

Department of Veterans Affairs

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APPENDIX A TO PART 36—SAMPLE FORM OF NOTICE OF SPECIAL FLOOD HAZARDS AND AVAILABILITY OF FEDERAL DISASTER RELIEF ASSISTANCE

We are giving you this notice to inform you that:

The building or mobile home securing the loan for which you have applied is or will be located in an area with special flood hazards. The area has been identified by the Director of the Federal Emergency Management Agency (FEMA) as a special flood hazard area using FEMA's Flood Insurance Rate Map or the Flood Hazard Boundary Map for the following community: _____. This area has at least a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year. During the life of a 30-year mortgage loan, the risk of a 100-year flood in a special flood hazard area is 26 percent (26%).

Federal law allows a lender and borrower jointly to request the Director of FEMA to review the determination of whether the property securing the loan is located in a special flood hazard area. If you would like to make such a request, please contact us for further information.

The community in which the property securing the loan is located participates in the National Flood Insurance Program (NFIP). Federal law will not allow us to make you the loan that you have applied for if you do not purchase flood insurance. The flood insurance must be maintained for the life of the loan. If you fail to purchase or renew flood insurance on the property, Federal law authorizes and requires us to purchase the flood insurance for you at your expense.

- Flood insurance coverage under the NFIP may be purchased through an insurance agent who will obtain the policy either directly through the NFIP or through an insurance company that participates in the NFIP. Flood insurance also may be available from private insurers that do not participate in the NFIP.

- At a minimum, flood insurance purchased must cover the lesser of:

- (1) the outstanding principal balance of the loan; or

- (2) the maximum amount of coverage allowed for the type of property under the NFIP.

Flood insurance coverage under the NFIP is limited to the overall value of the property securing the loan minus the value of the land on which the property is located.

- Federal disaster relief assistance (usually in the form of a low-interest loan) may be available for damages incurred in excess of your flood insurance if your community's participation in the NFIP is in accordance with NFIP requirements.

Flood insurance coverage under the NFIP is not available for the property securing the loan because the community in which the property is located does not participate in the NFIP. In addition, if the non-participating community has been identified for at least one year as containing a special flood hazard area, properties located in the community will not be eligible for Federal disaster relief assistance in the event of a Federally-declared flood disaster.

(Authority: 42 U.S.C. 4104a)

[62 FR 5534, Feb. 6, 1997]

PART 39—STATE CEMETERY GRANTS

AID TO STATES FOR ESTABLISHMENT, EXPANSION, AND IMPROVEMENT OF VETERANS' CEMETERIES

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AUTHORITY: 38 U.S.C. 2408.

SOURCE: 47 FR 49395, Nov. 1, 1982, unless otherwise noted.

AID TO STATES FOR ESTABLISHMENT, EXPANSION, AND IMPROVEMENT OF VETERANS' CEMETERIES

§ 39.1 Definitions.

For the purpose of this part:

(a) The term *establishment* means the process of site selection, land acquisition, development planning, contouring, landscaping, and construction necessary to convert a tract of land to an operational cemetery.

(b) The term *expansion* means an increase in the burial capacity or acreage of a cemetery through the addition of gravesites and/or cemeterial facilities.

(c) The term *improvement* means the enhancement of a cemetery through landscaping, nonrecurring maintenance, or addition of other features appropriate to cemeteries.

(Authority: 38 U.S.C. 2408(c)(2))

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(d) The terms *establishment*, *expansion* and *improvement* include facilities determined to be necessary for the functioning of the cemetery such as superintendent lodges, chapels, crypts, mausoleums, and columbaria.

(Authority: 38 U.S.C. 2408(c)(1))

(e) The term *time phased development plan* means a detailed, narrative description of the proposed site's characteristics, schedule for development, and estimates of costs by phases of construction.

(f) The *project* means an undertaking to establish, expand, or improve a specific site for use as a State-owned veterans' cemetery.

(Authority: 38 U.S.C. 2408(c)(2))

(g) The term *State* means each of the several States, Territories and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Authority: 38 U.S.C. 101(20))

(h) The term *veteran* means a person who served in the active military, naval, or air service and who died while in service or was discharged or released therefrom under conditions other than dishonorable.

(Authority: 38 U.S.C. 2402)

§ 39.2 Scope of the State cemetery grants program.

(a) Subject to the availability of an appropriation, the Secretary may approve grants to assist any State in establishing, expanding, or improving veterans' cemeteries which are or will be owned by such State. In order to qualify for assistance under this program, a cemetery must be operated solely for the interment of veterans, their wives, husbands, surviving spouses, minor children, and unmarried adult children who were physically or mentally disabled and incapable of self-support.

(Authority: 38 U.S.C. 2408(c)(2) and 101(4))

(b) The amount of the Federal contribution to a state is limited to 50 percent of the combined value of the land to be acquired or dedicated for ceme-

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tery purposes and the dollar value of the improvements to be made. The remaining 50 percent of the project's cost will be contributed by the State.

(Authority: 38 U.S.C. 2408(b)(2))

(c) A State may dedicate for the purposes of the cemetery involved land which it already owns. The value of land of this nature can be included in the computation of the State's portion of the funding for the establishment of a State veterans' cemetery. The value of the land, however, cannot exceed 50 percent of the State's total contribution to the project's cost and may not be used as part of a State's contribution for any subsequent grant. "Uniform Appraisal Standards for Federal Land Acquisitions" (Interagency Land Acquisition Conference—1973) shall be used as guidelines when determining the value of the land.

(Authority: 38 U.S.C. 2408(b)(3))

§ 39.3 Applications with respect to projects.

(a) A State seeking Federal assistance for establishment, expansion, or improvement of a State veterans' cemetery shall submit SF 424, Federal Assistance, with preapplication or application attachments, as applicable, to the Secretary for such assistance in compliance with the uniform requirements for grants-in-aid to State and local governments prescribed by Office of Management and Budget Circular No. A-102, Revised. The applicant shall submit as a part of the application or as an attachment thereto:

(1) The amount of the grant requested with respect to such project which may not exceed 50 per centum of the estimated cost of construction of such project.

(2) A description of the site for such project.

(3) Plans and specifications as required by § 39.8 The preapplication (part IV) shall include design concept and space outline as required by OMB Circular No. A-102, Revised.

(4) Any comments or recommendations made by State reviewing agencies.

(Authority: 38 U.S.C. 2408(a)(1))

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(5) The preapplication submission shall include an environmental assessment to determine if an Environmental Impact Statement is necessary for compliance with section 102(2)(C) of the National Environmental Policy Act of 1969, as amended. The Environmental Assessment shall briefly describe the possible beneficial and/or harmful effects on the following impact categories because of the proposed project. If an adverse environmental impact is anticipated, the applicant must explain what action will be taken to minimize the impact, (i) Transportation, (ii) Air Quality, (iii) Noise, (iv) Solid Waste, (v) Utilities, (vi) Geology (Soils/Hydrology/Floodplains), (vii) Water Quality, (viii) Land Use, (ix) Vegetation, Wildlife, Aquatic, Ecology/Wetlands, etc., (x) Economic Activities, (xi) Cultural Resources, (xii) Aesthetics, (xiii) Residential Population, (xiv) Community Services and Facilities, (xv) Community Plans and Projects, and (xvi) Other. The assessment shall comply with the requirements of the National Environmental Policy Act of 1969, as amended.

(b) The applicant must furnish written assurance that:

(1) Any cemetery established, expanded, or improved through assistance of this program shall be used exclusively for the interment of eligible persons as set forth in §§ 39.1(h) and 39.2(a).

(2) Title to such site is or will be vested solely in the State.

(3) It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that legislative authority or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

(4) The project conforms to the applicable requirements for the implementation, maintenance and enforcement of ambient air quality standards adopted pursuant to section 108 of the Clean

Air Act, as amended (42 U.S.C. 7410); that upon completion, the project will conform to the provisions of the conservation rules adopted by VA pursuant to E.O. 12185, 3 CFR, 1980 Comp., p. 474; that it will comply with Pub. L. 90-480, as amended (42 U.S.C. 4151), which provides that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped; and that, the project will comply with provisions of section 504, Rehabilitation Act of 1973, Pub. L. 93-112, as amended (29 U.S.C. 794) providing for prevention of discrimination against the handicapped in federally assisted programs.

(5) It will comply with the provisions of: Executive Order 11988, 3 CFR 1978 Comp., p. 117, relating to floodplain management and Executive Order 12088, 3 CFR, 1979, Comp., p. 243, relating to the prevention, control and abatement of environmental pollution.

(6) It will have sufficient funds available to meet the non-Federal share of the cost of construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purposes constructed.

(7) It will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; that it will furnish progress reports and such other information as the Secretary may require.

(8) It will operate and maintain the facility in accordance with standards as prescribed under § 39.5.

(9) It will give the Secretary and the Comptroller General through any authorized representative access to and the right to examine all records, books, papers, or documents related to the grant.

(10) It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," ANSI A117.1-1961(R1971), which is incorporated by reference. This incorporation by reference was approved by the Director of the Federal

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Register on October 28, 1982. This code is incorporated as it was on the date of approval and a notice of any change in this code will be published in the FEDERAL REGISTER. Copies are available from the Department of Veterans Affairs, Office of Facilities, 810 Vermont Avenue, NW., Washington, DC 20420. A copy of this standard is on file at the Office of the Federal Register. The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(11) It will cause work on the project to be commenced within a reasonable time after receipt of notification from the Secretary that funds have been approved and that the project will be prosecuted with reasonable diligence.

(12) It will not dispose of or encumber its title or other interests in the site and facilities.

(13) It will comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and all regulations adopted by VA pursuant to such Title as incorporated in 38 CFR part 18, subpart A. In accordance with Title VI of that Act, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measure necessary to effectuate this agreement. This assurance shall obligate the applicant for the period during which the site is operated as a State veterans' cemetery. (Prior to approval of financial assistance, VA will make a determination as to whether the applicant is in compliance with Title VI and the requirements of this part. The basis for such a determination shall be the submission of an assurance of compliance (VA Form 27-8206, Statement of Assurance of Compliance under Title VI, Civil Rights Act of 1964) by the applicant, and any relevant compliance review reports on file with the Department. Where a determination cannot be made from this data, VA will require the submission of necessary additional information and may take additional steps. Such additional steps may include, for example, field reviews and

communicating with local government officials and protected class organizations.)

(14) It will comply with the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621 *et seq.*), which prohibits discrimination in employment practices on the basis of age and the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*) which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.

(15) It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

(16) It will comply with the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally-assisted programs.

(17) It will comply with all requirements imposed by the Department of Veterans Affairs concerning special requirements of law, program requirements, and other administrative requirements in accordance with OMB Circular A-102, Revised.

(18) It will comply with the provisions of the Hatch Act which limit the political activity of employees.

(19) It will comply with the applicable minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act as they apply to employees of State and local governments.

(20) It will insure that the facilities under its ownership which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Department of Veterans Affairs of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be utilized in the project is under consideration for listing by the EPA.

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(21) It will comply with the requirements of the National Environmental Policy Act of 1969, Pub. L. 91-190, as amended (42 U.S.C. 4321) and Executive orders issued pursuant thereto.

(22) It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Pub. L. 93-234, 87 Stat. 975, approved December 31, 1973. Section 102(a) requires, on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Director of the Federal Emergency Management Agency as an area having special flood hazards.

(23) It will assist the Department of Veterans Affairs in its compliance with section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470f), Executive Order 11593, 3 CFR, 1971-1975, Comp., p. 559, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 *et seq.*) by (i) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR 800.8) by the activity, and notifying the Department of Veterans Affairs of the existence of any such properties, and by (ii) complying with all requirements established by the Department of Veterans Affairs to avoid or mitigate adverse effects upon such properties.

(24) It will obtain approval by the Secretary of the final working drawings and specifications before the project is advertised or placed on the market for bidding; it will construct the project, or cause it to be constructed, to final completion in accordance with the application and approved plans and specifications; it will submit to the Secretary for prior approval changes that alter the costs of the project, use of space, or functional layout; it will not enter into a construction contract(s) for the project or undertake other activities until the con-

ditions of the construction grant program(s) have been met.

(c) The Secretary will approve any such application if the Secretary finds that there are sufficient funds available to make the grant requested with respect to such project and that:

(1) It has been determined by the Department of Veterans Affairs that the application meets the requirements of paragraphs (a) and (b) of this section.

(2) The plans and specifications for such project are in accordance with § 39.8.

(3) The State has established procedures for determining reasonableness, allowability, and allocability of costs in accordance with the provisions of OMB Circular No. A-87.

(4) The State is not receiving more than 20 per centum of the total amount appropriated for such grants for such fiscal year.

(Authority: 38 U.S.C. 2408(b)(1))

(d) The Secretary shall certify approved applications to the Secretary of the Treasury in the amount of the grant requested, but in no event an amount greater than 50 percent of the estimated cost of the project, and shall designate the appropriation from which it shall be paid. Funds paid for the establishment, expansion, or improvement of a State veterans' cemetery will be used solely for carrying out such project as so approved.

(Authority: 38 U.S.C. 2408(c)(2))

(e) Any amendment of any application, whether or not approved under paragraph (c) of this section, will be subject to review and approval pursuant to the regulations governing grants to States for establishment, expansion, and improvement of State veterans' cemeteries in the same manner as an original application.

(Authority: 38 U.S.C. 2408(c)(1))

(f) Sums provided under paragraph (d) of this section shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated. If all funds from a grant have not been utilized by a State for the purpose for which the grant was made within 3 years after

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the Secretary has certified the approved application for such grant to the Secretary of the Treasury, the United States shall be entitled to recover any such unused grant funds from such State.

(Authority: 38 U.S.C. 2408(d))

(Approved by the Office of Management and Budget under control number 2900-0375)

[47 FR 49395, Nov. 1, 1982, as amended at 45 FR 34988, Aug. 23, 1989]

§ 39.4 Disallowance of a grant application and notice of a right to hearing.

(a) No application for the establishment, expansion or improvement of State veterans' cemeteries shall be disapproved until the applicant has been afforded an opportunity for a hearing.

(b) Whenever a hearing is requested under this section, notice of hearing, procedure for the conduct of such hearing, and procedures relating to decisions and notices shall be in accord with the provisions §§18.9 and 18.10, Title 39, Code of Federal Regulations. Failure of an applicant to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to be heard and constitutes consent to the making of a decision on the basis of such information as is available.

(Authority: 38 U.S.C. 2408(c)(2))

§ 39.5 Responsibilities following project completion.

(a) States shall monitor use of the facility by various sub-groups and minority groups. To the extent that underutilization by any of these groups is determined to exist, a program shall be established to inform members of these groups about benefits available to them. The information regarding the program shall be available in a language other than English where a significant number or portion of the population eligible to be served or likely to be directly affected by the grant program needs such service or information.

(b) State veterans' cemeteries established, expanded, or improved with as-

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sistance under this program shall be operated and maintained as follows:

(1) Buildings, grounds, roads, walks, and other structures shall be kept in reasonable repair to prevent undue deterioration and hazards to safety of users.

(2) The cemetery shall be kept open for public use at reasonable hours and time of the year.

(Authority: 38 U.S.C. 2408(c)(1))

(c) The State, in coordination with the Secretary, shall audit such projects at their completion in accordance with Attachment P. OMB Circular A-102 and audit procedures established by the VA Office of the Inspector General. A copy of the audit shall be forwarded to the Director, State Cemetery Grants Program, giving the date and location where the audit was made and citing any deficiencies and corrective action taken or proposed.

(d) VA, in coordination with the State, shall inspect the project at completion for compliance with the standards set forth in §39.8 and at least once in every 3-year period following completion of the project, and throughout the period the facility is operated as a State veterans' cemetery. A copy of the inspection shall be forwarded to the Director, State Cemetery Grants Program, giving the date and location where the inspection was made and citing any deficiencies and corrective action taken or proposed.

(e) Failure of the State to comply with paragraphs (a) through (c) of this section shall be considered cause for the Department of Veterans Affairs to suspend any payments due a State on any or all projects until the situation involved is corrected.

(Authority: 38 U.S.C. 2408(c)(2))

§ 39.6 State to retain control of operations.

Neither the Secretary nor any employee of the Department of Veterans Affairs shall exercise any supervision or control over the administration, personnel, maintenance, or operation of any State veterans' cemetery constructed, expanded, or improved with

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assistance received under this program except as prescribed in this part.

(Authority: 38 U.S.C. 2408(c)(2))

§ 39.7 Recapture.

If a State which has received a grant to establish, expand, or improve a veterans' cemetery ceases to own such cemetery, ceases to operate such cemetery as veterans' cemetery, or uses any part of the funds provided through such grant for a purpose other than for which the grant was made, the United States shall be entitled to recover from the State the total of all grants made to the State in connection with the establishment, expansion or improvement of such cemetery.

(Authority: 38 U.S.C. 2408(b)(4))

§ 39.8 General standards for site selection and construction of State veterans' cemeteries.

(a) *General.* (1) The various codes, requirements, recommendations of State and local authorities or technical and professional organizations, to the extent and manner in which reference is made in these standards, are applicable to grants for construction of State veterans' cemeteries. Additional information concerning these standards may be obtained from the Department of Veterans Affairs, National Cemetery Administration (40G), 810 Vermont Avenue, NW., Washington, DC 20420.

(2) These standards constitute general design and construction criteria and shall apply to all projects for which Federal assistance is requested under 38 U.S.C. 2408.

(3) In developing these standards, no attempt has been made to comply with all of the various State and local codes and regulations. These standards must be followed where they exceed State or local codes and regulations. Departure will be permitted, however, when alternate standards will provide equivalent or better design criteria. Conversely, compliance is required with State and local codes where such requirements provide a higher standard. The additional cost, if any, in using standards which are higher than those of the Department of Veterans Affairs (VA)

should be documented and justified in the application.

(4) The space criteria and area requirements referred to in these standards should be used as a guide in planning. Additional area and facilities beyond those specified as basic may be included if found to be required by the program but are subject to approval by VA. Substantial deviation from the space or area standards should be carefully considered and justified, except for occasional variances which would require individual justification. Failing to meet or exceeding the standards by more than 10 percent in the completed plan would be regarded as evidence of inferior design or as exceeding the boundaries of professional requirements. VA participation may be subject to proportionate reduction in those projects which unjustifiably exceed maximum space or area criteria.

(b) *Site planning standards*—(1) *Site selection*—(i) *Location.* The land should be located as closely as possible to the densest veteran population in the area under consideration.

(ii) *Size.* Sufficient acreage should be available to provide gravesites for estimated needs for at least 20 years. Acreage could vary depending on the State veteran population and National Cemetery availability.

(iii) *Accessibility.* The site should be readily accessible by highway, bus or railroad.

(iv) *Topography.* The land should range from comparatively level to rolling and moderately hilly terrain. Natural rugged contours are suitable only if development and maintenance costs would not be excessive and burial areas would be accessible to elderly or infirm visitors. The land should not be subject to flooding.

(v) *Water table.* The water table should be lower than the maximum proposed depth of burial.

(vi) *Soil requirement.* The soil should be free from rock, muck, quicksand, and other materials that would hamper the economical excavation of graves by normal methods. In general, the soil should meet the standards of good agricultural land that is capable of supporting lawns, shrubs, and trees, with normal care and without the addition of topsoil.

(vii) *Utilities*. Electricity and/or gas should be available (if required).

(viii) *Water supply*. An adequate supply of water should be available.

(ix) *Sanitary sewer*. An approved means to dispose of storm flow and sewage from the facility should be available.

(2) *Site development requirements*—(i) *General*. The development plan shall provide for adequate hardsurfaced roads, walks, parking areas, public rest rooms, flag circle, protective enclosure of the area, and a main gate. Pedestrian gates should also be provided at the main gate for activities that may be necessary or appropriate when the main gates are closed.

(ii) *Road widths*. Road widths shall be compatible with proposed traffic flows and volumes.

(iii) *Surface and structure parking*. All parking facilities shall include provisions to accommodate the physically handicapped. A minimum of one space shall be set aside and identified with signage in each parking area with additional spaces provided in the ratio of one handicapped space to every twenty regular spaces. Handicapped spaces shall not be placed between two conventional diagonal or head-on-parking spaces. Each of the handicapped parking spaces shall not be less than 9 feet wide; in addition, a clear space 4 feet wide shall be provided between the adjacent conventional parking spaces and also on the outside of the end spaces.

(iv) *Pavement design*. The pavement section of all roads, service areas and parking areas shall be designed for the maximum anticipated traffic loads and existing soil conditions and in accordance with local and State design criteria.

(v) *Curbs*. Bituminous roads may be provided with integral curbs and gutters constructed of portland cement concrete. Free standing curbs may be substituted when the advantage of using them is clearly indicated. All curbs shall have a “roll-type” cross section for vehicle and equipment access to lawn areas except as may be necessary for traffic control.

(vi) *Curb radii*. The radii of curbs at road intersections shall not be less than 20'-0"

(vii) *Curb ramps (curb cuts)*. Curb ramps shall be provided to accommodate the physically handicapped and lawnmowers. Curb ramps shall be provided at all intersections of roads and walks. The curb ramps shall not be less than 4 feet wide; they shall not have a slope greater than 8 percent, and preferably not greater than 5 percent. The vertical angle between the surface of a curb ramp and the surface of a road or gutter shall not be less than 176 degrees; the transition between the two surfaces shall be smooth. Curb ramps shall have nonslip surfaces.

(viii) *Walks*. Walks shall be designed with consideration for the physically handicapped. Walks and ramps designed on an incline shall have periodic level platforms. All walks, ramps and platforms shall have nonslip surfaces. Any walk shall be ramped if the slope exceeds 3 percent. Walks that have gradients of from 2 to 3 percent shall be provided with level platforms at 200-foot intervals and at intersections with other walks. Ramps shall not have a slope greater than 8 percent, and preferably not greater than 5 percent. The ramps shall have handrails on both sides unless other protective devices are provided; every handrail shall have clearance of not less than 1½ inches between the back of the handrail and the wall or any other vertical surface behind it. Ramps shall not be less than 4 feet wide between curbs; curbs shall be provided on both sides. The curbs shall not be less than 4 inches high and 4 inches wide. A level platform in a ramp shall not be less than the full width of the ramp and not less than 5 feet long. Entrance platforms and ramps shall be provided with protective weather barriers to shield them against hazardous conditions resulting from inclement weather.

(ix) *Steps*. Exterior steps may be included in the site development as long as provisions are also provided for use by physically handicapped persons.

(x) *Grading*. Minimum lawn slopes shall be 2 percent; critical spot grade elevations shall be shown on the contract drawings. Insofar as practicable, lawn areas shall be designed without steep slopes.

(xi) *Landscaping.* (A) The landscaping plan should provide for a park-like setting of harmonious open spaces balanced with groves of indigenous and cultivated deciduous and evergreen trees. Shrubbery should be kept to a minimum.

(B) Steep slopes that are unsuitable for interment areas should be kept in their natural state.

(xii) *Surface drainage.* Surface grades shall be determined in coordination with the architectural, structural and mechanical design of buildings and facilities so as to provide proper surface drainage.

(xiii) *Burial areas—(A) General.* A site plan of the cemetery shall include a burial layout. If appropriate, the burial layout should reflect the phases of development in the various sections. All applicable dimensions to roadways, fences, utilities or other structures shall be indicated on the layout.

(B) *Area standard.* The VA standard for computing gravesite yield from net burial acreage is 600 gravesites per acre. This figure normally can account for roads, utilities, and other service related structures. Depending on the character of the land and the way in which the cemetery is to be developed, a minimum of 50 percent of the gross acreage available at the site should be designated as burial acreage. A site proposed for development as a veterans' cemetery should be adequate to meet the State's projected interment needs for a minimum of twenty years.

(C) *Gravesites.* Gravesites should be laid out in uniform pattern. There should be a minimum of 10 feet from the edge of roads and drives and a minimum of 20 feet from the boundaries or fence lines. Maximum carrying distance from the edge of a permanent road to any gravesite should not be over 275 feet. Temporary roads may be provided to serve areas in phase developments.

(D) *Monumentation.* Each grave shall be marked with an appropriate marker and there shall be kept in each cemetery a register of burials setting forth the name of each person buried and the number of the grave in which he/she is buried. It is advisable that permanent gravesite control markers be installed based on a grid system throughout the burial area unless otherwise specified.

This will facilitate the gravesite layout, placement of utility lines, and alignment of headstones. Markers may be either flat or upright, but should be uniform throughout the cemetery.

(c) *Space criteria for support facilities.* These criteria are based on a projected annual burial rate of one to six per day, staffing by position, and maintenance and service equipment. For cemeteries with less than one or more than six burials per day, support facilities are considered on an individual basis in accordance with paragraph (a)(4) of this section. In converting NSF (net square feet) to GSF (gross square feet), a conversion factor of 1.5 is the maximum allowed. The applicant shall, in support of the design, include the following as an attachment to the application: A list of all grounds maintenance supplies and equipment and the number of FTE (full-time employees) by job assignment for the next 10 years.

(1) *Administrative building.*

Office, Cemetery Director, 150 NSF
 Administrative (Lobby/Office) Area, 165 NSF¹
 Operations (File/Work Area), 160 NSF
 Family/Conference Room, 200 NSF
 Refreshment Unit, 45 NSF
 Housekeeping Aid's Closet, 40 NSF
 Toilet Facilities,
 Water Closet (Handicapped), 35 NSF
 Each additional fixture, 22 NSF

(2) *Maintenance/service building.*²

Office, 150 NSF³
 Lunch Room:
 Under 5 FTE, Not authorized
 5 or more FTE (Minimum 120—Maximum 300 NSF), 12 NSF/FTE
 Kitchen Unit, 45 NSF
 Vending Machines, 25 NSF

(i) *Toilet and Shower Facilities.*⁴

¹Add 80 NSF for each additional staff (maximum of 2).

²Service Building may be combined with the administrative building.

³Add 80 NSF for each additional employee required to be located in the office.

⁴One Water Closet and Shower/30 FTE and One Lavatory/Urinal/20 FTE or fraction thereof (minimum one handicap equipped per toilet and shower room). If FTE exceed 5, provide one Water Closet/Lavatory/Shower for females. Recommend that female facilities be located and designed so as to be included with male facilities when no females are on maintenance staff.

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(A) Toilet Facilities:

Water Closet (Handicapped), 35 NSF
Each additional Fixture, 22 NSF

(B) Shower:

Handicapped⁵, 80 NSF
Standard Fixture, 25 NSF

(C) Lockers, 6 NSF/FTE

(D) Boot and Towel Storage, 1.5 NSF/
FTE

(E) Housekeeping aids closet, 40 NSF

(ii) *Vehicle and Equipment Maintenance/Storage.*

(A) Service bay, 450 NSF

(B) Vehicle and Equipment Storage,
288 NSF/Bay⁶

Backhoe, 288 NSF/each
Industrial tractors, 96 NSF/each
Cub tractors, 32 NSF/each
Hand Mower and trimmers, 12 NSF/each

(C) Ground Maintenance Storage, 288
NSF

(D) Flammable Storage, 100 NSF

(iii) *Other Equipment Storage:* Based on climatic conditions it may be justified to erect open structures or paved areas to protect the following types of equipment.

Dump Trucks, 240 NSF/each
Pickup Trucks, 240 NSF/each
Cemetery Automobiles, 240 NSF/each
Gang & Circular Mowers, 29 NSF/each
Dumpsters (Trash/Solid Waste)⁷, 240 NSF/
each
Dump Wagon or utility trailers⁷, 240 NSF/
each
Plow Blades⁷, 120 NSF/each
Headstones/Markers⁷, 120 NSF

(3) *Interment/Committal Service Shelter:* One permanent shelter is authorized for every five interments per day.

Covered area (maximum 256 NSF), 16 NSF/
person
Total paved area (including covered area),
784 NSF
Enclosed equipment/storage area, 40 NSF

(4) *Interment/Committal Service Chapel:* A chapel may be substituted for the interment/committal service shelters. Only one chapel is allowed per cemetery.

⁵If required by State program requirements.

⁶Total NSF divided by 288 = number of bays.

⁷No allowance for cover or enclosure.

Chapel area (fixed seating and chancel), 512
NSF

Clergy robing room, 100 NSF
General storage, 80 NSF

Housekeeping aid's Closet, 40 NSF

Restroom(s) Men/Women:

Water Closet (each Handicapped restroom),
35 NSF

Lavatory (each restroom), 22 NSF

Urinal (Men's restroom), 22 NSF

(5) *Public Restrooms:* Space determinations for separate structures for public restrooms will be considered on an individual basis.

(6) *Other Interment Structures:* Space determinations for other support facilities such as columbaria, mausolea or garden crypts, etc., will be considered on an individual basis in accordance with paragraph (a)(4) of this section.

(d) *Architectural Design Standards*—(1) *Architectural and Structural Requirements*—(i) *Life Safety Code.* The 1981 edition of the Code for Safety to Life from Fire in Buildings and Structures (NFPA 101) published by the National Fire Protection Association (NFPA), Batterymarch Park, Quincy, MA, 02269, will be the design criteria. The 1981 edition of the Life Safety Code (NFPA 101) is hereby incorporated by reference into this section as though set forth in full herein. This incorporation by reference was approved by the Director of the Federal Register on October 28, 1982. This code is incorporated as it was on the date of approval and a notice of any change in this code will be published in the FEDERAL REGISTER. This code is available for inspection at the Office of Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Fire safety construction features not included in NFPA 101 shall be designed in accordance with the standards of the 1976 edition (R1977) of the National Building Code published by the American Insurance Association Engineering and Safety Services, 85 John Street, New York, NY 10038. The 1976 edition (R1977) of the National Building Code is hereby incorporated by reference into this section as though set forth in full herein. This incorporation by reference was approved by the Director of the Federal Register

on October 28, 1982. This code is incorporated as it was on the date of approval and a notice of any change in this code will be published in the FEDERAL REGISTER. This code is available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Where the adopted codes state conflicting requirements, the National Fire Codes shall govern.

(ii) *State and Local Codes.* In addition to compliance with the standards set forth in this document, all applicable local and State building codes and regulations must be observed. In areas not subject to local or State building codes, the recommendations contained in the 1976 edition (R1977) of the National Building Code (see § 39.8(d)(1)(i)) shall apply insofar as such recommendations are not in conflict with the standards set forth in this document.

(iii) *Occupational safety and health standards.* Applicable standards as contained in the Occupational Safety and Health Act must be observed.

(2) *Mechanical requirements.* The heating system, boilers, steam system, ventilation system and air-conditioning system shall be furnished and installed to meet all requirements of the local and State codes and regulations.

(3) *Plumbing requirements.* Plumbing systems shall comply with all applicable local and State codes, the requirements of the State Department of Health, and the minimum general standards as set forth in this part. Where no State or local codes are in force, the 1978 edition of the National Standard Plumbing Code, published jointly by the American Society of Plumbing Engineers and the National Association of Plumbing-Heating-Cooling Contractors, 1016 20th Street, NW., Washington, DC 20036, shall apply. The 1978 edition of the National Standard Plumbing Code is hereby incorporated by reference into this section as though set forth in full herein. This incorporation by reference was approved by the Director of the Federal Register on October 28, 1982. This code is incorporated as it was on the date of approval and a notice of any change in this code will be published in the FEDERAL REGISTER. This code is available

for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(4) *Electrical requirements.* The installation of electrical work and equipment shall comply with the 1981 National Electrical Code (NFPA No. 70), all State and local codes and laws applicable to electrical installations, and the minimum general standards as set forth in this part. The regulations of the local utility company shall govern service connections. Aluminum busways should not be used as a conducting medium in the electrical distribution system. The 1981 edition of the National Electrical Code is hereby incorporated by reference into this section as though set forth in full herein. This incorporation by reference was approved by the Director of the Federal Register on October 28, 1982. This code is incorporated as it was on the date of approval and a notice of any change in this code will be published in the FEDERAL REGISTER. This code is available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) *Plan preparation—(1) General.* The requirements contained herein have been established for the guidance of the state agency and the architect to provide a standard for preparation of drawings, specifications and estimates.

(2) *Predesign conferences.* A conference is recommended for all major construction projects primarily to ensure that the State agency becomes oriented to VA procedures and requirements plus any technical comments pertaining to the project.

(3) *Preapplication requirements.* No plans and specifications will be required with the preapplication submission to the VA. The program narrative shall describe the need, objectives, method of accomplishment, projected interment rate, benefits expected to be obtained from the assistance and include design concepts, *space outline*, geographical location (i.e., a location map showing the location of the project and all appropriate demographic boundaries), etc.

(4) *Formal application requirements—(i) Boundary and site survey and soil investigation.* (A) The State agency shall

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provide for a survey and soil investigation of the site and furnish a legal description of the site. The purpose of this survey and soil investigation is to obtain data necessary for the evaluation of the site as a cemetery, structural design and utility service connections. A boundary and site survey need not be submitted if one was submitted for a previously approved project and there have been no changes. Relevant information may then be shown on the site plan.

(B) If required the survey shall show:

(1) The outline and location referenced to boundaries, of all existing buildings, streets, alleys (whether public or private), block boundaries, easements, encroachments, the names of streets, railroads and streams, and other information as hereinafter specified. If there is nothing of this character affecting the property, the Surveyor shall so state on the drawings.

(2) The point of beginning, bearing, distances, and interior angles. Closures computations shall be furnished with the survey and error of closure shall not exceed 1 foot each 10,000 feet or lineal traverse. Boundaries of an unusual nature (curvilinear, off-set, or having other change or direction between corners), shall be referenced with curve data (including measurement chord) and other data sufficient for replacement and such information shall be shown on the map. For boundaries of such nature, coordinates shall be given for all angles and other pertinent points.

(3) The area of the parcel in acres or in square feet.

(4) The location of all monuments.

(5) Delineation of 100-year floodplain and source.

(6) The signature and certification of the Surveyor.

(C) Soil investigation of the scope necessary to ascertain site characteristics for construction and burial or to determine foundation requirements. A new soil investigation is not required if one was done for a previously approved project on the same site and information contained is adequate and unchanged. Soil investigation, when done, shall be documented in a signed report.

(1) Adequate investigation shall be made to determine the subsoil condi-

tions. The investigation shall include a sufficient number of test pits or test borings as will determine, in the judgment of the architect, the true conditions.

(2) The following information shall be covered in the report:

(i) Thickness, consistency, character, and estimated safe bearing value where needed for structural foundation design of the various strata encountered in each pit or boring.

(ii) Amount and elevation of ground water encountered in each pit or boring, its probable variation with the seasons, and effect on the subsoil.

(iii) The elevation of rock, if known and the probability of encountering quicksand.

(3) The elevations and location of tops of workings relative to the site, if the site is underlaid with mines, or old workings are located in the vicinity.

(i) *Preliminary site plan.* A site plan showing the proposed layout of all facilities on the selected site shall be included as an exhibit to the formal application. If the project is to be phased into different year programs, the phasing shall be indicated. The preliminary site plan shall be submitted on standard 28 inch by 42 inch plan sheets at a scale sufficiently large to show necessary details or dimensions.

(ii) *Preliminary architectural drawings.* All buildings are to be shown on drawings accompanying the application. The drawings must comply with the following requirements:

(A) A site plan of the immediate area around the building shall be drawn to a convenient scale and shall show the building room plan, utility services, walks, gates, walls or fences, flagpoles, drives, parking areas, indication of handicapped provisions, landscaping, north arrow and any other appropriate items.

(B) Floor plans of all levels at a convenient scale shall be double line drawings and shall show overall dimensions, construction materials, door swings, names and square feet for each space, toilet room fixtures and interior finish schedule.

(C) Elevations of the exteriors of all buildings shall be drawn to the same scale as the plan and shall include all material indications.

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(D) Preliminary mechanical and electrical layout plans shall be drawn at a convenient scale and shall have an equipment and plumbing fixture schedule.

(f) *Final working drawings and specifications.* Prior to the release of funds for the construction of any project being sponsored under this program, VA must approve the final working drawings and specifications. The approval by VA is notification to the applicant that the project complies with the terms and conditions prescribed by VA and does not constitute approval of the contract documents. It is the responsibility of the State to ascertain that all State and Federal requirements have been met and that the drawings and specifications are acceptable for bid purposes.

(1) Final working drawings shall be prepared so that clear and distinct prints may be obtained, accurately dimensioned and include all necessary explanatory notes, schedules and legends. Working drawings shall be complete and adequate for complete VA review and comment. Separate drawings shall be prepared for each of the following types of work: architectural, structural, heating and ventilating, plumbing and electrical. They shall include the following:

(i) *Architectural drawings.* Site plan showing all new topography, grades, existing buildings, roadways, walks and areas to be seeded. All structures and other work to be removed; all floor plans and a room plan if any new work is involved; all elevations which are affected by the alterations; building sections; demolition drawings. All details to complete the proposed work and finish schedules.

(ii) *Planting drawings.* (A) All proposed features such as roads, buildings, walks, utility lines, burial layout, etc.

(B) Contours, scale, north arrow, legend showing existing trees.

(C) A graphic or keyed method of showing plant types as well as quantities of each plant.

(D) Plant list with the following: Key, quantity, botanical name, common name, size and remarks (i.e., balled and burlaped, container, 3 stem clump, specimen, etc.)

(E) Typical tree and shrub planting details.

(F) Areas to be seeded or sodded.

(G) Areas to be mulched.

(iii) *Layout drawings.* Submit a layout plan which shows the following:

(A) Roadways, walks, buildings, scale and north arrow, boundary lines and fence lines.

(B) Section layout with permanent section monument markers and lettering system.

(C) Gravesite layout and numbering system.

(D) Gravesites which are obstructed.

(E) Direction the headstone faces.

If the cemetery is existing and the project is expansion or renovation, show available, occupied, obstructed and reserved gravesites.

(iv) *Equipment drawings.* Large scale drawings of typical special rooms indicating all fixed equipment and major items of furniture and moveable equipment.

(v) *Structural drawings.* Complete foundation and framing plans and details. General notes to include: Governing code, material strengths, live loads, windloads, foundation design values, and seismic zone.

(vi) *Mechanical drawings.* Heating and ventilation drawings showing complete systems and details of air conditioning, heating, ventilation and exhaust. Plumbing drawings showing sizes and elevations of soil and waste systems; sizes of all hot and cold water piping; drainage and vent systems; plumbing fixtures and riser diagrams.

(vii) *Electrical drawings.* Separate drawings for lighting and power. Service entrance, feeders and all characteristics. All panel, breaker, switchboard and fixture schedule. All lighting outlets, receptacles, switches, power outlets and circuits. Telephone layout, fire alarm systems and emergency lighting.

(2) Final specifications (to be used for bid purposes) shall be in completed format. Specifications shall include the invitations for bids, cover of title sheet, index, general requirements, form of bid bond, form of agreement, performance and payment bond forms, and sections describing materials and workmanship in detail for each class of work.

(3) Show in convenient form and detail the estimated total cost of the work to be performed under the contract including provisions of fixed equipment shown by the plans and specifications, if applicable, to reflect the changes of the approved financial plan. Estimates shall be summarized and totaled under each trade or type of work.

(4) All of the above requirements must be met and approved prior to the State agency advertising for bids.

(g) *Final review and approval—(Bid tabulations and cost estimates)*. (1) The State agency shall submit itemized bid tabulations; assurance, if required; and a revised grant application form reflecting project cost(s) based on bids. If there are non-VA participating area(s), these should be itemized separately.

(2) Following VA approval of bid tabulations and cost estimates, the grant will be awarded by a Notification of Award of Federal Grant Funds.

(Authority: 38 U.S.C. 2408)

(Information collection requirements in paragraphs (b)(2)(xiii)(D), (c), and (e) were approved by the Office of Management and Budget under control number 2900-0375)

[47 FR 49395, Nov. 1, 1982, as amended at 54 FR 34988, Aug. 23, 1989]

PART 40—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF VETERANS AFFAIRS PROGRAMS AND ACTIVITIES

Sec.

- 40.1 Purpose.
- 40.2 Definitions.
- 40.3 Programs and activities.
- 40.4 General.
- 40.5 Federal interagency coordination.
- 40.6 Selection of programs and activities.
- 40.7 Communicating with State and local officials concerning VA's programs and activities.
- 40.8 Commenting on proposed Federal financial assistance and direct Federal development.
- 40.9 Comment receipt and response to comments.
- 40.10 Making efforts to accommodate intergovernmental concerns.
- 40.11 Interstate.
- 40.12 [Reserved]
- 40.13 Waiver.

AUTHORITY: E.O. 12372, July 14, 1982 (47 FR 30959), as amended April 8, 1983 (48 FR 15887):

section 401 of the Intergovernmental Cooperation Act of 1968, as amended (31 U.S.C. 6506); sec. 204 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3334).

SOURCE: 48 FR 29413, June 24, 1983; 48 FR 31854, July 12, 1983, unless otherwise noted.

§ 40.1 Purpose.

(a) The regulations in this part implement Executive Order 12372, "Intergovernmental Review of Federal Programs", issued on July 14, 1982 and amended on April 8, 1983. These regulations also implement applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968 and section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

(b) These regulations are intended to foster an intergovernmental partnership and a strengthened Federalism by relying on State processes and on State, areawide, regional, and local coordination for review of proposed Federal financial assistance and direct Federal development.

(c) These regulations are intended to improve the internal management of the VA, and are not intended to create any right or benefit enforceable at law by a party against the VA or its officers.

(Authority: 42 U.S.C. 4231(b))

§ 40.2 Definitions.

For the purposes of §§ 40.1 through 40.13, the following definitions apply:

(a) *VA* means the Department of Veterans Affairs.

(b) *Order* means Executive Order 12372, issued July 14, 1982, and amended April 8, 1983, and titled "Intergovernmental Review of Federal Programs."

(c) *Secretary* means the Secretary of Veterans Affairs of the Department of Veterans Affairs or an official or employee of VA acting for the Secretary under delegation of authority.

(d) *State* means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.