04 § 023, Victim Assistance (VOCA) Grants, allocates funds equally based on the population and number of square miles in each region. These funds are formula funds from the Crime Victims Fund, which varies. These funds have declined with the most recent awards to Idaho being \$17 million, \$12 million, \$9 million and \$6 million. Although the VOCA Fix legislation which passed in April 2021 is likely to result in an increase in awards moving forward, we still need to navigate the decline, and the amount and timing if an increase is unknown. There is currently no ability to allocate the funds where most needed; the amounts are tied to area and population.

II. Discussion Points

- a. Model A
 - i. ICDVVA can move away from formula funding. The rules would specify that the council make funding decisions based on best available data, taking into account the need to maintain services in both rural and urban areas and to send limited resources

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where they are most needed. A formula does not have to be in the rules. We can prioritize direct services while ensuring rural coverage and correlating to demand and need for services. This model allows the broadest choice in flexibility. Boarder language allows us to adapt quickly if needed, as rules re only changed at the legislature very five years.

- b. Model B
 - i. ICDVVA can use a hybrid model. There can be a small portion that is allocated with a formula in the rules, assuring a small guaranteed amount per region, and a portion that is discretionary and competitive. It can be based on geography, region, or service category, etc. (E.g., 50% of FVPSA funds allocated across regions equally and 50% competitive/discretionary, or 5% of each VOCA Award in each region with the remainder awarded based on competitive grants taking into account need/best available data, or a set percentage of State DV funds to each qualifying shelter in the State which applies). This model does not allow maximum flexibility, but would allow more flexibility than the current rules.
- c. Model C
 - i. Programs decide as a region a recommended funding plan and submit to the Council. Programs applying in each region would meet with their Regional Councilmember to consider how to best ensure that shelter, counseling, forensic exams, and other needed victim services are available in each region, given the particular needs of each region, and would collaborate on which programs provide which services to avoid duplication and maximize the use of funds in that region. The regional funding recommendation could be presented by the Council member for consideration and a vote by the Council.

III. Follow Up

- a. Written comments for Docket 16-05-04 are to be submitted on or before [April 22, 2022](#) to:

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Comments from 11/16/2021, Written Comments Submitted Post-Meeting, and Responses

Verbal and written comments were submitted by the following individuals/organizations:

Veronica Vasquez, Sally Winn, Bev LaChance, Emily Johnson, Scott Smith, Jeanie Strohmeyer, Tracy Rowe, ATVP, Kimber Janes, Jim Cook, Jennifer Zielinski, Christopher Perez, Karee Picard, Taylor Luckey, Whitney Harris, Slobodanka Hodzic, Jennifer Perry, Miren Aburusa

		Comments	Responses
W- Written V- Verbal	Commenter Name & Organization	General Questions and Concerns	
V	Dolores Larsen, ROSE Advocates	What happens if in a region here in the state concentrates on two large counties but doesn't provide same services to the rural counties?	Current rules do not account for that. For example, Terry Reilly has offices in 3 & 4, but region funding comes out from region 4. Currently does not account for counties served. We could potentially look at county level instead of regional level, in the formula.
V	Dolores Larsen, ROSE Advocates	Programs that assist in both regions 3 & 4, are we able to apply for both regions?	In other words, can an applicant apply in both regions? Right now, current structure says where you are based is where the funding comes from. We could look at other options with this rule change. Programs could allocate in their grant application what regions or counties they serve, or what service categories, for example.
V	Scott Smith, Idaho Legal Aid	This will go before the Legislature, and they have to approve right? What can we realistically get them to approve?	Legislatures must approve the rules. We can propose what we want, but they will approve. We can develop multiple plans and see what they approve. We would like to have program buy in and support for proposed rules.
V	Jeannie Strohmeyer, Nampa Family Justice Center	Other states have state funding. Are there any movements here to adjust for that?	Not currently, as part of this process. This process cannot create another funding stream. There are people who want to see some bills that put more state funding towards

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			<p>victim services, such as certain fines or fees. There are political challenges. We do not know if this will happen in Idaho. Many states have general fund allocations, but we do not know if we ever will. This is currently outside the scope of our rule making.</p>
W	Jennifer Beazer, ICDVVA Intern	Can we get ARPA funding for programs?	<p>Heather is going through the legislative process to request ARPA funding. We have discretion in the rules to administer additional grant funds if allowed, but Legislature must approve funds.</p>
W	Andrea Piper-Wetland, Alternatives to Violence of the Palouse	<p>If you had to estimate, given reductions, how many programs will not be able to continue with the half decrease to come. I am wondering about the preservation of current services and where the biggest gaps in service are anticipated.</p>	<p>Hard to answer right now because we need good data. We cannot meaningfully fund the same number of programs we currently fund with half the funds, but that reduction may make many programs go under. We could cut some programs altogether and fund fewer programs with less funds. We have tried to educate programs on the cuts coming, collaborate with other agencies to try and reduce cuts (for example, ISP grant streams), and craft a safety net as best we can so we do not completely cut programs.</p> <p>Programs that depend the most heavily on our funding are the most at risk. We are trying to take a global holistic statewide approach to ensure funds remain available for all types of services, though possibly not all through our office.</p>
V	Jennifer Zielinski, Nampa Family Justice Center	<p>How do we account for programs who serve statewide? Advocates could be hesitant to refer someone to another region where they need assistance, but a program is based in a different region of the state.</p>	<p>One option: instead of just allocating funds among regions, we could have all agencies which provide statewide services have a portion of their funding come from the region in which they provide services. Right now whatever region they are based in is the region they are funded out of. Region 4 is having disproportionate cuts</p>

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			because they have higher demand for services, highest population, and also most statewide programs are based in Region 4 and their grant money is coming out of the region 4 pot.
W	Kimber Janes, Upper Valley Child Advocacy Center	We know you said there could be different applications for each type of service (looking at plan B), but could it be possible to have a master application with subcategories that an agency could write for?	Yes, this falls under the administration of the plan we choose more than how the rules allocate funds. We have flexibility in the application design so we will be updating the application and make it tied to the strategic plan. Long term, we would love to have one victim service application process for all available funding streams, including those administered by ISP, if possible. But for now, our rules that govern ICDVVA alone, can allow for a hybrid model so we can discuss.
W	Jim Cook, Idaho Legal Aid	When we are voting, we are voting on the critical years. In the hard-cut years, what does each model look like?	The best model works at a both a high and a low funding level. The rules should be designed in a way that it is fair regardless of the amount of money coming in. It means having some flexibility to navigate peaks and valleys. Right now, we do not have flexibility to do this. The current rules do not allow us to fund programs based on need in the years where there are large cuts. The cuts are likely to have a disproportionate impact under the current structure.
		Model A: Rules allow Council discretionary decision making	
W	Sally Winn, Safe Passage	Would there be a committee to allocate the funding?	We do not know since this would be a change. The Council is a committee and would make the determination on how to best allocate funds annually, based on best available data. There would not be a set minimum per funding stream (though there could be a different rule for each funding stream). This would be a significant shift in how it is done currently.

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V	Bev LaChance, Women's and Children's Alliance	Does "Council" mean Council staff, Council members, or who making that decision?	We have not had discussions on that yet. The vision of the Legislature per statute is the Council is to make grant decisions. The current Executive Director believes the Council staff makes recommendations, and the Council makes final decisions. We have not had ANY internal discussions on new models with the Council yet.
V	Emily Johnson, Big Brothers Big Sisters	In the models that follow this structure, is there a score/format/rubric for how the Council makes the decisions?	We have seen both. The fair and transparent way is a very structured, fair rubric. This year we will release the scoring criteria WITH the applications so eliminate the possibility of favoritism or unfairness. We want to eliminate the option for the ED of the Council to have undue input and to ensure that there is transparency, no concern regarding favoritism, and a fair process of decision making that involves staff input but Council informed decision making. We want it to be very clear and be accountable to programs for a transparent process.
V	Emily Johnson, Big Brothers Big Sisters	What HAC/ED mentioned about favoritism was a program concern. We want the structure and transparency as well.	Any funding model adopted will continue to emphasize fairness, transparency and accountability moving forward, but it should be structured into the rules in some way to provide future assurances.
W	Tracy Rowe, Idaho Youth Ranch	What do you see as the downsides of this more free-form model A?	In the first year, it will be a heavy lift to ensure the initial system is good, and each year it will have to be tweaked based on best available data. This places additional workload on Council staff but is better than a "plug-in" to formula and distribute throughout the state. Making sure the model is good can take time. We are modeling off other states, but a challenge is most states have state funding streams that can assist in funding victim

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			<p>services. We have a small state allocation.</p> <p>Other states also look at other funding streams (VAWA, SAC, ISP). If we could coordinate with other funding streams in the state, we can look at a safety net for all programs. States that work closely together have the best safety net. Flexibility in the rules would allow us to further collaboration with other funding streams.</p>
		Funding Model B: Some funding as baseline, and some discretionary competitive	
W	Taylor Luckey, North Idaho CASA	You mentioned earlier the cons to Model A for the counsel -- additional workload lift and trial and error period to establish a way to make it work. I know you guys are amazing workers and understaffed as it is! What are the cons to Model B for the counsel?	Same con with model A, as the discretionary model requires a heavy upfront lift. This applies equally to both models. Downside with B is that there is less flexibility. Small, guaranteed amount, but that results in taking away flexibility. As we try to navigate an ever-changing environment, it works best to have flexibility.
W	Emily Johnson, Big Brothers Big Sisters	If we land on Plan B, do we have to determine the percentages designated for each region as part of the initial drafting of the rules? My concern is that if we designate 5% for one region, for example, and then that district sees a huge influx of growth in the next few years the 5% could be outdated soon. If we can allocate percentages ongoing, then we can adjust for those factors ongoing. The growth is so fast in this State, I am concerned that we will outgrow our allocations quickly.	Yes, if we use a hybrid model, that will require the rules to specify exactly how the formula would work. That is the advantage of the more flexible Model A. However, Model B could take into account population rather than be a straight flat percentage, there are many ways to structure a hybrid formula and it can be complicated.
W	Whitney Harris, Bright Tomorrows	With plan A, you mentioned checks and balances between the Council,	The same, but the comment about accountability is the same regardless of the Model. The Council will

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		Council staff and programs when it comes to how funds are allocated. With plan B, I am curious how you would see the allocation decision being made. Same as plan A, or different?	continue to track our activities, be transparent about funding decisions, and have staff report to the Council, including standing items on Council agendas, such as timing of reimbursement processing.
V	Kimber Janes, Upper Valley Child Advocacy Center	How are these categories/what are they in this application?	Option B is not about dividing into service categories. It is about dividing the funding into both a set amount and a discretionary amount. The formula part could be set up either way. It does not have to be divided into service types. We could do it by county, service, baseline funding amount.,etc. The CARES appropriation from the Governor in 2020 demonstrated the need and advantage for flexibility because we had to quickly get funds out and spent, with a 2 month timeframe. With no set formula we were able to assess applications as they came in, and make decisions quickly, awarding and reimbursing \$250,000 in less than 3 months.
V	Karee Picard, Nez Perce Tribe	The Nez Perce are the only tribe getting ICDVVA funding. The only other tribal services available to us that are culturally relevant are over 100 miles away. But as a new program, we are worried since we are already marginalized. Option B seems better because it can be used to make sure we still get funding. MMIW is another trend we are worried about.	Tribes are absolutely an underserved population. VOCA requires at least 10% of VOCA funding geos to underserved populations. This comes after we allocate baseline finding. We will continue to make funding available to tribes, and want to continue assisting in training, education, etc. for programs, including tribes, even if we do not fund them.
		Model C: Programs in a given region bring a proposed funding decision to the Council	
V	Chris Perez, Elmore County Domestic Violence Center	The collaboration piece could be a challenge and it could feel like pitting one another against each other.	That is a valid concern, though the hope would be an increase in collaboration not competition among programs.

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		It could be time consuming and could be a burden on our staff.	

General comments from the chat:

- Tracy Rowe: You would have to come up with a method to ensure all programs have an equal voice in the process; I can see how this would be a very difficult challenge for smaller, less experience, or less staff experienced in negotiation and public case making!
- Molly Kaczmarek: I'd be interested in seeing what type of decision-making structure would be set up for Plan A. I think flexibility is key for our state with its continued growth and evolving needs, and being an agile funding organization will be very important. I'm sure we'd all just want to see good, fair and ethical decision-making structure built around it that would serve us all now, as well as 5-10-20 years down the road.
- Jennifer Perry, Nampa Family Justice Center: I'm leaning towards A or B, more so A, as long as there checks & balances in place to ensure favoritism of the Council doesn't ever override the process
- Tracy Rowe, Idaho Youth Ranch: I support plan A :) Thank you for our thoughtful planning and commitment to transparency and participation by the programs. Great process!
- Miren Aburusa, Mothers Against Drunk Driving: I can see the benefits of all 3 plans and look forward to getting further input from our staff, board and N.O. Thank you!
- Kim Deugan, Advocates Against Family Violence: I am leaning to Plan A. We will be taking these to our Leadership team as well for their input. Thanks so much for all the time and energy you have expended into this process to date.
- Peggy Frye, LillyBrooke Family Justice Center: I am leaning towards plan A - having flexibility just seems to make more sense. Plan C sounds a bit complicated.
- Whitney Harris, Bright Tomorrows: I agree with Jenny. I would lean more towards either A or B, but with the clear guidelines, transparency, accountability of both programs and the Council, I think A would be our preference.
- Jim Cook, Idaho Legal Aid: Whatever we do today we should plan on the rule for the next 20 years. Whatever we agree and get passed needs to work for ED successors. We are undergoing massive changes in the State (population growth affecting our cities and counties), and this is not changing. We need long term policy to adjust for huge changes. We like some predictive power in anticipating budget for the years. Can you give administrators some guidance on what they can anticipate and keep some flexibility for Council? The model should allow Council to spend funds without going back to the legislature

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Legislative Rulemaking 11-16-2021 Attendance List

Name	Organization
Jeannie Strohmeier	NFJC
Jim Cook	Idaho Legal Aid
Scott Smith	Idaho Legal Aid
Todd Bowman	U of I College of Law
Whitney Harris	Bright Tomorrows
Heather Young	Bright Tomorrows
Meegan Littlefield	Family Crisis Center
Kimberly Deugan	AAFV
Ashley Stallings	Upper Valley CAC
Kimber Janes	Upper Valley CAC
Laurie Lewis	YWCA Lewiston
Camilla Plate	Family Crisis Center
Melissa Mezo	Terry Reilly
Jane Ahl	BBBS
Chelsea Weeks	YWCA Lewiston
Christopher Perez	Elmore County DVC
Amy Duque	ICDVVA
George Guiterrez	Idaho Crime Victims Compensation Program
Jennifer Perry	NFJC
Bev La Chance	WCA
Patrick Reagan	Mahoney House
Karlee Boese	Mahoney House
Aspen Arnold	Mahoney House
Johnna Baer	Mahoney House
Robin Bronson	Crossroads Harbor
Kimberly Middleton	Elmore County DVC
Peggy Frye	Lilly Brooke
Carolyn Krieger	Safe Passage
Gegory Gross	Idaho Youth Ranch
Jennifer Zielinski	Idaho Anti-Trafficking Coalition
Miren Aburusa	MADD
James Brownson	Idaho Youth Ranch
Veronica Vasquez	ROSE Advocates
Holly Llewellyn	Oneida Crisis Center
Andrea	ATVP
Jodi Nafzger	Council Chair
Emily Johnson	BBBS of SW Idaho
Tracy Rowe	Idaho Youth Ranch
Tricia Lofton	AAFV
Michelle Stimmel	AAFV
Alyssa Groen	NFJC
Jessica Uhrig	Council Member

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Mary Zimmerman	
Taylor Luckey	1st CASA
Becky James	Boundary County Victim Services
Tara Malek	1st CASA
Jenn Beazer	ICDVVA Intern
Jessica Marshall	ICDVVA
Heather Cunningham	ICDVVA
Dana Wiemiller	ICDVVA
Kristina Larkin	ICDVVA
Sally Winn	Safe Passage
Zenita Delva	2nd CASA
Molly KacZmarek	St Lukes CARES
Michael Jones	St Lukes CARES
Dolores Larson	ROSE Advocates
Slobodanka Hodzic	Agency for New Americans Boise
Karee Picard	Nez Perce Tribe