

Improving Criminal Justice Response Program

HIV Certification, Assurance, and Exemption Letters

Samples and Instructions

Instructions

- All state and local government applicants are required to submit an HIV Certification, HIV Assurance, or HIV Exemption letter.
- Tribes, courts, and victim service provider or coalition applicants are exempt from the HIV Certification requirement.
- Local governments that do not have authority to prosecute offenses in which by force or threat of force the perpetrator compels the victim to engage in sexual activity may submit a letter of exemption in lieu of the certification or assurance.
- All state and local government applicants (except those local governments that qualify for the Exemption Letter) must submit either:
 - A certification that they are in compliance with the requirements of 34 U.S.C. § 10461(d) and provide a copy of the relevant law, regulation, or policy; or
 - An assurance attesting that the applicant will meet the requirements of 34 U.S.C. § 10461(d) by the end of the next legislative session from the date of application.
- The certification or assurance must be in the form of a letter, on government letterhead, signed and dated by the authorizing official.
- Applicants that submit a letter asserting HIV Certification must include a copy of the compliant statute, regulation, or policy.
- Applicants that submit an HIV Assurance will have until the end of their next legislative session to meet the statutory requirements and submit a copy of the compliant statute, regulation, or policy, or lose five percent of awarded funds.

Sample HIV Certification Letter

[Applicant Letterhead]

[Date]

Director
Office on Violence Against Women
145 N Street, NE
Suite 10 W.121
Washington, DC 20530

Re: HIV Certification

Dear Director:

I certify that **[enter jurisdiction name]** laws, regulations, or policies are in compliance with the requirements of 34 U.S.C. § 10461(d). Specifically, [specify the law, policy, or regulation by name and/or number] requires:

- (A) The state or unit of local government at the request of a victim to administer to a defendant, against whom an information or indictment is presented for a crime in which by force or threat of force the perpetrator compels the victim to engage in sexual activity, testing for the immunodeficiency virus (HIV) not later than 48 hours after the date on which the information or indictment is presented and defendant is in custody or has been served with the information or indictment;
- (B) as soon as practicable notification to the victim, or parent and guardian of the victim, and defendant of the testing results; and
- (C) follow-up tests for HIV as may be medically appropriate, and that as soon as practicable after each such test the results be made available in accordance with subparagraph (B).

I have attached documentation that supports our certification.

Sincerely,

Name

[Applicant's Authorizing Official]

Sample HIV Assurance Letter

[Applicant Letterhead]

[Date]

Director
Office on Violence Against Women
145 N Street, NE
Suite 10 W.121
Washington, DC 20530

Re: HIV Assurance

Dear Director:

I assure you that **[enter jurisdiction name]** laws, regulations, or policies will be in compliance with the requirements of 34 U.S.C. § 10461(d) by the period ending on the date on which the next session of the state legislature ends **[insert date]**.

- (A) The state or unit of local government at the request of a victim to administer to a defendant, against whom an information or indictment is presented for a crime in which by force or threat of force the perpetrator compels the victim to engage in sexual activity, testing for the immunodeficiency virus (HIV) not later than 48 hours after the date on which the information or indictment is presented and defendant is in custody or has been served with the information or indictment;
- (B) as soon as practicable notification to the victim, or parent and guardian of the victim, and defendant of the testing results; and
- (C) follow-up tests for HIV as may be medically appropriate, and that as soon as practicable after each such test the results be made available in accordance with subparagraph (B).

I further acknowledge that should **[insert jurisdiction name]** receive an Improving Criminal Justice Responses Program award, five percent of the total award will be withheld until such time that OVW receives and approves documentation that supports our compliance with the HIV provision described above. Acceptable documentation includes statutes, regulations, or written policies. Failure to submit the necessary documentation by the end of our next state legislative session will result in the forfeiture of the five percent of funds.

Sincerely,

Name
[Applicant's Authorizing Official]

Sample HIV Exemption Letter

[Applicant Letterhead]

[Date]

Director
Office on Violence Against Women
145 N Street, NE
Suite 10 W.121
Washington, DC 20530

Re: HIV Exemption

Dear Director:

[Name of local government] does not have authority to prosecute crime in which by force or threat of force the perpetrator compels the victim to engage in sexual activity. Such authority rests in **[insert appropriate information]**. **[Insert information on any relevant state or local laws governing authority to prosecute sex offenses]**. Therefore, the HIV provision at 34 U.S.C. 10461(d) is not relevant to **[name of local government]**.

Sincerely,

Name

[Applicant's Legal Officer Such as City or County Attorney]