

information on which the Under Secretary intends to rely will be provided to the applicant;

(iii) The applicant will have 60 days from the date of the written notice specified in subparagraph (ii) to present evidence and/or argument challenging the evidence and/or tentative decision; and

(iv) The Under Secretary will consider the applicant's submission under subparagraph (iii) and will issue a final decision on the request.

(4) The Director, Office of Field Programs, will provide the individual who made the request written notice of the Under Secretary's decision.

(Authority: 38 U.S.C. 501, 2404)

[74 FR 26096, June 1, 2009]

§ 38.633 Group memorial monuments.

(a) *Definitions of terms.* For the purpose of this section, the following definitions apply:

(1) *Group*—all the known and unknown dead who perished in a common military event.

(2) *Memorial Monument*—a monument commemorating veterans, whose remains have not been recovered or identified. Monuments will be selected in accordance with policies established under 38 CFR 38.630.

(3) *Next of kin*—recognized in order: Surviving spouse; children, according to age; parents, including adoptive, stepparents, and foster parents; brothers or sisters, including half or step-brothers and stepsisters; grandparents; grandchildren; uncles or aunts; nephews or nieces; cousins; and/or other lineal descendent.

(4) *Documentary evidence*—Official documents, records, or correspondence signed by an Armed Services branch historical center representative attesting to the accuracy of the evidence.

(b) The Secretary may furnish at government expense a group memorial monument upon request of next of kin. The group memorial monument will commemorate two or more identified members of the Armed Forces, including their reserve components, who died in a sanctioned common military event, (e.g., battle or other hostile action, bombing or other explosion, disappearance of aircraft, vessel or other

vehicle) while in active military, naval or air service, and whose remains were not recovered or identified, were buried at sea, or are otherwise unavailable for interment.

(c) A group memorial monument furnished by VA may be placed only in a national cemetery in an area reserved for such purpose. If a group memorial monument has already been provided under this regulation or by any governmental body, e.g., the American Battle Monuments Commission, to commemorate the dead from a common military event, an additional group memorial monument will not be provided by VA for the same purpose.

(d) Application for a group memorial monument shall be submitted in a manner specified by the Secretary. Evidence used to establish and determine eligibility for a group memorial monument will conform to paragraph (a)(4) of this section.

(Authority: 38 U.S.C. 501, 2403)

PART 39—AID TO STATES FOR ESTABLISHMENT, EXPANSION, AND IMPROVEMENT OF VETERANS' CEMETERIES (Eff. until 7-16-10)

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AUTHORITY: 38 U.S.C. 101, 501, 2408.

SOURCE: 69 FR 16346, Mar. 29, 2004, unless otherwise noted.

EFFECTIVE DATE NOTE: At 75 FR 34005, June 16, 2010, part 39 was revised, effective July 16, 2010. For the convenience of the user, the revised text is set forth following the text currently in effect.

Subpart A—General Provisions

§ 39.1 Purpose.

This part sets forth the mechanism for a State to obtain a grant to establish, expand, or improve veterans' cemeteries that are or will be owned by the State.

(Authority: 38 U.S.C. 501, 2408)

§ 39.2 Definitions.

For the purpose of this part:

(a) *Establishment* means the process of site selection, land acquisition, design and planning, earthmoving, landscaping, construction and provision of initial operating equipment necessary to convert a tract of land to an operational veterans' cemetery.

(b) *Expansion* means an increase in the burial capacity or acreage of an existing cemetery through the addition of gravesites and other cemeterial facilities.

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

(d) *Establishment, expansion and improvement* include the installation of

facilities necessary for the functioning of the cemetery, such as committal-service shelters, crypts (preplaced grave liners), and columbaria.

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

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

(h) *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 under conditions other than dishonorable.

(i) *Secretary* means the Secretary of the United States Department of Veterans Affairs.

(j) *VA* means the United States Department of Veterans Affairs.

(k) *State Cemetery Grants Service (SCGS)* means the State Cemetery Grants Service within VA's National Cemetery Administration.

(Authority: 38 U.S.C. 101, 501, 2408)

§ 39.3 Decisionmakers, notifications, and additional information.

Decisions required under this part will be made by the Director, State Cemetery Grants Service, National Cemetery Administration, unless otherwise specified in this part. The VA decisionmaker will provide written notice to affected States of approvals, denials, or requests for additional information under this part.

(Authority: 38 U.S.C. 501, 2408)

§ 39.4 Submissions of information and documents to VA.

All information and documents required to be submitted to VA must be submitted, unless otherwise specified under this part, to the Director of State Cemetery Grants Service, National Cemetery Administration, Department of Veterans Affairs, 810

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Vermont Avenue, NW., Washington, DC 20420.

(Authority: 38 U.S.C. 501, 2408)

Subpart B—Grant Requirements and Procedures

§ 39.5 General requirements for a grant.

(a) In order to qualify for a grant, a State veterans' cemetery must be operated solely for the interment of veterans, their spouses, surviving spouses, minor children, and unmarried adult children who were physically or mentally disabled and incapable of self-support.

(b) For a State to obtain a grant under this part for the establishment, expansion, or improvement of a State veterans' cemetery:

(1) Its preapplication for the grant must be approved under § 39.6;

(2) Its project must be ranked sufficiently high on the priority list in § 39.7 for the current fiscal year so that funds are available for the project;

(3) Its plans and specifications for the project must be approved under § 39.8;

(4) The State must meet the application requirements in § 39.10; and

(5) Other requirements specified in §§ 39.9 and 39.13 must be satisfied.

(c) VA may approve under § 39.11 any application up to the amount of the grant requested once the requirements under paragraph (b) of this section have been satisfied, provided that sufficient funds are available. In determining whether sufficient funds are available, VA shall consider the project's priority ranking, the total amount of funds available for cemetery grant awards during the applicable fiscal year, and the prospects of higher ranking projects being ready for the award of a grant before the end of the applicable fiscal year.

(Authority: 38 U.S.C. 501, 2408)

(d) Any grant under this part made on or after November 21, 1997, is made on the condition that after the date of receipt of the grant the State receiving the grant, subject to requirements for receipt of notice in 38 U.S.C. 2408 and 2411, will prohibit in the cemetery for which the grant is furnished the inter-

ment of the remains of or the memorialization of any person:

(1) Who has been convicted of a Federal capital crime, as defined in § 38.600(b) of this chapter, and whose conviction is final, other than a person whose sentence was commuted by the President;

(2) Who has been convicted of a State capital crime, as defined in § 38.600(b) of this chapter, and whose conviction is final, other than a person whose sentence was commuted by the Governor of a State.

(3) Who has been found by an appropriate State official, under procedures to be established by the State, to have committed a Federal or State capital crime, as defined in § 38.600(b) of this chapter, but to have not been convicted of such crime by reason of unavailability for trial due to death or flight to avoid prosecution.

(Authority: 38 U.S.C. 501, 2408, 2411)

[69 FR 16346, Mar. 29, 2004, as amended at 73 FR 35352, June 23, 2008]

§ 39.6 Preapplication requirements.

(a) A State seeking a grant for the establishment, expansion, or improvement of a veterans' cemetery must submit a preapplication if the State seeks more than \$100,000.

(b) No detailed drawings, plans, or specifications are required with the preapplication. As a part of the preapplication, the State must submit each of the following:

(1) Standard Form 424 ("Face Sheet") and Standard Form 424C ("Budget Information") signed by the authorized representative of the State. These forms document the amount of the grant requested, which may not exceed 100 percent of the estimated cost of the project to be funded with the grant.

(2) A program narrative describing the objectives of the project, the need for a grant, the method of accomplishment, the projected interment rate, and the results or benefits expected to be obtained from the assistance requested.

(3) If a site has been selected, a description of the geographic location of the project (*i.e.*, a map showing the location of the project and all appropriate geographic boundaries, and any

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other supporting documentation, as needed).

(4) A design concept describing the major features of the project including the number and types of gravesites, such as columbarium niches.

(5) Any comments or recommendations made by the State's "Single Point of Contact" reviewing agency.

(c) In addition, the State must submit written assurance that:

(1) Any cemetery established, expanded, or improved through a grant will be used exclusively for the interment or memorialization of eligible persons, as set forth in §§ 39.2(h) and 39.5(a), whose interment or memorialization is not contrary to the conditions of the grant (see §§ 39.5(d) and 38 U.S.C. 2408 and 2411).

(2) Title to the 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; *i.e.*, legislation 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 State to act in connection with the application and to provide such additional information as may be required.

(4) Any cemetery established, expanded, or improved through a grant will be maintained and operated in accordance with the operational standards and measures of the National Cemetery Administration.

(5) It will assist VA in assuring that the grant complies with section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 *et seq.*).

(6) It will obtain approval by VA of the final construction 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 completion in accordance with the applica-

tion and approved plans and specifications; it will submit to the Director of the State Cemetery Grants Service, for prior approval, changes that alter the costs of the project, use of space, or functional layout; and it will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the grant program have been met.

(7) It will comply with the Federal requirements in 2 CFR parts 180 and 801 and 38 CFR part 43 and submit Standard Form 424D ("Assurances—Construction Programs").

(8) It will prepare an Environmental Assessment to determine whether an Environmental Impact Statement is necessary, and certify that funds are available to finance any costs related to preparation of the Environmental Assessment.

(d) The State must submit a copy of the legislation, as enacted into law, authorizing the establishment, maintenance and operation of the facility as a veterans' cemetery in accordance with 38 CFR 39.5(a).

(e) Upon receipt of a preapplication for a grant, including all necessary assurances and all required supporting documentation, VA shall determine whether the preapplication conforms to all requirements listed in paragraphs (a) through (d) of this section, including whether it contains sufficient information necessary to establish the project's priority. VA will notify the State of any nonconformity. If the preapplication does conform, VA shall notify the State that the preapplication has been found to meet the preapplication requirements, and the proposed project will be included in the next scheduled ranking of projects, as indicated in § 39.7(d).

(Authority: 38 U.S.C. 501, 2408, 2411)

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 0348–0043, 0348–0041; 0348–0042)

[69 FR 16346, Mar. 29, 2004, as amended at 72 FR 30243, May 31, 2007; 73 FR 35353, June 23, 2008]

§ 39.7 Priority list.

(a) The priority groups, with Priority Group 1 having the highest priority

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and Priority Group 4 the lowest priority, are:

(1) Priority Group 1—Projects needed to avoid disruption in burial service that would otherwise occur at existing veterans' cemeteries within 4 years of the date of the preapplication. Such projects would include expansion projects as well as improvement projects (such as construction of additional or replacement facilities) when such improvements are required to continue interment operations.

(2) Priority Group 2—Projects for the establishment of new veterans' cemeteries.

(3) Priority Group 3—Expansion projects at existing veterans' cemeteries when a disruption in burial service due to the exhaustion of existing gravesites is not expected to occur within 4 years of the date of the preapplication.

(4) Priority Group 4—Other improvement projects to cemetery infrastructure such as building expansion and upgrades to roads and irrigation systems that are not directly related to the development of new gravesites.

(b) Within Priority Groups 1, 2, and 3, highest priority will be given to projects in geographical locations with the greatest number of veterans who will benefit from the project as determined by VA. This prioritization system, based on veteran population data, will assist VA in maintaining and improving access to burial in a veterans cemetery to more veterans and their eligible family members. Within Priority Group 1, at the discretion of VA, higher priority may be given to a project that must be funded that fiscal year to avoid disruption in burial service.

(c) Within Priority Group 4, projects will be ranked in priority order based upon VA's determination of the relative importance and necessity to operations of the proposed improvements.

(d) By August 15 of each year, VA will make a list prioritizing the preapplications that were received on or before July 1 of that year and that were approved under §39.6, ranking them in their order of priority for funding during the fiscal year that begins the following October 1.

Preapplications from previous years will be re-prioritized each year.

(Authority: 38 U.S.C. 501, 2408)

§ 39.8 Plan preparation.

The State must prepare plans and specifications in accordance with the requirements of this section for review by the SCGS. The plans and specifications must be approved by the SCGS prior to the State's solicitation for construction bids. Once SCGS grants approval, the State must obtain construction bids and determine the successful bidder prior to submission of the application. The State must establish procedures for determining that costs are reasonable, necessary and allocable in accordance with the provisions of Office of Management and Budget (OMB) Circular No. A-87. Once the preapplication and the project's plans and specifications have been approved, an application for assistance must be submitted 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.

(a) *General.* These requirements have been established for the guidance of the State agency and the design team to provide a standard for preparation of drawings, specifications and estimates.

(b) *Technical requirements.* The State should meet these technical requirements as soon as possible after VA approves the preapplication.

(1) *Boundary and site survey.* The State agency shall provide a survey of the site and furnish a legal description of the site. 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. If required, the survey shall show:

(i) 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 specified. If there is nothing of this character affecting the property, the Surveyor shall so state on the drawings.

(ii) The point of beginning, bearing, distances, and interior angles. Closure computations shall be furnished with the survey and error of closure shall not exceed 1 foot for each 10,000 feet of 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.

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

(iv) The location of all monuments.

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

(vi) The signature and certification of the Surveyor.

(2) *Soil investigation.* The State shall provide a soil investigation of the scope necessary to ascertain site characteristics for construction and burial or to determine foundation requirements and utility service connections. 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. Adequate investigation shall be made to determine the subsoil conditions. 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. The following information will 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.

(iv) If the site is under laid with mines, the elevations and location of the tops of the mine workings relative

to the site, or old workings located in the vicinity.

(3) *Topographical survey.* A topographical survey in 1-foot contour intervals shall be prepared for projects establishing new cemeteries and for significant expansion projects in previously undeveloped land.

(c) *Master plan.* A master plan showing the proposed layout of all facilities—including buildings, roadways and burial sections—on the selected site shall be prepared for all new cemetery establishment projects for approval by the SCGS. If the project is to be phased into different year programs, the phasing shall be indicated. The master plan shall analyze all factors affecting the design, including climate, soil conditions, site boundaries, topography, views, hydrology, environmental constraints, transportation access, etc. It should provide a discussion of alternate designs that were considered. In the case of an expansion or improvement project, the work contemplated should be consistent with the VA-approved master plan or a justification for the deviation should be provided.

(d) *Preliminary or “design development” drawings.* Following VA approval of the master plan, the State must submit design development drawings that show all current phase construction elements to be funded by the grant. The drawings must comply with the following requirements:

(1) Site development and environmental plans must include locations of structures, demolition, parking, roads, service areas, walks, plazas, memorial paths, other paved areas, landscape buffer and major groupings, interment areas (including quantity of gravesites in each area). A grading plan including existing and proposed contours at 1-foot intervals of the entire area affected by the site work must be submitted. A site plan of the immediate area around each building shall be drawn to a convenient scale and shall show the building floor plan, utility connections, walks, gates, walls or fences, flagpoles, drives, parking areas, indication of handicapped provisions, landscaping, north arrow and any other appropriate items.

(2) 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.

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

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

(e) *Final construction drawings and specifications.* Funds for the construction of any project being assisted under this program will not be released until VA approves the final construction drawings and specifications. If VA approves them, VA shall send the State a written letter of approval indicating the project complies with the terms and conditions as prescribed by VA, but this 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) The State shall prepare final working drawings so that clear and distinct prints may be obtained. These drawings must be accurately dimensioned to include all necessary explanatory notes, schedules and legends. Working drawings shall be complete and adequate for VA review and comment. The State shall prepare separate drawings for each of the following types of work: architectural, equipment, layout, structural, heating and ventilating, plumbing, and electrical.

(2) *Architectural drawings.* The State shall submit drawings which include: All structures and other work to be removed; all floor plans 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; and fully dimensioned floor plans at 1/8" or 1/4" scale.

(3) *Equipment drawings.* The State shall submit a list of all equipment to be provided under terms of the grant in

the case of an establishment project. Large-scale drawings of typical special rooms indicating all fixed equipment and major items of furniture and moveable equipment shall be included.

(4) *Layout drawings.* The State shall submit a layout plan that shows:

(i) All proposed features such as roads, buildings, walks, utility lines, burial layout, etc.

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

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

(iv) Plant list with the following: Key, quantity, botanical name, common name, size and remarks.

(v) Typical tree and shrub planting details.

(vi) Areas to be seeded or sodded.

(vii) Areas to be mulched.

(viii) Gravesite section layout with permanent section monument markers and lettering system.

(ix) Individual gravesite layout and numbering system. If the cemetery is existing and the project is expansion or renovation, show available, occupied, obstructed and reserved gravesites.

(x) Direction the headstone faces.

(5) *Structural drawings.* The State shall submit complete foundation and framing plans and details, with general notes to include: Governing code, material strengths, live loads, wind loads, foundation design values, and seismic zone.

(6) *Mechanical drawings.* The State shall submit:

(i) Heating and ventilation drawings showing complete systems and details of air conditioning, heating, ventilation and exhaust; and

(ii) 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.

(7) *Electrical drawings.* The State shall submit separate drawings for lighting and power, including drawings of:

(i) Service entrance, feeders and all characteristics;

(ii) All panel, breaker, switchboard and fixture schedules;

(iii) All lighting outlets, receptacles, switches, power outlets and circuits; and

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(iv) Telephone layout, fire alarm systems and emergency lighting.

(8) Final specifications (to be used for bid purposes) shall be in completed format. Specifications shall include the invitations for bids, cover or 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.

(9) The State shall 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. Estimates shall also be provided for each building structure and other important features such as the assembly area and include burial facilities.

(Authority: 38 U.S.C. 501, 2408)

§ 39.9 Conferences.

(a) *Pre-design conference.* A pre-design conference is required 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. These conferences will take place at an appropriate location near the proposed site and should include a site visit to ensure that all parties to the process, including NCA staff, are familiar with the site and its characteristics.

(b) *Additional conferences.* At any time, VA may recommend an additional conference (such as a design development conference) be held in VA Central Office in Washington, DC, to provide an opportunity for the State and its architects to discuss requirements for a grant with VA officials.

(Authority: 38 U.S.C. 501, 2408)

§ 39.10 Application requirements.

(a) For a project to be considered for grant funding under this part, the State must submit an application (as opposed to a preapplication) consisting of the following:

(1) Standard Form 424 (“Face Sheet”) with the box labeled “application” marked;

(2) Standard Form 424C (“Budget Information”), which documents the amount of funds requested based on the construction costs as estimated by the successful construction bid;

(3) A copy of itemized bid tabulations (If there are non-VA participating areas, these shall be itemized separately.); and

(4) Standard Form 424D (“Assurances—Construction Program”).

(Authority: 38 U.S.C. 501, 2408)

(b) Prior to submission of the application, the State must submit a copy of 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 (42 U.S.C. 4332). The Environmental Assessment must briefly describe the project’s possible beneficial and harmful effects on the following impact categories:

- (1) Transportation,
- (2) Air quality,
- (3) Noise,
- (4) Solid waste,
- (5) Utilities,
- (6) Geology (Soils/Hydrology/
Floodplains),
- (7) Water quality,
- (8) Land use,
- (9) Vegetation, Wildlife, Aquatic,
Ecology/Wetlands, etc.,
- (10) Economic activities,
- (11) Cultural resources,
- (12) Aesthetics,
- (13) Residential population,
- (14) Community services and facilities,
- (15) Community plans and projects,
and
- (16) Other.

(c) If an adverse environmental impact is anticipated, the State must explain what action will be taken to minimize the impact. The assessment shall comply with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 0348–0043; 0348–0041; 0348–0042)

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§ 39.11 Final review and approval of application.

Following VA approval of bid tabulations and cost estimates, the complete grant application will be reviewed for approval in accordance with the requirements of § 39.5. If the application is approved, the grant will be awarded by a Notification of Award of Federal Grant Funds.

(Authority: 38 U.S.C. 501, 2408)

§ 39.12 Hearings.

(a) No application for a grant to establish, expand, or improve a State veterans' cemetery 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 the hearing, procedure for the conduct of such hearing, and procedures relating to decisions and notices shall accord with the provisions of §§ 18.9 and 18.10 of this chapter. 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. 501, 2408)

§ 39.13 Amendments to application.

Any amendment of an application that changes the scope of the application or increases the cost of the grant requested, whether or not the application has already been approved, shall be subject to approval in the same manner as an original application.

(Authority: 38 U.S.C. 501, 2408)

§ 39.14 Withdrawal of application.

A State representative may withdraw an application by submitting to VA a written document requesting withdrawal.

(Authority: 38 U.S.C. 501, 2408)

Subpart C—Award of Grant

§ 39.15 Amount of grant.

(a) The amount of a grant awarded under this part may not exceed 100 per-

cent of the total cost of the project, but may be less than that amount.

(b) The total cost of a project under this part may include:

(1) Administration and design costs, e.g., architectural and engineering fees, inspection fees, and printing and advertising cost.

(2) The cost of cemetery features, e.g., entry features, flag plaza and assembly areas, columbarium, preplaced liners or crypts, irrigation, committal-service shelters, and administration/maintenance buildings.

(3) In the case of an establishment grant, the cost of equipment necessary for the operation of the State cemetery. This may include the cost of non-fixed equipment such as grounds maintenance equipment, burial equipment, and office equipment.

(4) In the case of an improvement or expansion grant, the cost of equipment necessary for operation of the State cemetery, but only if:

(i) Included in the construction contract;

(ii) Installed during construction; and

(iii) Permanently affixed to a building or connected to the heating, ventilating, air conditioning, or other service distributed through a building via ducts, pipes, wires, or other connecting device, such as kitchen and intercommunication equipment, built-in cabinets, and equipment lifts.

(5) A contingency allowance not to exceed five percent of the total cost of the project for new construction or eight percent for renovation projects.

(c) The total cost of a project under this part may not include the cost of:

(1) Land acquisition;

(2) Building space that exceeds the space guidelines specified in this part;

(3) Improvements not on cemetery land, such as access roads or utilities;

(4) Maintenance or repair work;

(5) Office supplies or consumable goods (such as fuel and fertilizer) which are routinely used in a cemetery; or

(6) Fully enclosed, climate-controlled, committal-service facilities, freestanding chapels or chapels that are part of an administrative building or information center.

(d) VA shall certify approved applications to the Secretary of the Treasury

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in the amount of the grant, and shall designate the appropriation from which it shall be paid. Funds paid for the establishment, expansion, or improvement of a veterans' cemetery must be used solely for carrying out approved projects.

(Authority: 38 U.S.C. 501, 2408)

§ 39.16 Line item adjustment to grant.

After a grant has been awarded, upon request from the State representative, VA may approve a change in a line item (line items are identified in Standard Form 424C, which is set forth in § 39.26(c)) of up to 10 percent (increase or decrease) of the cost of the line item if the change would be within the scope or objective of the project and would not change the amount of the grant.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 0348-0041)

§ 39.17 Payment of grant award.

The amount of the grant award will be paid to the State or, if designated by the State representative, the State veterans' cemetery for which such project is being carried out, or any other State agency or instrumentality. Such amount shall be paid by way of reimbursement, and in such installments consistent with the progress of the project, as the Director of State Cemetery Grants Service may determine and certify for payment to the appropriate Federal institution. Funds paid under this section for an approved project shall be used solely for carrying out such project as so approved. As a condition for the final payment, the State representative must submit to VA the following:

(a) Standard Form 271 ("Outlay Report and Request for Reimbursement for Construction Programs") (The form is set forth at § 39.26(a)).

(b) A request in writing for the final architectural/engineering inspection, including the name and telephone number of the local point of contact for the project;

(c) The written statement "It is hereby agreed that the monetary commit-

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ment of the federal government will have been met and the project will be considered terminated upon payment of this voucher," and

(d) Evidence that the State has met its responsibility for an audit under the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*) and § 39.19, if applicable.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 0348-0002)

§ 39.18 Recapture provisions.

(a) 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 a veterans' cemetery in accordance with § 39.5(a), or uses any part of the funds provided through such grant for a purpose other than that 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.

(b) If all funds from a grant have not been used by a State for the purpose for which the grant was made within 3 years after the VA has certified the approved application for such grant to the Department of the Treasury, the United States shall be entitled to recover any unused grant funds from the State.

(Authority: 38 U.S.C. 501, 2408)

Subpart D—Standards and Requirements for Project

§ 39.19 General requirements for site selection and construction of veterans' cemeteries.

(a) The various codes, requirements, and recommendations of State and local authorities or technical and professional organizations, to the extent and manner in which those codes, requirements, and recommendations are referenced in this subpart, are applicable to grants for construction of veterans' cemeteries. Additional information concerning these codes, requirements, and recommendations may be

obtained from the Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

(b) The standards in §§39.19 through 39.22 constitute general design and construction criteria and shall apply to all projects for which Federal assistance is requested under 38 U.S.C. 2408.

(c) In developing these standards, no attempt has been made to comply with all of the various State and local codes and regulations. The standards contained in §§39.19 through 39.22 shall be followed where they exceed State or local codes and regulations. Departure will be permitted, however, when alternate standards are demonstrated to provide equivalent or better design criteria than the standards in these sections. Conversely, compliance is required with State and local codes where such requirements provide a standard higher than those in these sections. The additional cost, if any, in using standards that are higher than those of VA should be documented and justified in the application.

(d) The space criteria and area requirements referred to in these standards shall be used as a guide in planning. Additional area and facilities beyond those specified as basic may be included if found to be necessary to meet the functional requirements of the project but are subject to approval by VA. Substantial deviation from the space or area standards shall be carefully considered and justified. Failing to meet the standards or exceeding them 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. In those projects that unjustifiably exceed maximum space or area criteria, VA funding may be subject to proportionate reduction in proportion to the amount by which the space or area of the cemetery exceeds the maximum specified in these standards.

(Authority: 38 U.S.C. 501, 2408)

§ 39.20 Site planning standards.

(a) *Site selection*—(1) *Location*. The land should be located as close as possible to the densest veteran population in the area under consideration.

(2) *Size*. Sufficient acreage shall be available to provide gravesites for estimated needs for at least 20 years. More acreage should be provided where feasible. Acreage could vary depending on the State veteran population and national cemetery availability.

(3) *Accessibility*. The site should be readily accessible by highway. Offsite improvements shall not be funded by the grant.

(4) *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 shall not be subject to flooding.

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

(6) *Soil requirements*. The soil should be free from rock, muck, unstable composition, 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 turf and trees, with normal care and without the addition of topsoil.

(7) *Utilities*. Electricity and gas, if required, should be available. Offsite improvements shall not be funded by the grant.

(8) *Water supply*. An adequate supply of water should be available. Offsite improvements shall not be funded by the grant.

(9) *Sewerage*. An approved means to dispose of storm flow and sewage from the facility should be available. Offsite improvements shall not be funded by the grant.

(b) *Site development requirements*—(1) *General*. The development plan shall provide for adequate hard surfaced roads, walks, parking areas, public rest rooms, flag circle, and a main gate.

(2) *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 1 handicapped space to every 20 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. Parking is not provided for large numbers of people attending ceremonial events such as Memorial Day services.

(3) *Roads.* Roads should generally follow the topography of the cemetery, and allow pedestrian access to burial sections on both sides. Roads should generally not be used as “boundaries” outlining burial sections. Extensive bridging should be avoided. The grant program funding cannot be used to build access roads on property that is not part of the cemetery. Road widths shall be compatible with proposed traffic flows and volumes. Primary roads are generally 24 feet wide.

(4) *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.

(5) *Curbs.* Bituminous roads may be provided with integral curbs and gutters constructed of portland cement concrete. Freestanding 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. The radii of curbs at road intersections shall not be less than 20 feet-0 inches. Curb ramps shall be provided to accommodate the physically handicapped and maintenance equipment. 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 nonskid surfaces.

(6) *Walks.* Walks shall be designed with consideration for the physically handicapped and elderly. Walks and ramps designed on an incline shall have periodic level platforms. All walks, ramps and platforms shall have nonskid surfaces. Any walk shall be ramped if the slope exceeds 3 percent. Walks that have gradients 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.

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

(8) *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.

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

(10) *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.

(11) *Burial areas.* 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. The first phase of construction should contain sufficient burial sites to meet the foreseeable demand for at least 10 years. All applicable dimensions to roadways, fences, utilities or other structures shall be indicated on the layout.

(12) *Gravesites.* Gravesites shall be laid out in uniform pattern. There shall 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 distance from the edge of a permanent road to any gravesite shall not be over 275 feet. Temporary roads may be provided to serve areas in phase developments.

(13) *Monumentation.* Each grave shall be marked with an appropriate marker and each cemetery shall maintain a register of burials setting forth the name of each person buried and the designation of the grave in which he/she is buried. Permanent gravesite control markers shall 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.

(14) *Entrance.* The entrance should be an architectural or landscape feature that creates a sense of arrival.

(15) *Memorial walkway.* Each cemetery should have an area for the display of memorials donated by veterans groups and others. Such areas may take the form of a path or walkway and should provide a contemplative setting for visitors.

(16) *Donation items.* Family members and others often wish to donate items such as benches and trees. Acceptable items of donation should be specified in the cemetery plan. The plan should also designate appropriate locations for such items.

(17) *Flag/assembly area.* There shall be one primary flagpole for the United States flag. This flag shall be lighted. A turf assembly area should be developed for major gatherings such as Memorial Day. The assembly area may be focused on the flag. The area may also incorporate an architectural or a land-

scape feature that functions as a platform or backdrop for speakers.

(18) *Site furnishings.* Site furnishings include signage, trash receptacles, benches, and flower containers. These items should be coordinated and complement each other, the architectural design and the cemetery as a whole. They should be simple, durable, standardized and properly scaled.

(19) *Carillons.* The cemetery development plan should include a location for a carillon tower. Carillons are normally donated. They are not provided for in the grant.

(Authority: 38 U.S.C. 501, 2408)

§ 39.21 Space criteria for support facilities.

These criteria are based on a projected average burial rate of one to six per day, staffing by position, and a defined complement of 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 § 39.19(d). In converting Net Square Feet (NSF) to Gross Square Feet (GSF), 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 Full Time Employees (FTE) by job assignment for the next 10 years.

(a) *Administrative building.* The administrative building should be approximately 1,600 NSF in total, providing space, as needed, for the following functions:

- (1) Cemetery director's office;
- (2) Other offices (as needed);
- (3) Administrative staff (lobby/office area);
- (4) Operations (file/office/equipment/work area);
- (5) Family/conference room;
- (6) Military honors team;
- (7) Refreshment unit;
- (8) Housekeeping aide's closet; and
- (9) Restroom facilities.

(b) *Maintenance/service building.* The maintenance/service building may be combined with the administrative building. The maintenance/service building should be approximately 2,200

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NSF in total, providing heated and air conditioned space, as needed, for the following functions:

- (1) Foreman's office;
- (2) Lunch room;
- (3) Kitchen unit;
- (4) Toilet and locker room facilities;
- (5) Housekeeping aide's closet; and
- (6) Vehicle and equipment maintenance and storage.

(c) *Vehicle and equipment storage.* Approximately 275 NSF/Bay as needed. Not all types of vehicles and equipment require storage in heated space. Based on climatic conditions, it may be justified to rely completely on open structures rather than heated structures to protect the following types of vehicles and equipment: Dump Trucks, Pickup Trucks, Cemetery Automobiles, Gang and Circular Mowers.

(d) *Interment/committal service shelter.* One permanent shelter is authorized for every five interments per day. The shelter may include a covered area to provide seating for approximately 20 people and an uncovered paved area to provide space for approximately 50 additional people. The shelter may also include a small, enclosed equipment/storage area. Provisions must be made for the playing of Taps by recorded means.

(e) *Public Information Center.* One permanent Public Information Center is authorized per facility. A Public Information Center is used to provide orientation to visitors and funeral corteges. It should include the gravesite locator. The public restrooms may also be combined with this structure. Space determinations for separate structures for public restrooms shall be considered on an individual basis. The Public Information Center, including public restrooms, may be combined with the administrative building.

(f) *Other interment structures.* Space determinations for other support facilities such as columbaria, preplaced graveliners (or crypts), garden niches, etc., will be considered on an individual basis in accordance with § 39.19(d).

(Authority: 38 U.S.C. 501, 2408)

§ 39.22 Architectural design standards.

The publications listed in this section are incorporated by reference. The Director of the Federal Register ap-

proves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be inspected at the office of the State Cemetery Grants Service, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies of the 2003 edition of the National Fire Protection Association Life Safety Code and Errata (NFPA 101), the 2003 edition of the NFPA 5000, Building Construction and Safety Code, and the 2002 edition of the National Electrical Code, NFPA 70, may be obtained from the National Fire Protection Association, Inc. (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101. Copies of the 2003 edition of the Uniform Mechanical Code, and the 2003 edition of the Uniform Plumbing Code, may be obtained from the International Association of Plumbing and Mechanical Officials, 5001 E. Philadelphia Street, Ontario, CA 91761-2816.

(a) *Architectural and structural requirements*—(1) *Life Safety Code.* Standards must be in accordance with the 2003 edition of the National Fire Protection Association Life Safety Code, NFPA 101. Fire safety construction features not included in NFPA 101 shall be designed in accordance with the requirements of the 2003 edition of the NFPA 5000, Building Construction and Safety Code. Where the adopted codes state conflicting requirements, the NFPA National Fire Codes shall govern.

(2) *State and local codes.* In addition to compliance with the standards set forth in this section, 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 2003 edition of the NFPA 5000, Building Construction and Safety Code shall apply.

(3) *Occupational safety and health standards.* Applicable standards as contained in the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*) must be observed.

(b) *Mechanical requirements.* The heating system, boilers, steam system, ventilation system and air-conditioning

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system shall be furnished and installed to meet all requirements of the local and State codes and regulations. Where no local or State codes are in force, the 2003 edition of the Uniform Mechanical Code shall apply.

(c) *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 local or State codes are in force, the 2003 edition of the Uniform Plumbing Code shall apply.

(d) *Electrical requirements.* The installation of electrical work and equipment shall comply with all local and State codes and laws applicable to electrical installations and the minimum general standards, as set forth in the NFPA 70, National Electrical Code, 2002 edition (NEC 2002 Code). The regulations of the local utility company shall govern service connections. Aluminum bus ways shall not be used as a conducting medium in the electrical distribution system.

(Authority: 38 U.S.C. 501, 2408)

Subpart E—Responsibilities, Inspections, and Reports Following Project Completion

§ 39.23 Responsibilities following project completion.

(a) States shall monitor use of the cemetery by various subgroups and minority groups, including women veterans. To the extent that under-utilization 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 benefits 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 assistance under the grant 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 users.

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

(c) VA, in coordination with the State, shall inspect the project at completion for compliance with the standards set forth in §§ 39.19 through 39.22 and at least once in every 3-year period following completion of the project throughout the period the facility is operated as a State veterans' cemetery. A copy of the inspection report shall be forwarded to the Director, State Cemetery Grants Service, giving the date and location the inspection was made and citing any deficiencies and corrective action taken or proposed.

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

(Authority: 38 U.S.C. 501, 2408; and issued under authority of the President by E.O. 13166, 65 FR 50121)

§ 39.24 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 established, expanded, or improved with assistance received under this program except as prescribed in this part.

(Authority: 38 U.S.C. 501, 2408)

§ 39.25 Inspections, audits, and reports.

(a) A State will allow VA inspectors and auditors to conduct inspections as necessary to ensure compliance with the provisions of this part. The State will provide to VA evidence that it has met its responsibility under the Single Audit Act of 1984 (see part 41 of this chapter).

(b) A State will make an annual report on VA Form 40-0241 ("State Cemetery Data") signed by the authorized representative of the State. These forms document current burial activity

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at the cemetery, use of gravesites, remaining gravesites, and additional operational information intended to answer questions about the status of the grant program.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0559)

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Subpart F—Forms

§ 39.26 Forms.

All forms set forth in this part are available on the Internet at *http://www.va.gov/forms*.

(a) Standard Form 271—Outlay Report and Request for Reimbursement for Construction Programs

OUTLAY REPORT AND REQUEST FOR REIMBURSEMENT FOR CONSTRUCTION PROGRAMS		OMB APPROVAL NO. 0348-0002		PAGE 1 OF 1 PAGES		
(See instructions on back)		1. TYPE OF REQUEST <input type="checkbox"/> FINAL <input type="checkbox"/> PARTIAL		2. BASIS OF REQUEST <input type="checkbox"/> CASH <input type="checkbox"/> ACCRUAL		
3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED		4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY		5. PARTIAL PAYMENT REQUEST NO.		
6. EMPLOYER IDENTIFICATION NUMBER	7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER	PERIOD COVERED BY THIS REQUEST FROM (Month, day, year) TO (Month, day, year)				
9. RECIPIENT ORGANIZATION Name: No. and Street: City, State and ZIP Code:		10. PAYEE (Where check is to be sent if different than item 9) Name: No. and Street: City, State and ZIP Code:				
STATUS OF FUNDS						
CLASSIFICATION	PROGRAMS --		FUNCTIONS --		ACTIVITIES	TOTAL
	(a)	(b)	(c)	(d)		
a. Administrative expense	\$	\$	\$	\$		0.00
b. Preliminary expense						0.00
c. Land, structures, right-of-way						0.00
d. Architectural engineering basic fees						0.00
e. Other architectural engineering fee						0.00
f. Project inspection fees						0.00
g. Land development						0.00
h. Relocation expense						0.00
i. Relocation payments to individuals and businesses						0.00
j. Demolition and removal						0.00
k. Construction and project improvement cost						0.00
l. Equipment						0.00
m. Miscellaneous cost						0.00
n. Total cumulative to date (sum of lines a thru m)		0.00	0.00	0.00	0.00	0.00
o. Deductions for program income						0.00
p. Net cumulative to date (line n minus line o)		0.00	0.00	0.00	0.00	0.00
q. Federal share to date						0.00
r. Rehabilitation grants (100% reimbursement)						0.00
s. Total Federal share (sum of lines q and r)		0.00	0.00	0.00	0.00	0.00
t. Federal payments previously requested						0.00
u. Amount requested for reimbursement	\$	\$	\$	\$		0.00
v. Percentage of physical completion of project		%	%	%	%	%
12. CERTIFICATION I certify that to the best of my knowledge and belief the billed costs or disbursements are in accordance with the terms of the project and that the reimbursement represents the Federal share due which has not been previously requested and that an inspection has been performed and all work is in accordance with the terms of the award.		a. RECIPIENT		SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL		DATE REPORT SUBMITTED
				TYPED OR PRINTED NAME AND TITLE		TELEPHONE (Area code, number, and extension)
				SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL		DATE SIGNED
				TYPED OR PRINTED NAME AND TITLE		TELEPHONE (Area code, number, and extension)

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271-103

STANDARD FORM 271 (Rev. 7-97)
Prescribed by OMB Circular A-102 and A-110

INSTRUCTIONS

Public reporting burden for this collection of information is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0004), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Please type or print legibly. Items 3, 4, 5, 8, 9, 10, 11s and 11v are self explanatory; specific instructions for other items are as follows:

<i>Item</i>	<i>Entry</i>	<i>Item</i>	<i>Entry</i>
1	Mark the appropriate box. If the request is final, the amounts billed should represent the final cost of the project.	11j	Enter gross salaries and wages of employees of the recipient and payments to third party contractors directly engaged in performing demolition or removal of structures from developed land. All proceeds from the sale of salvage or the removal of structures should be credited to this account; thereby reflecting net amounts if required by the Federal agency.
2	Show whether amounts are computed on an accrued expenditure or cash disbursement basis.	11k	Enter those amounts associated with the actual construction of, addition to, or restoration of a facility. Also, include in this category, the amounts for project improvements such as sewers, streets, landscaping, and lighting.
6	Enter the Employer Identification Number (EIN) assigned by the U.S. Internal Revenue Service or FICE (institution) code if requested by the Federal agency.	11l	Enter amounts for all equipment, both fixed and movable, exclusive of equipment used for construction. For example, permanently attached laboratory tables, built-in audio visual systems, movable desks, chairs, and laboratory equipment.
7	This space is reserved for an account number or other identifying number that may be assigned by the recipient.	11m	Enter the amounts of all items not specifically mentioned above.
11	The purpose of vertical columns (a) through (c) is to provide space for separate cost breakdowns when a large project has been planned and budgeted by program, function or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page. All amounts are reported on a cumulative basis.	11n	Enter the total cumulative amount to date which should be the sum of lines a through m.
11a	Enter amounts expended for such items as travel, legal fees, rental of vehicles and any other administrative expenses. Include the amount of interest expense when authorized by program legislation. Also show the amount of interest expense on a separate sheet.	11o	Enter the total amount of program income applied to the grant or contract agreement except income included on line j. Identify on a separate sheet of paper the sources and types of the income.
11b	Enter amounts pertaining to the work of locating and designing, making surveys and maps, sinking test holes, and all other work required prior to actual construction.	11p	Enter the net cumulative amount to date which should be the amount shown on line n minus the amount on line o.
11c	Enter all amounts directly associated with the acquisition of land, existing structures and related right-of-way.	11q	Enter the Federal share of the amount shown on line p.
11d	Enter basic fees for services of architectural engineers.	11r	Enter the amount of rehabilitation grant payments made to individuals when program legislation provides 100 percent payment by the Federal agency.
11e	Enter other architectural engineering services. Do not include any amounts shown on line d.	11t	Enter the total amount of Federal payments previously requested, if this form is used for requesting reimbursement.
11f	Enter inspection and audit fees of construction and related programs.	11u	Enter the amount now being requested for reimbursement. This amount should be the difference between the amounts shown on lines s and t. If different, explain on a separate sheet.
11g	Enter all amounts associated with the development of land where the primary purpose of the grant is land improvement. The amount pertaining to land development normally associated with major construction should be excluded from this category and entered on line k.	12a	To be completed by the official recipient official who is responsible for the operation of the program. The date should be the actual date the form is submitted to the Federal agency.
11h	Enter the dollar amounts used to provide relocation advisory assistance and net costs of replacement housing (last resort). Do not include amounts needed for relocation administrative expenses; these amounts should be included in amounts shown on line a.	12b	To be completed by the official representative who is certifying to the percent of project completion as provided for in the terms of the grant or agreement.
11i	Enter the amount of relocation payments made by the recipient to displaced persons, farms, business concerns, and nonprofit organizations.		

STANDARD FORM 271 (Rev. 7-97) Back

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 0348-0002)

(b) Standard Form 424—Application for Federal Assistance.

Department of Veterans Affairs

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APPLICATION FOR
FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: <input type="checkbox"/> Application <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		Preapplication <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		2. DATE SUBMITTED October 28, 2003	Applicant Identifier
3. DATE RECEIVED BY STATE				State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY				Federal Identifier	
5. APPLICANT INFORMATION					
Legal Name:			Organizational Unit:		
Address (give city, county, State, and zip code):			Name and telephone number of person to be contacted on matters involving this application (give area code)		
6. EMPLOYER IDENTIFICATION NUMBER (EIN): □□-□□□□□□□□			7. TYPE OF APPLICANT: (enter appropriate letter in box) <input type="checkbox"/>		
8. TYPE OF APPLICATION: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) <input type="checkbox"/> <input type="checkbox"/> A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other(specify): _____			A. State H. Independent School Dist. B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify) _____		
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: □□-□□□□ TITLE:			9. NAME OF FEDERAL AGENCY:		
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):			11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:		
13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF:			
Start Date	Ending Date	a. Applicant		b. Project	
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?			
a. Federal	\$	a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____			
b. Applicant	\$	b. No. <input type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW			
c. State	\$	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes," attach an explanation. <input type="checkbox"/> No			
d. Local	\$	18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.			
e. Other	\$	a. Type Name of Authorized Representative		b. Title	
f. Program Income	\$	d. Signature of Authorized Representative		c. Telephone Number	
g. TOTAL	\$			e. Date Signed	
		0 ⁰⁰			

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:	Item:	Entry:
1.	Self-explanatory.	12.	List only the largest political entities affected (e.g., State, counties, cities).
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).	13.	Self-explanatory.
3.	State use only (if applicable).	14.	List the applicant's Congressional District and any District(s) affected by the program or project.
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.	15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <i>only</i> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.	16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.	17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
7.	Enter the appropriate letter in the space provided.	18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.		
9.	Name of Federal agency from which assistance is being requested with this application.		
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.		
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.		

SF-424 (Rev. 7-97) Back

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 0348-0041)

(c) Standard Form 424C—Instructions for the SF-424C.

BUDGET INFORMATION - Construction Programs			
NOTE: Certain Federal assistance programs require additional computations to arrive at the Federal share of project costs eligible for participation. If such is the case, you will be notified.			
COST CLASSIFICATION	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Columns a-b)
1. Administrative and legal expenses	\$.00	\$.00	\$ 0.00
2. Land, structures, rights-of-way, appraisals, etc.	\$.00	\$.00	\$ 0.00
3. Relocation expenses and payments	\$.00	\$.00	\$ 0.00
4. Architectural and engineering fees	\$.00	\$.00	\$ 0.00
5. Other architectural and engineering fees	\$.00	\$.00	\$ 0.00
6. Project inspection fees	\$.00	\$.00	\$ 0.00
7. Site work	\$.00	\$.00	\$ 0.00
8. Demolition and removal	\$.00	\$.00	\$ 0.00
9. Construction	\$.00	\$.00	\$ 0.00
10. Equipment	\$.00	\$.00	\$ 0.00
11. Miscellaneous	\$.00	\$.00	\$ 0.00
12. SUBTOTAL (sum of lines 1-11)	\$ 0.00	\$ 0.00	\$ 0.00
13. Contingencies	\$.00	\$.00	\$ 0.00
14. SUBTOTAL	\$ 0.00	\$ 0.00	\$ 0.00
15. Project (program) income	\$.00	\$.00	\$ 0.00
16. TOTAL PROJECT COSTS (subtract #15 from #14)	\$ 0.00	\$ 0.00	\$ 0.00
FEDERAL FUNDING			
17. Federal assistance requested, calculate as follows: (Consult Federal agency for Federal percentage share.) Enter the resulting Federal share.	Enter eligible costs from line 16c Multiply X _____%		\$ 0.00

Previous Edition Usable Authorized for Local Reproduction Standard Form 424C (Rev. 7-97) Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424C

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0041), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This sheet is to be used for the following types of applications: (1) "New" (means a new [previously unfunded] assistance award); (2) "Continuation" (means funding in a succeeding budget period which stemmed from a prior agreement to fund); and (3) "Revised" (means any changes in the Federal Government's financial obligations or contingent liability from an existing obligation). If there is no change in the award amount, there is no need to complete this form. Certain Federal agencies may require only an explanatory letter to effect minor (no cost) changes. If you have questions, please contact the Federal agency.

Column a. - If this is an application for a "New" project, enter the total estimated cost of each of the items listed on lines 1 through 16 (as applicable) under "COST CLASSIFICATION."

If this application entails a change to an existing award, enter the eligible amounts *approved under the previous award* for the items under "COST CLASSIFICATION."

Column b. - If this is an application for a "New" project, enter that portion of the cost of each item in Column a. which is *not* allowable for Federal assistance. Contact the Federal agency for assistance in determining the allowability of specific costs.

If this application entails a change to an existing award, enter the adjustment [+ or -] to the previously approved costs (from column a.) reflected in this application.

Column . - This is the net of lines 1 through 16 in columns "a." and "b."

Line 1 - Enter estimated amounts needed to cover administrative expenses. Do not include costs which are related to the normal functions of government. Allowable legal costs are generally only those associated with the purchases of land which is allowable for Federal participation and certain services in support of construction of the project.

Line 2 - Enter estimated site and right(s)-of-way acquisition costs (this includes purchase, lease, and/or easements).

Line 3 - Enter estimated costs related to relocation advisory assistance, replacement housing, relocation payments to displaced persons and businesses, etc.

Line 4 - Enter estimated basic engineering fees related to construction (this includes start-up services and preparation of project performance work plan).

Line 5 - Enter estimated engineering costs, such as surveys, tests, soil borings, etc.

Line 6 - Enter estimated engineering inspection costs.

Line 7 - Enter estimated costs of site preparation and restoration which are not included in the basic construction contract.

Line 9 - Enter estimated cost of the construction contract.

Line 10 - Enter estimated cost of office, shop, laboratory, safety equipment, etc. to be used at the facility, if such costs are not included in the construction contract.

Line 11 - Enter estimated miscellaneous costs.

Line 12 - Total of items 1 through 11.

Line 13 - Enter estimated contingency costs. (Consult the Federal agency for the percentage of the estimated construction cost to use.)

Line 14 - Enter the total of lines 12 and 13.

Line 15 - Enter estimated program income to be earned during the grant period, e.g., salvaged materials, etc.

Line 16 - Subtract line 15 from line 14.

Line 17 - This block is for the computation of the Federal share. Multiply the total allowable project costs from line 16, column "c." by the Federal percentage share (this may be up to 100 percent; consult Federal agency for Federal percentage share) and enter the product on line 17.

SF-424C (Rev. 7-97) Back

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 0348-0041)

(d) Standard Form 424D—Assurances—Construction Programs.

ASSURANCES - CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF-424D (Rev. 7-97) Back

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 0348-0042)

(e) VA Form 10-0148c—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.

 Department of Veterans Affairs

**Certification Regarding
Debarment, Suspension, and Other Responsibility Matters
Primary Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 38 CFR Part 44, Section 44.510, Participants' responsibilities

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name PR/Award Number of Project Name

Name and Title of Authorized Representative

Signature Date

VA FORM 10-0148c
MAR 2001

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtain a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

(Authority: 38 U.S.C. 501, 2408)

(f) VA Form 40-0241—State Cemetery Data.

FORM APPROVED OMB NO. 2900-0559
RESPONDENT BURDEN: ONE HOUR

Department of Veterans Affairs		STATE CEMETERY DATA			FISCAL YEAR ENDING (State)
<p>RESPONDENT BURDEN: Public reporting burden for this collection of information is estimated to average 60 minutes per response. Statutory authority for the State Cemetery Grants Program is 38 U.S.C., subchapter 2408. This form is approved under OMB No. 2900-0559, and when form is completed it provides VA with data regarding the number of interments conducted at states veterans cemeteries each year.</p> <p>VA may not conduct or sponsor, and you are not required to respond to, this collection of information unless it displays a valid OMB Control Number. Responding to this information collection is voluntary. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to VA Clearance Officer (045A4), 810 Vermont Avenue, NW, Washington, DC 20420. <i>Please do not send applications for benefits to this address.</i></p>					
NAME OF CEMETERY		STATUS OF CEMETERY <input type="checkbox"/> OPEN <input type="checkbox"/> CLOSED		NAME OF DIRECTOR	
MAILING ADDRESS		DATE ESTABLISHED		DATE OPENED	DATE OF FIRST BURIAL
		AUTHORITY		DATE OF ESTIMATED CLOSURE	
NAME OF STATE AGENCY RESPONSIBLE (If organizational) FOR CEMETERY (For example: Department of Veterans Affairs. Please include Director's name, telephone no., and fax no.)					
TOTAL ACREAGE (Usable/Available)	TOTAL BURIAL ACREAGE	BURIAL ACREAGE DEVELOPED	COLUMBARIA NICHES	TOTAL COLUMBARIA NICHES AVAIL.	
SIZE OF GRAVESITE (e.g. 5' x 10')	GRAVESITES PER ACRE	GRAVESITES AVAILABLE	TOTAL IN-GROUND NICHES	TOTAL IN-GROUND NICHES AVAIL.	
COMMENTS (i.e., The acreage developed is almost full and additional funds (estimated amount) for expansion in a particular year/month to develop the remaining acreage is requested. If additional space is needed please provide your comments on plain paper and attach to form.)					
NUMBER OF CUMULATIVE INTERMENTS		NUMBER OF INTERMENTS			TYPE OF HEADSTONE/MARKER (If blank applicable to use 13)
VETERAN	FULL CASKET	CREMATIONS		VETERAN	DEPENDENT
		IN-GROUND	COLUMBARIA		
NON-VETERAN				FY PRIOR	
GRAVESITES MAINTAINED				FY CURRENT	
				FY FUTURE (Estimated)	
PERSONNEL			OPERATING COSTS		
NO. OF ADMINISTRATIVE	NO. OF GROUNDS MAINTENANCE	PRIOR YEAR	CURRENT YEAR	FUTURE YEAR	
		\$	\$	\$	
NO. OF OTHER (Specify)	AMOUNT CHARGED TO VETERAN FOR INTERMENT (Do not include burial plus allowance)		AMOUNT CHARGED TO DEPENDENT FOR INTERMENT		
	\$		\$		
COST COMMENTS (Use this area to list total costs associated with operating your cemetery. For example if the Superintendent of the cemetery is also in charge of the adjacent Vets Home and their salary is paid by them, then please reflect their salary in this space with a brief explanation. If cemeteries are used for labor then please note in above block and explain here. If additional space is required, please provide your comments on plain paper and attach to form.)					
LOCATION AND GENERAL DESCRIPTION OF CEMETERY (Please include precise directions from the nearest large airport to cemetery. Please provide comments on historical matters relating to the cemetery. For example: cemetery is located near an old civil war battle field or is part of the state veterans home. Also, describe your facilities. e.g., the cemetery has a separate maintenance facility with three, located maintenance bays, a separate administrative building and a chapel. In sum, tell us what you want a visitor to know about your cemetery. What makes your cemetery unique. If additional space is required please provide your comments on plain paper and attach to form.)					
DESCRIBE ELIGIBILITY REQUIREMENTS AND FACTS OF SPECIAL INTEREST OR HISTORICAL SIGNIFICANCE (Are there state residency requirements, if so, how many years? Who is your first interment? Are there any Medal of Honor veterans buried in your cemetery, or other highly decorated or well known soldiers? If additional space is required please provide your comments on plain paper and attach to form.)					

VA FORM 40-0241
MAY 1997(RS)

NATIONAL CEMETERY SYSTEM (VACO) COPY - 1

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0559)

Pt. 39, Nt.

38 CFR Ch. I (7–1–10 Edition)

EFFECTIVE DATE NOTE: At 75 FR 34005, June 16, 2010, part 39 was revised, effective July 16, 2010. For the convenience of the user, the revised text is set forth as follows:

PART 39—AID TO STATES FOR ESTABLISHMENT, EXPANSION, AND IMPROVEMENT, OR OPERATION AND MAINTENANCE, OF VETERANS CEMETERIES (Eff. 7–16–10)

Subpart A—General Provisions

Sec.

- 39.1 Purpose.
- 39.2 Definitions.
- 39.3 Priority list.
- 39.4 Decision makers, notifications, and additional information.
- 39.5 Submission of information and documents to VA.
- 39.6 Amendments to grant application.
- 39.7 Line item adjustment to grants.
- 39.8 Withdrawal of grant application.
- 39.9 Hearings.
- 39.10 Cemetery requirements and prohibitions and recapture provisions.
- 39.11 State to retain control of operations.

Subpart B—Establishment, Expansion, and Improvement Projects

GRANT REQUIREMENTS AND PROCEDURES

- 39.30 General requirements for a grant.
- 39.31 Preapplication requirements.
- 39.32 Plan preparation.
- 39.33 Conferences.
- 39.34 Application requirements.
- 39.35 Final review and approval of application.

AWARD OF GRANT

- 39.50 Amount of grant.
- 39.51 Payment of grant award.

STANDARDS AND REQUIREMENTS

- 39.60 General requirements for site selection and construction of veterans cemeteries.
- 39.61 Site planning standards.
- 39.62 Space criteria for support facilities.
- 39.63 Architectural design standards.

Subpart C—Operation and Maintenance Projects

GRANT REQUIREMENTS AND PROCEDURES

- 39.80 General requirements for a grant.
- 39.81 Preapplication requirements.
- 39.82 Plan preparation.
- 39.83 Conferences.
- 39.84 Application requirements.
- 39.85 Final review and approval of application.

AWARD OF GRANT

- 39.100 Amount of grant.
- 39.101 Payment of grant award.

Subpart D—Grant Recipient Responsibilities, Inspections, and Reports Following Project Completion

- 39.120 Documentation of grant accomplishments.
- 39.121 State responsibilities following project completion.
- 39.122 Inspections, audits, and reports.

AUTHORITY: 38 U.S.C. 101, 501, 2408, 2411.

Subpart A—General Provisions

§ 39.1 Purpose.

This part sets forth the mechanism for a State to obtain a grant to establish, expand, or improve a veterans cemetery that is or will be owned by the State or to obtain a grant to operate or maintain a State veterans cemetery to meet VA's national shrine standards of appearance.

(Authority: 38 U.S.C. 501, 2408)

§ 39.2 Definitions.

For the purpose of this part:

(a) *Establishment* means the process of site selection, land acquisition, design and planning, earth moving, landscaping, construction, and provision of initial operating equipment necessary to convert a tract of land to an operational veterans cemetery.

(b) *Expansion* means an increase in the burial capacity or acreage of an existing cemetery through the addition of gravesites and other facilities, such as committal service shelters, crypts (preplaced grave liners), and columbaria, necessary for the functioning of a cemetery.

(c) *Improvement* means the enhancement of a cemetery through landscaping, construction, or renovation of cemetery infrastructure, such as building expansion and upgrades to roads and irrigation systems, that is not directly related to the development of new gravesites; nonrecurring maintenance; and the addition of other features appropriate to cemeteries.

(d) *Establishment, Expansion, and Improvement Project* means an undertaking to establish, expand, or improve

a site for use as a State-owned veterans cemetery.

(e) *Operation and Maintenance Project* means a project that assists a State to achieve VA's national shrine standards of appearance in the key cemetery operational areas of cleanliness, height and alignment of headstones and markers, leveling of gravesites, and turf conditions.

(f) *Secretary* means the Secretary of the United States Department of Veterans Affairs.

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

(h) *State Cemetery Grants Service (SCGS)* means the State Cemetery Grants Service within VA's National Cemetery Administration (NCA).

(i) *VA* means the United States Department of Veterans Affairs or the State Cemetery Grants Service.

(j) *Veteran* means a person who served in the active military, naval, or air service and who died in line of duty while in service or was discharged or released under conditions other than dishonorable.

(Authority: 38 U.S.C. 101, 501, 2408)

§ 39.3 Priority list.

(a) The priority groups, with Priority Group 1 having the highest priority and Priority Group 4 the lowest priority, are:

(1) *Priority Group 1*—Projects needed to avoid disruption in burial service that would otherwise occur at existing veterans cemeteries within 4 years of the date of the preapplication. Such projects would include expansion projects as well as improvement projects (such as construction of additional or replacement facilities) when such improvements are required to continue interment operations.

(2) *Priority Group 2*—Projects for the establishment of new veterans cemeteries.

(3) *Priority Group 3*—Expansion projects at existing veterans cemeteries when a disruption in burial service due to the exhaustion of existing gravesites is not expected to occur within 4 years of the date of the preapplication.

(4) *Priority Group 4*—Improvement projects for cemetery landscaping or infrastructure, such as building expansion and upgrades to roads and irrigation systems, that are not directly related to the development of new gravesites. Operation and Maintenance Projects that address NCA's national shrine standards of appearance are included in this group.

(b) Within Priority Groups 1, 2, and 3, highest priority will be given to projects in geographical locations with the greatest number of veterans who will benefit from the project as determined by VA. This prioritization system, based on veteran population data, will assist VA in maintaining and improving access to burial in a veterans cemetery to more veterans and their eligible family members. Within Priority Group 1, at the discretion of VA, higher priority may be given to a project that must be funded that fiscal year to avoid disruption in burial service.

(c) Grants for projects within Priority Group 4 will be awarded in any fiscal year only after grants for all project applications under Priority Groups 1, 2, and 3 that are ready for funding have been awarded. Within Priority Group 4, projects will be ranked in priority order based upon VA's determination of the relative importance of proposed improvements and the degree to which proposed Operation and Maintenance Projects achieve NCA national shrine standards of appearance. No more than \$5 million in any fiscal year will be awarded for Operation and Maintenance Projects under Priority Group 4.

(d) By August 15 of each year, VA will make a list prioritizing all preapplications that were received on or before July 1 of that year and that were approved under § 39.31 or § 39.81, ranking them in their order of priority within the applicable Priority Group for funding during the fiscal year that begins the following October 1. Preapplications from previous years will be re-prioritized each year and do not need to be resubmitted.

(Authority: 38 U.S.C. 501, 2408)

§ 39.4 Decision makers, notifications, and additional information.

Decisions required under this part will be made by the VA Director, State Cemetery Grants Service (SCGS), National Cemetery Administration, unless otherwise specified in this part. The VA decision maker will provide to affected States written notice of approvals, denials, or requests for additional information under this part.

(Authority: 38 U.S.C. 501, 2408)

§ 39.5 Submission of information and documents to VA.

All information and documents required to be submitted to VA must be submitted to the Director of the State Cemetery Grants Service, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All forms cited in this part are available at http://www.cem.va.gov/cem/scg_grants.asp.

(Authority: 38 U.S.C. 501, 2408)

§ 39.6 Amendments to grant application.

A State seeking to amend a grant application must submit revised Standard Forms 424 (Application for Federal Assistance) and 424C (Budget Information) with a narrative description of, and justification for, the amendment. Any amendment of an application that changes the scope of the application or increases the amount of the grant requested, whether or not the application has already been approved, shall be subject to approval by VA in the same manner as an original application.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 4040-0004 and 4040-0008)

§ 39.7 Line item adjustment to grants.

After a grant has been awarded, upon request from the State representative, VA may approve a change in one or more line items (line items are identified in Standard Form 424C) of up to 10 percent (increase or decrease) of the cost of each line item if the change would be within the scope or objective of the project and the aggregate adjust-

ments would not increase the total amount of the grant.

(Authority: 38 U.S.C. 501, 2408)

§ 39.8 Withdrawal of grant application.

A State representative may withdraw an application by submitting to VA a written document requesting withdrawal.

(Authority: 38 U.S.C. 501, 2408)

§ 39.9 Hearings.

(a) No application for a grant under this part 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 the hearing, procedure for the conduct of such hearing, and procedures relating to decisions and notices shall accord with the provisions of §§ 18.9 and 18.10 of this chapter. 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. 501, 2408)

§ 39.10 Cemetery requirements and prohibitions and recapture provisions.

(a) In order to qualify for a grant, a State veterans cemetery must be operated solely for the interment of veterans, their spouses, surviving spouses, minor children, and unmarried adult children who were physically or mentally disabled and incapable of self-support.

(b) Any grant under this part made on or after November 21, 1997, is made on the condition that, after the date of receipt of the grant, the State receiving the grant, subject to requirements for receipt of notice in 38 U.S.C. 2408 and 2411, will prohibit in the cemetery for which the grant is awarded the interment of the remains or the memorialization of any person:

(1) Who has been convicted of a Federal capital crime, as defined in 38 CFR 38.600(b), and whose conviction is final, other than a person whose sentence was commuted by the President;

(2) Who has been convicted of a State capital crime, as defined in 38 CFR 38.600(b), and whose conviction is final, other than a person whose sentence was commuted by the Governor of a State.

(3) Who has been found by an appropriate State official, as defined in 38 CFR 38.600(b), under procedures to be established by the State, to have committed a Federal or State capital crime, as defined in 38 CFR 38.600(b), but to have not been convicted of such crime by reason of unavailability for trial due to death or flight to avoid prosecution.

(c) If a State which has received a grant under this part ceases to own the cemetery for which the grant was made, ceases to operate such cemetery as a veterans cemetery in accordance with paragraph (a) of this section, violates the prohibition in paragraph (b) of this section, or uses any part of the funds provided through such grant for a purpose other than that 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 under this part in connection with such cemetery.

(d) If, within 3 years after VA has certified to the Department of the Treasury an approved grant application, not all funds from the grant have been used by the State for the purpose for which the grant was made, the United States shall be entitled to recover any unused grant funds from the State.

(Authority: 38 U.S.C. 501, 2408, 2411)

§ 39.11 State to retain control of operations.

Neither the Secretary nor any employee of VA shall exercise any supervision or control over the administration, personnel, maintenance, or operation of any State veterans cemetery that receives a grant under this program except as prescribed in this part.

(Authority: 38 U.S.C. 501, 2408)

Subpart B—Establishment, Expansion, and Improvement Projects

GRANT REQUIREMENTS AND PROCEDURES

§ 39.30 General requirements for a grant.

(a) For a State to obtain a grant for the establishment, expansion, or improvement of a State veterans cemetery:

(1) Its preapplication for the grant must be approved by VA under § 39.31(e);

(2) Its project must be ranked sufficiently high on the priority list in § 39.3 for the applicable fiscal year so that funds are available for the project;

(3) Its plans and specifications for the project must be approved by VA under § 39.32;

(4) The State must meet the application requirements in § 39.34; and

(5) Other requirements specified in §§ 39.6, 39.10, and 39.33 must be satisfied.

(b) VA may approve under § 39.35 any application under this subpart up to the amount of the grant requested once the requirements under paragraph (a) of this section have been satisfied, provided that sufficient funds are available. In determining whether sufficient funds are available, VA shall consider the project's priority ranking, the total amount of funds available for cemetery grant awards during the applicable fiscal year, and the prospects of higher ranking projects being ready for the award of a grant before the end of the applicable fiscal year.

(Authority: 38 U.S.C. 501, 2408)

§ 39.31 Preapplication requirements.

(a) A State seeking a grant of more than \$100,000 for the establishment, expansion, or improvement of a State veterans cemetery must submit a preapplication to the Director, State Cemetery Grants Service, through http://www.cem.va.gov/cem/scg_grants.asp.

(b) No detailed drawings, plans, or specifications are required with the preapplication. As a part of the preapplication, the State must submit each of the following:

(1) Standard Form 424 (Application for Federal Assistance) and Standard

Form 424C (Budget Information) signed by the authorized representative of the State. These forms document the amount of the grant requested, which may not exceed 100 percent of the estimated cost of the project to be funded with the grant.

(2) A program narrative describing the objectives of the project, the need for a grant, the method of accomplishment, the projected interment rate, and the results or benefits expected to be obtained from the assistance requested.

(3) If a site has been selected, a description of the geographic location of the project (*i.e.*, a map showing the location of the project and all appropriate geographic boundaries, and any other supporting documentation, as needed).

(4) A design concept describing the major features of the project including the number and types of gravesites, such as columbarium niches.

(5) Any comments or recommendations made by the State's "Single Point of Contact" reviewing agency.

(6) VA Form 40-0895-2 (Certification of Compliance with Provisions of the Davis-Bacon Act) to certify that the State has obtained the latest prevailing wage rates for Federally funded projects. Any construction project fully or partially funded with Federal dollars must comply with those rates for specific work by trade employees (*e.g.*, electricians, carpenters).

(7) VA Form 40-0895-3 (State or Tribal Government Cemetery Grants Service Space Program Analysis—Buildings) to provide information on the proposed size of cemetery buildings, based on VA guidance on the net and gross square footage standards for cemetery buildings. This standard is based on a workload of 1-6 burials per day.

(8) VA Form 40-0895-6 (Certification of State or Tribal Government Matching Architectural and Engineering Funds to Qualify for Group 1 on the Priority List) to provide documentation that the State has legislative authority to support the project and the resources necessary to initially fund the architectural and engineering portion of the project development. Once the grant is awarded, VA will reim-

burse the applicant for all allowable architectural and engineering costs.

(9) VA Form 40-0895-7 (Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions (State or Tribal Government)) to ensure that the applicant has not been debarred or suspended, and is eligible to participate in the VA grant process and receive Federal funds.

(10) VA Form 40-0895-8 (Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals) to ensure that the applicant complies with the Drug-Free Workplace Act of 1988 at the location where the construction will occur.

(11) VA Form 40-0895-9 (Certification Regarding Lobbying) to ensure that the applicant complies with Public Law 101-121 regarding the prohibition against any payments to anyone that influences or attempts to influence an officer or Member of Congress in connection with the award of a grant.

(12) VA Form 40-0895-10 (Certification of Compliance with Federal Requirements—State or Tribal Government Construction Grant) to ensure that the applicant complies with all requirements of part 39.

(13) VA Form 40-0895-15 (Certification of Cemetery Maintained in Accordance with National Cemetery Administration Standards) to ensure that any cemetery established, expanded, or improved through a grant will be operated and maintained in accordance with the operational standards of NCA.

(c) In addition, the State must submit written assurance of each of the following conditions:

(1) Any cemetery established, expanded, or improved through a grant will be used exclusively for the interment or memorialization of eligible persons, as set forth in §39.10(a), whose interment or memorialization is not contrary to the conditions of the grant (*see* §39.10(b) and 38 U.S.C. 2408(d) and 2411).

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

(3) The State possesses legal authority to apply for the grant and to finance and construct the proposed facilities; *i.e.*, legislation or similar action has been duly adopted or passed as

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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 State to act in connection with the application and to provide such additional information as may be required.

(4) The State will assist VA in assuring that the grant complies with section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 *et seq.*).

(5) The State will obtain approval by VA of the final construction drawings and specifications before the project is advertised or placed on the market for bidding; it will construct the project, or cause the project to be constructed, to completion in accordance with the application and approved plans and specifications; it will submit to the Director of the State Cemetery Grants Service, for prior approval, changes that alter any cost of the project, use of space, or functional layout; and it will not enter into a construction contract for the project or undertake other activities until the requirements of the grant program have been met.

(6) The State will comply with the Federal requirements in 2 CFR parts 180 and 801 and 38 CFR part 43 and submit Standard Form 424D (Assurances—Construction Programs).

(7) The State will prepare an Environmental Assessment to determine whether an Environmental Impact Statement is necessary, and certify that funds are available to finance any costs related to preparation of the Environmental Assessment.

(d) The State must submit a copy of the legislation, as enacted into law, authorizing the establishment, maintenance, and operation of the facility as a veterans cemetery in accordance with 38 CFR 39.10(a).

(e) Upon receipt of a complete preapplication for a grant, including all necessary assurances and all required supporting documentation, VA will determine whether the

preapplication conforms to all requirements listed in paragraphs (a) through (d) of this section, including whether it contains sufficient information necessary to establish the project's priority. VA will notify the State of any nonconformity. If the preapplication does conform, VA shall notify the State that the preapplication has been found to meet the preapplication requirements, and the proposed project will be included in the next scheduled ranking of projects, as indicated in §39.3(d).

(Authority: 38 U.S.C. 501, 2408, 2411)

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 4040-0004, 4040-0008, 4040-0009, and 2900-0559)

§39.32 Plan preparation.

The State must prepare Establishment, Expansion, and Improvement Project plans and specifications in accordance with the requirements of this section for review by the SCGS. The plans and specifications must be approved by the SCGS prior to the State's solicitation for construction bids. Once SCGS approves the plans and specifications, the State must obtain construction bids and determine the successful bidder prior to submission of the application. The State must establish procedures for determining that costs are reasonable and necessary and can be allocated in accordance with the provisions of Office of Management and Budget (OMB) Circular No. A-87. Once the Establishment, Expansion, and Improvement Project preapplication and the project's plans and specifications have been approved, an application for assistance must be submitted in compliance with the uniform requirements for grants-in-aid to State and local governments prescribed by OMB Circular No. A-102, Revised.

(a) *General.* These requirements have been established for the guidance of the State agency and the design team to provide a standard for preparation of drawings, specifications, and estimates.

(b) *Technical requirements.* The State should meet these technical requirements as soon as possible after VA approves the Establishment, Expansion,

and Improvement Project
preapplication.

(1) *Boundary and site survey.* The State agency shall provide a survey of the site and furnish a legal description of the site. 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. If required, the site survey shall show each of the following items:

(i) 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 specified. If there is nothing of this character affecting the property, the Surveyor shall so state on the drawings.

(ii) The point of beginning, bearing, distances, and interior angles. Closure computations shall be furnished with the survey, and error of closure shall not exceed 1 foot for each 10,000 feet of 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.

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

(iv) The location of all monuments.

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

(vi) The signature and certification of the Surveyor.

(2) *Soil investigation.* The State shall provide a soil investigation of the scope necessary to ascertain site characteristics for construction and burial or to determine foundation requirements and utility service connections. A new soil investigation is not required if one was done for a previously approved project on the same site and information from the previous investigation is adequate and unchanged. Soil investigation, when done, shall be documented in a signed report. The inves-

tigation shall be adequate to determine the subsoil conditions. 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. The following information will 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.

(iv) If the site is underlaid with mines, the elevations and location of the tops of the mine workings relative to the site, or old workings located in the vicinity.

(3) *Topographical survey.* A topographical survey in 1-foot contour intervals shall be prepared for projects establishing new cemeteries and for significant expansion projects in previously undeveloped land.

(c) *Master plan.* A master plan showing the proposed layout of all facilities—including buildings, roadways, and burial sections—on the selected site shall be prepared for all new cemetery establishment projects for approval by the SCGS. If the project is to be phased into different year programs, the phasing shall be indicated. The master plan shall analyze all factors affecting the design, including climate, soil conditions, site boundaries, topography, views, hydrology, environmental constraints, transportation access, etc. It should provide a discussion of alternate designs that were considered. In the case of an expansion project or improvement project, the work contemplated should be consistent with the VA-approved master plan or a justification for the deviation should be provided.

(d) *Preliminary or "design development" drawings.* Following VA approval of the master plan, the State must submit design development drawings that show all current phase construction elements to be funded by the grant.

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The drawings must comply with the following requirements:

(1) Site development and environmental plans must include locations of structures, demolition, parking, roads, service areas, walks, plazas, memorial paths, other paved areas, landscape buffer and major groupings, and interment areas (including quantity of gravesites in each area). A grading plan including existing and proposed contours at 1-foot intervals of the entire area affected by the site work must be submitted. A site plan of the immediate area around each building shall be drawn to a convenient scale and shall show the building floor plan, utility connections, walks, gates, walls or fences, flagpoles, drives, parking areas, indication of handicapped provisions, landscaping, north arrow, and any other appropriate items.

(2) 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.

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

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

(e) *Final construction drawings and specifications.* Funds for the construction of any project being assisted under this program will not be released until VA approves the final construction drawings and specifications. If VA approves them, VA shall send the State a written letter of approval indicating that the project's plans and specifications comply with the terms and conditions as prescribed by VA. This 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) *General.* The State shall prepare final working drawings so that clear and distinct prints may be obtained.

These drawings must be accurately dimensioned to include all necessary explanatory notes, schedules, and legends. Working drawings shall be complete and adequate for VA review and comment. The State shall prepare separate drawings for each of the following types of work: architectural, equipment, layout, structural, heating and ventilating, plumbing, and electrical.

(2) *Architectural drawings.* The State shall submit drawings which include: All structures and other work to be removed; all floor plans 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; and fully dimensioned floor plans at 1/8" or 1/4" scale.

(3) *Equipment drawings.* The State shall submit a list of all equipment to be provided under terms of the grant in the case of an Establishment Project. Large-scale drawings of typical special rooms indicating all fixed equipment and major items of furniture and moveable equipment shall be included.

(4) *Layout drawings.* The State shall submit a layout plan that shows:

(i) All proposed features such as roads, buildings, walks, utility lines, burial layout, etc.

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

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

(iv) Plant list with the following: key, quantity, botanical name, common name, size, and remarks.

(v) Typical tree and shrub planting details.

(vi) Areas to be seeded or sodded.

(vii) Areas to be mulched.

(viii) Gravesite section layout with permanent section monument markers and lettering system.

(ix) Individual gravesite layout and numbering system. If the cemetery is existing and the project is expansion or renovation, show available, occupied, obstructed, and reserved gravesites.

(x) Direction the headstones face.

(5) *Structural drawings.* The State shall submit complete foundation and framing plans and details, with general

notes to include: governing code, material strengths, live loads, wind loads, foundation design values, and seismic zone.

(6) *Mechanical drawings.* The State shall submit:

(i) Heating and ventilation drawings showing complete systems and details of air conditioning, heating, ventilation, and exhaust; and

(ii) 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.

(7) *Electrical drawings.* The State shall submit separate drawings for lighting and power, including drawings of:

(i) Service entrance, feeders, and all characteristics;

(ii) All panel, breaker, switchboard, and fixture schedules;

(iii) All lighting outlets, receptacles, switches, power outlets, and circuits; and

(iv) Telephone layout, fire alarm systems, and emergency lighting.

(8) *Final specifications.* Final specifications (to be used for bid purposes) shall be in completed format. Specifications shall include the invitations for bids, cover or 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.

(9) *Cost estimates.* The State shall 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. Estimates shall also be provided for each building structure and other important features such as the assembly area and shall include burial facilities.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0559)

§ 39.33 Conferences.

(a) *Predesign conference.* A predesign conference is required for all Establishment, Expansion, and Improvement Projects requiring major construction, primarily to ensure that the State agency becomes oriented to VA procedures, requirements, and any technical comments pertaining to the project. This conference will take place at an appropriate location near the proposed site and should include a site visit to ensure that all parties to the process, including NCA staff, are familiar with the site and its characteristics.

(b) *Additional conferences.* At any time, VA may recommend an additional conference (such as a design development conference) be held in VA Central Office in Washington, DC, to provide an opportunity for the State and its architects to discuss with VA officials the requirements for a grant.

(Authority: 38 U.S.C. 501, 2408)

§ 39.34 Application requirements.

(a) For an Establishment, Expansion, and Improvement Project to be considered for grant funding under this subpart, the State must submit an application (as opposed to a preapplication) consisting of the following:

(1) Standard Form 424 (Application for Federal Assistance) with the box labeled "application" marked;

(2) Standard Form 424C (Budget Information), which documents the amount of funds requested based on the construction costs as estimated by the successful construction bid;

(3) A copy of itemized bid tabulations (If there are non-VA participating areas, these shall be itemized separately.); and

(4) Standard Form 424D (Assurances—Construction Program).

(5) VA Form 40-0895-11 (Memorandum of Agreement for a Grant to Construct or Modify a State or Tribal Government Veterans Cemetery) to identify the parties (VA and applicant), identify the scope of the project, and indicate how the grant award funds will be paid to the applicant.

(6) VA Form 40-0895-12 (Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (Contractor)) to ensure that the contractor

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has not been debarred or suspended, and is eligible to participate in the VA grant process and receive Federal funds.

(b) Prior to submission of the application, the State must submit a copy of 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 (42 U.S.C. 4332). The Environmental Assessment must briefly describe the project's possible beneficial and harmful effects on the following impact categories:

- (1) Transportation;
- (2) Air quality;
- (3) Noise;
- (4) Solid waste;
- (5) Utilities;
- (6) Geology (Soils/Hydrology/Floodplains);
- (7) Water quality;
- (8) Land use;
- (9) Vegetation, Wildlife, Aquatic, Ecology/Wetlands, etc.;
- (10) Economic activities;
- (11) Cultural resources;
- (12) Aesthetics;
- (13) Residential population;
- (14) Community services and facilities;
- (15) Community plans and projects; and
- (16) Other.

(c) If an adverse environmental impact is anticipated, the State must explain what action will be taken to minimize the impact. The assessment shall comply with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 4040-0004, 4040-0008, 4040-0009, and 2900-0559)

§ 39.35 Final review and approval of application.

Following VA approval of bid tabulations and cost estimates, VA will review the complete Establishment, Expansion and Improvement Project grant application for approval in accordance with the requirements of § 39.30. If the application is approved, the grant will be awarded by a Memo-

randum of Agreement of Federal grant funds.

(Authority: 38 U.S.C. 501, 2408)

AWARD OF GRANT

§ 39.50 Amount of grant.

(a) The amount of an Establishment, Expansion, and Improvement Project grant awarded under this subpart may not exceed 100 percent of the total cost of the project, but may be less than the total cost of the project.

(b) The total cost of a project under this subpart may include:

(1) Administration and design costs, e.g., architectural and engineering fees, inspection fees, and printing and advertising costs.

(2) The cost of cemetery features, e.g., entry features, flag plaza and assembly areas, columbaria, preplaced liners or crypts, irrigation systems, committal-service shelters, and administration/maintenance buildings.

(3) In the case of an establishment grant, the cost of equipment necessary for the operation of the State veterans cemetery. This may include the cost of non-fixed equipment such as grounds maintenance equipment, burial equipment, and office equipment.

(4) In the case of an improvement or expansion grant, the cost of equipment necessary for operation of the State veterans cemetery, but only if such equipment:

(i) Was included in the construction contract;

(ii) Was installed during construction; and

(iii) Is permanently affixed to a building or connected to the heating, ventilating, air conditioning, or other service distributed through a building via ducts, pipes, wires, or other connecting device, such as kitchen and intercommunication equipment, built-in cabinets, and equipment lifts.

(5) A contingency allowance not to exceed five percent of the total cost of a project that involves new construction or eight percent of the total cost of an improvement project that does not involve new construction.

(c) The total cost of a project under this subpart may not include the cost of:

- (1) Land acquisition;

(2) Building space that exceeds the space guidelines specified in this part;

(3) Improvements not on cemetery land, such as access roads or utilities;

(4) Maintenance or repair work;

(5) Office supplies or consumable goods (such as fuel and fertilizer) that are routinely used in a cemetery; or

(6) Fully enclosed, climate-controlled, committal-service facilities, freestanding chapels, or chapels that are part of an administrative building or information center.

(d) VA shall certify approved applications to the Secretary of the Treasury in the amount of the grant, and shall designate the appropriation from which it shall be paid. Funds paid for the establishment, expansion, or improvement of a veterans cemetery must be used solely for carrying out approved projects.

(Authority: 38 U.S.C. 501, 2408)

§ 39.51 Payment of grant award.

The amount of an Establishment, Expansion, and Improvement Project grant award will be paid to the State or, if designated by the State representative, the State veterans cemetery for which such project is being carried out, or any other State agency or instrumentality. Such amount shall be paid by way of reimbursement, and in installments that are consistent with the progress of the project, as the Director of the State Cemetery Grants Service may determine and certify for payment to the appropriate Federal institution. Funds paid under this section for an approved Establishment, Expansion, and Improvement Project shall be used solely for carrying out such project as approved. As a condition for the final payment, the State representative must submit to VA the following:

(a) Standard Form 271 (Outlay Report and Request for Reimbursement for Construction Programs);

(b) A request in writing for the final architectural/engineering inspection, including the name and telephone number of the local point of contact for the project;

(c) The written statement, "It is hereby agreed that the monetary commitment of the Federal government will have been met and the project will

be considered terminated upon payment of this voucher."; and

(d) Evidence that the State has met its responsibility for an audit under the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*) and § 39.122, if applicable.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 0348-0002)

STANDARDS AND REQUIREMENTS

§ 39.60 General requirements for site selection and construction of veterans cemeteries.

(a) The various codes, requirements, and recommendations of State and local authorities or technical and professional organizations, to the extent and manner in which those codes, requirements, and recommendations are referenced in this subpart, are applicable to grants involving construction of veterans cemeteries. Additional information concerning these codes, requirements, and recommendations may be obtained from VA, National Cemetery Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

(b) The standards in §§ 39.60, 39.61, 39.62, and 39.63 constitute general design and construction criteria and shall apply to all Establishment, Expansion, and Improvement Projects for which Federal assistance is requested under 38 U.S.C. 2408.

(c) In developing these standards, no attempt has been made to comply with all of the various State and local codes and regulations. The standards contained in §§ 39.60, 39.61, 39.62, and 39.63 shall be followed where they exceed State or local codes and regulations. Departure will be permitted, however, when alternate standards are demonstrated to provide equivalent or better design criteria than the standards in these sections. Conversely, compliance is required with State and local codes where such requirements provide a standard higher than those in these sections. The additional cost, if any, in using standards that are higher than those of VA should be documented and justified in the application.

(d) The space criteria and area requirements referred to in these standards shall be used as a guide in planning. Additional area and facilities beyond those specified as basic may be included if found to be necessary to meet the functional requirements of the project but are subject to approval by VA. Substantial deviation from the space criteria or area standards shall be carefully considered and justified. Failing to meet the criteria or standards or exceeding them 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. In those projects that unjustifiably exceed maximum space criteria or area requirements, VA funding may be subject to reduction in proportion to the amount by which the space or area of the cemetery exceeds the maximum specified in these standards.

(Authority: 38 U.S.C. 501, 2408)

§ 39.61 Site planning standards.

(a) *Site selection*—(1) *Location*. The land should be located as close as possible to the densest veteran population in the area under consideration.

(2) *Size*. Sufficient acreage shall be available to provide gravesites for estimated needs for at least 20 years. More acreage should be provided where feasible. Acreage could vary depending on the State veteran population and national cemetery availability.

(3) *Accessibility*. The site should be readily accessible by highway. Offsite improvements shall not be funded by the grant.

(4) *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 shall not be subject to flooding.

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

(6) *Soil requirements*. The soil should be free from rock, muck, unstable composition, 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 turf and trees, with normal care and without the addition of topsoil.

(7) *Utilities*. Electricity and gas, if required, should be available. Offsite improvements shall not be funded by the grant.

(8) *Water supply*. An adequate supply of water should be available. Offsite improvements shall not be funded by the grant.

(9) *Sewerage*. An approved means to dispose of storm flow and sewage from the facility should be available. Offsite improvements shall not be funded by the grant.

(b) *Site development requirements*—(1) *General*. The development plan shall provide for adequate hard-surfaced roads, walks, parking areas, public rest rooms, a flag circle, and a main gate.

(2) *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 1 handicapped space to every 20 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. Parking shall not be provided for large numbers of people attending ceremonial events such as Memorial Day services.

(3) *Roads*. Roads should generally follow the topography of the cemetery and allow pedestrian access to burial sections on both sides. Roads should generally not be used as “boundaries” outlining burial sections. Extensive bridging should be avoided. Grant program funding may not be used to build access roads on property that is not part of the cemetery. Road widths shall be compatible with proposed traffic flows and volumes. Primary roads shall be generally 24 feet wide.

(4) *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.

(5) *Curbs.* Bituminous roads may be provided with integral curbs and gutters constructed of portland cement concrete. Freestanding 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. The radii of curbs at road intersections shall not be less than 20 feet-0 inches. Curb ramps shall be provided to accommodate the physically handicapped and maintenance equipment. 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 nonskid surfaces.

(6) *Walks.* Walks shall be designed with consideration for the physically handicapped and elderly. Walks and ramps designed on an incline shall have periodic level platforms. All walks, ramps and platforms shall have nonskid surfaces. Any walk shall be ramped if the slope exceeds 3 percent. Walks that have gradients 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.

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

(8) *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.

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

(10) *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.

(11) *Burial areas.* 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. The first phase of construction should contain sufficient burial sites to meet the foreseeable demand for at least 10 years. All applicable dimensions of roadways, fences, utilities, or other structures shall be indicated on the layout.

(12) *Gravesites.* Gravesites shall be laid out in uniform pattern. There shall 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 distance from the edge of a permanent road to any gravesite shall not be over 275 feet. Temporary roads may be provided to serve areas in phase developments.

(13) *Monumentation.* Each grave shall be marked with an appropriate marker, and each cemetery shall maintain a register of burials setting forth the name of each person buried and the designation of the grave in which he/she is buried. Permanent gravesite control markers shall 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.

(14) *Entrance.* The entrance should be an architectural or landscape feature that creates a sense of arrival.

(15) *Memorial walkway.* Each cemetery should have an area for the display of memorials donated by veterans groups and others. Such areas may take the form of a path or walkway and should provide a contemplative setting for visitors.

(16) *Donation items.* Family members and others often wish to donate items such as benches and trees. Acceptable items of donation should be specified in the cemetery plan. The plan should also designate appropriate locations for such items.

(17) *Flag/assembly area.* There shall be one primary flagpole for the United States flag. This flag shall be lighted. A turf assembly area should be developed for major gatherings such as Memorial Day. The assembly area may be focused on the flag. The area may also incorporate an architectural or a landscape feature that functions as a platform or backdrop for speakers.

(18) *Site furnishings.* Site furnishings include signage, trash receptacles, benches, and flower containers. These items should be coordinated and complement each other, the architectural design, and the cemetery as a whole. They should be simple, durable, standardized, and properly scaled.

(19) *Carillons.* The cemetery development plan should include a location for a carillon tower. Carillons are normally donated. They are not provided for in the grant.

(Authority: 38 U.S.C. 501, 2408)

§39.62 Space criteria for support facilities.

These criteria are based on a projected average burial rate of one to six per day, staffing by position, and a defined complement of 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 §39.60(d). In converting Net Square Feet (NSF) to Gross Square

Feet (GSF), 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 Full Time Employees (FTE) by job assignment for the next 10 years.

(a) *Administrative building.* The administrative building should be approximately 1,600 NSF in total, providing space, as needed, for the following:

- (1) Cemetery director's office;
- (2) Other offices (as needed);
- (3) Administrative staff (lobby/office area);
- (4) Operations (file/office/equipment/work area);
- (5) Family/conference room;
- (6) Military honors team;
- (7) Refreshment unit;
- (8) Housekeeping aide's closet; and
- (9) Restroom facilities.

(b) *Maintenance/service building.* The maintenance/service building may be combined with the administrative building. The maintenance/service building should be approximately 2,200 NSF in total, providing heated and air conditioned space, as needed, for the following:

- (1) Foreman's office;
- (2) Lunch room;
- (3) Kitchen unit;
- (4) Toilet and locker room facilities;
- (5) Housekeeping aide's closet; and
- (6) Vehicle and equipment maintenance and storage.

(c) *Vehicle and equipment storage.* Approximately 275 NSF/Bay as needed. Not all types of vehicles and equipment require storage in heated space. Based on climatic conditions, it may be justified to rely completely on open structures rather than heated structures to protect the following types of vehicles and equipment: Dump trucks, pickup trucks, cemetery automobiles, gang and circular mowers.

(d) *Interment/committal service shelter.* One permanent shelter is authorized for every five interments per day. The shelter may include a covered area to provide seating for approximately 20 people and an uncovered paved area to provide space for approximately 50 additional people. The shelter may also

include a small, enclosed equipment/storage area. Provisions must be made for the playing of Taps by recorded means.

(e) *Public Information Center.* One permanent Public Information Center is authorized per facility. A Public Information Center is used to orient visitors and funeral corteges. It should include the gravesite locator. The public restrooms may also be combined with this structure. Space determinations for separate structures for public restrooms shall be considered on an individual basis. The Public Information Center, including public restrooms, may be combined with the administrative building.

(f) *Other interment structures.* Space determinations for other support facilities such as columbaria, preplaced graveliners (or crypts), garden niches, etc., will be considered on an individual basis in accordance with § 39.60(d).

(Authority: 38 U.S.C. 501, 2408)

§ 39.63 Architectural design standards.

The publications listed in this section are incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be inspected at the office of the State Cemetery Grants Service, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. Copies of the 2003 edition of the National Fire Protection Association Life Safety Code and Errata (NFPA 101), the 2003 edition of the NFPA 5000, Building Construction and Safety Code, and the 2002 edition of the National Electrical Code, NFPA 70, may be obtained from the National Fire Protection Association, Inc. (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101, 800-844-6058 (toll free). Copies of the 2003 edition of the Uniform Mechanical Code and the 2003 edition of the Uni-

form Plumbing Code may be obtained from the International Association of Plumbing and Mechanical Officials, 5001 E. Philadelphia Street, Ontario, CA 91761-2816. 909-472-4100 (this is not a toll-free number). The 2002 and 2003 NFPA and IAPMO code publications can be inspected at VA by calling 202-461-4902 for an appointment.

(a) *Architectural and structural requirements—(1) Life Safety Code.* Standards must be in accordance with the 2003 edition of the National Fire Protection Association Life Safety Code, NFPA 101. Fire safety construction features not included in NFPA 101 shall be designed in accordance with the requirements of the 2003 edition of the NFPA 5000, Building Construction and Safety Code. Where the adopted codes state conflicting requirements, the NFPA National Fire Codes shall govern.

(2) *State and local codes.* In addition to compliance with the standards set forth in this section, 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 2003 edition of the NFPA 5000, Building Construction and Safety Code, shall apply.

(3) *Occupational safety and health standards.* Applicable standards contained in the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*) must be observed.

(b) *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. Where no local or State codes are in force, the 2003 edition of the Uniform Mechanical Code shall apply.

(c) *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 local or State codes are in force, the 2003 edition of the Uniform Plumbing Code shall apply.

(d) *Electrical requirements.* The installation of electrical work and equipment shall comply with all local and

State codes and laws applicable to electrical installations and the minimum general standards set forth in the NFPA 70, National Electrical Code, 2002 edition. The regulations of the local utility company shall govern service connections. Aluminum bus ways shall not be used as a conducting medium in the electrical distribution system.

(Authority: 38 U.S.C. 501, 2408)

Subpart C—Operation and Maintenance Projects

GRANT REQUIREMENTS AND PROCEDURES

§39.80 General requirements for a grant.

(a) For a State to obtain a grant for the operation or maintenance of a State veterans cemetery:

(1) Its preapplication for the grant must be approved by VA under §39.81(e);

(2) Its project must be ranked sufficiently high within Priority Group 4 as defined in §39.3 for the applicable fiscal year so that funds are available for the project, and a grant for the project must not result in payment of more than the \$5 million total amount permissible for all Operation and Maintenance Projects in any fiscal year;

(3) Its plans and specifications for the project must be approved by VA under §39.82;

(4) The State must meet the application requirements in §39.84; and

(5) Other requirements specified in §§39.6, 39.10, and 39.83 must be satisfied.

(b) VA may approve under §39.85 any Operation and Maintenance Project grant application up to the amount of the grant requested once the requirements under paragraph (a) of this section have been satisfied, provided that sufficient funds are available and that total amount of grants awarded during any fiscal year for Operation and Maintenance Projects does not exceed \$5 million. In determining whether sufficient funds are available, VA shall consider the project's ranking in Priority Group 4; the total amount of funds available for cemetery grant awards in Priority Group 4 during the applicable fiscal year; and the prospects of higher ranking projects being ready for the

award of a grant before the end of the applicable fiscal year.

(Authority: 38 U.S.C. 501, 2408)

§39.81 Preapplication requirements.

(a) A State seeking a grant for the operation or maintenance of a State veterans cemetery must submit a preapplication to the Director, State Cemetery Grants Service, through http://www.cem.va.gov/cem/scg_grants.asp.

(b) No detailed drawings, plans, or specifications are required with the preapplication. As a part of the preapplication, the State must submit each of the following:

(1) Standard Form 424 (Application for Federal Assistance) and Standard Form 424C (Budget Information) signed by the authorized representative of the State. These forms document the amount of the grant requested, which may not exceed 100 percent of the estimated cost of the project to be funded with the grant.

(2) VA Form 40-0895-2 (Certification of Compliance with Provisions of the Davis-Bacon Act) to certify that the State has obtained the latest prevailing wage rates for Federally funded projects. Any construction project fully or partially funded with Federal dollars must comply with those rates for specific work by trade employees (e.g., electricians, carpenters).

(3) VA Form 40-0895-6 (Certification of State or Tribal Government Matching Architectural and Engineering Funds to Qualify for Group 1 on the Priority List) to provide documentation that the State has legislative authority to support the project and the resources necessary to initially fund the architectural and engineering portion of the project development. Once the grant is awarded, VA will reimburse the applicant for all allowable architectural and engineering costs.

(4) VA Form 40-0895-7 (Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions (State or Tribal Government)) to ensure that the applicant has not been debarred or suspended, and is eligible to participate in the VA grant process and receive Federal funds.

(5) VA Form 40-0895-8 (Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals) to ensure that the applicant complies with the Drug-Free Workplace Act of 1988 at the location where the construction will occur.

(6) VA Form 40-0895-9 (Certification Regarding Lobbying) to ensure that the applicant complies with Public Law 101-121 regarding the prohibition against any payments to anyone that influences or attempts to influence an officer or Member of Congress in connection with the award of a grant.

(7) VA Form 40-0895-10 (Certification of Compliance with Federal Requirements—State or Tribal Government Construction Grant) to ensure that the applicant complies with all requirements of part 39.

(8) VA Form 40-0895-15 (Certification of Cemetery Maintained in Accordance with National Cemetery Administration Standards) to ensure that any cemetery operated or maintained through a grant will be operated and maintained in accordance with VA's national shrine standards of appearance.

(9) A gravesite assessment survey documenting the State cemetery's performance related to the standards outlined in paragraph (b)(10) of this section for the year in which the preapplication is submitted.

(10) A program narrative describing how the project will assist the State in meeting VA's national shrine standards with respect to cleanliness, height and alignment of headstones and markers, leveling of gravesites, or turf conditions. Specifically, the preapplication should explain the need for the grant, how the work is to be accomplished, and the expected improvement in the State cemetery's performance related to one or more of the following national shrine standards:

(i) *Cleanliness.* 90 percent of headstones, markers, and niche covers must be clean and free of debris and objectionable accumulations.

(ii) *Height.* 90 percent of headstones and markers must be set and maintained at the proper height.

(iii) *Alignment.* 100 percent of headstones, markers, and niche covers must be properly installed. Upright

headstones in active burial sections must be uniform in height (24"-26" above ground), horizontally and vertically aligned with inscriptions visible, and installed to ensure a pleasing top line while compensating for ground contours. Flat markers must be uniform in height (parallel with the ground and no more than 1" above grade) and horizontally and vertically aligned. Niche covers must be horizontally and vertically aligned. All inscriptions must be visible.

(iv) *Grade.* 95 percent of the grade of every gravesite must blend in with adjacent grade levels.

(v) *Turf conditions.* 100 percent of visually prominent areas must have a well-established, healthy stand of turf that is generally weed free; 95 percent of visually prominent areas with established turf must be generally free of bare areas.

(11) A description of the geographic location of the existing State cemetery and any other supporting documentation, as requested by the SCGS Director.

(12) A description of the project including the number and types of headstones and markers that need to be cleaned and aligned, a description of the gravesites that need to be leveled, and a description of the turf conditions that need to be improved to meet VA's national shrine standards.

(c) In addition, the State must submit written assurance of each of the following conditions:

(1) Any cemetery in receipt of a grant under this subpart will be used exclusively for the interment or memorialization of eligible persons, as set forth in §39.10(a), whose interment or memorialization is not contrary to the conditions of the grant (see §39.10(b) and 38 U.S.C. 2408(d) and 2411).

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

(3) The State possesses legal authority to apply for the grant.

(4) The State will obtain approval by VA of the final specifications before the project is advertised or placed on the market for bidding; the project will achieve VA's national shrine standards with respect to cleanliness, height and alignment of headstones and markers,

leveling of gravesites, or turf conditions in accordance with the application and approved plans and specifications; the State will submit to the Director of the State Cemetery Grants Service, for prior approval, changes that alter any cost of the project; and the State will not enter into a contract for the project or undertake other activities until all the requirements of the grant program have been met.

(d) Depending on the scope of the project, the SCGS will work with the State to determine which, if any, of the following are required:

(1) Compliance with section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 *et seq.*).

(2) Compliance with the Federal requirements in 2 CFR parts 180 and 801 and 38 CFR part 43 and submission of Standard Form 424D (Assurances—Construction Programs).

(3) A site Environmental Assessment to determine whether an Environmental Impact Statement will be necessary as a result of the work to be performed on the headstones and markers, gravesites, or turf conditions.

(e) Upon receipt of a complete preapplication for a grant, including all necessary assurances and all required supporting documentation, VA will determine whether the preapplication conforms to all requirements listed in paragraphs (a) through (d) of this section, including whether it contains sufficient information necessary to establish the project's priority. VA will notify the State of any nonconformity. If the preapplication does conform, VA shall notify the State that the preapplication has been found to meet the preapplication requirements, and the proposed project will be included in the next scheduled ranking of projects, as indicated in § 39.3(d).

(Authority: 38 U.S.C. 501, 2408, 2411)

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 4040-0004, 4040-0008, 4040-0009, and 2900-0559)

§ 39.82 Plan preparation.

(a) The State must successfully complete its plan preparation under this section before submitting a grant application for an Operation and Maintenance Project. The State may be required to undertake some or all of the following requirements of this section. After submitting all necessary plans and specifications to the SCGS and obtaining approval for the State to solicit for the Operation and Maintenance Project contract bids, the State shall:

(1) Obtain bids and determine the successful bidder;

(2) Establish procedures for determining that costs are reasonable and necessary and can be allocated in accordance with the provisions of OMB Circular No. A-87 and submit documentation of such determinations to VA; and

(3) Comply with the uniform requirements for grants-in-aid to State and local governments prescribed by OMB Circular No. A-102, Revised.

(b) Depending on the scope of the project, the SCGS will work with the State to determine which of the following will be required prior to submission of an application. As determined by VA, these may include:

(1) A boundary and site survey comprising a survey and legal description of the existing State cemetery site;

(2) Project drawings indicating the cemetery section(s) to be impacted by the Operation and Maintenance Project, gravesite section layout with permanent section monument markers and lettering system, and the total number of gravesites to be impacted;

(3) Project specifications (to be used for bid purposes), which shall include the invitation for bid, cover or title sheet, index, general requirements, form of bid bond, form of agreement, performance and payment bond forms, and detailed descriptions of materials and workmanship for the work to be performed to meet VA's national shrine standards;

(4) A detailed estimate of the total cost of the work to be performed under the contract; or

(5) A site Environmental Assessment meeting the provisions of § 39.34(b) 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 (42 U.S.C. 4332), as a result of the work to be performed on the headstones and markers, gravesites, or turf conditions.

(c) If VA determines that the project's plans and specifications comply with the terms and conditions prescribed by VA, VA will send the State a written letter of approval indicating that the project's plans and specifications comply with the terms and conditions as prescribed by VA. This 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.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirement in this section under control number 2900–0559)

§ 39.83 Conferences.

(a) *Planning conference.* The SCGS may require planning conferences for Operation and Maintenance Projects, primarily to ensure that the State agency becomes oriented to VA's national shrine standards, procedures, requirements, and any technical comments pertaining to the project. These conferences will normally occur over the telephone.

(b) *Additional conferences.* At any time, VA may recommend an additional telephone conference to provide an opportunity for the State to discuss with VA officials the requirements for an Operation and Maintenance Project grant.

(Authority: 38 U.S.C. 501, 2408)

§ 39.84 Application requirements.

For an Operation and Maintenance Project to be considered for grant funding under this subpart, the State must submit an application (as opposed to a preapplication) consisting of the following:

(a) Standard Form 424 (Application for Federal Assistance) with the box labeled "application" marked;

(b) Standard Form 424C (Budget Information), which documents the amount of funds requested based on the construction costs as estimated by the successful construction bid;

(c) A copy of itemized bid tabulations; and

(d) Standard Form 424D (Assurances—Construction Program).

(e) VA Form 40–0895–11 (Memorandum of Agreement for a Grant to Construct or Modify a State or Tribal Government Veterans Cemetery) to identify the parties (VA and applicant), identify the scope of the project, and indicate how the grant award funds will be paid to the applicant.

(f) VA Form 40–0895–12 (Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (Contractor)) to ensure that the contractor has not been debarred or suspended, and is eligible to participate in the VA grant process and receive Federal funds.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 4040–0002, 4040–0008, 4040–0009, and 2900–0559)

§ 39.85 Final review and approval of application.

Following VA approval of bid tabulations and cost estimates, the complete Operation and Maintenance Project grant application will be reviewed for approval in accordance with the requirements of § 39.80. If the application is approved, the grant will be awarded by a Memorandum of Agreement of Federal grant funds.

(Authority: 38 U.S.C. 501, 2408)

AWARD OF GRANT

§ 39.100 Amount of grant.

(a) The amount of an Operation and Maintenance Project grant awarded under this subpart may not exceed 100 percent of the total cost of the project, but may be less than total cost of the project.

(b) The total cost of a project under this subpart may include any or all of the following costs:

(1) Administration and design costs, e.g., architectural and engineering fees,

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inspection fees, and printing and advertising costs.

(2) Construction costs.

(3) The cost of VA-approved equipment that is necessary for the completion of the project.

(c) The total cost of a project under this subpart may not include the cost of any of the following:

(1) Land acquisition;

(2) Buildings of any type;

(3) Improvements not on cemetery land, such as access roads or utilities;

(4) Office supplies or consumable goods (such as fuel and fertilizer) that are routinely used in a cemetery; or

(5) Project contingency costs.

(d) VA shall certify approved applications to the Secretary of the Treasury in the amount of the grant, and shall designate the appropriation from which it shall be paid. Funds paid for the operation and maintenance of a veterans cemetery must be used solely for carrying out approved projects.

(Authority: 38 U.S.C. 501, 2408)

§39.101 Payment of grant award.

The amount of an Operation and Maintenance Project grant award will be paid to the State or, if designated by the State representative, the State veterans cemetery for which such project is being carried out, or any other State agency or instrumentality. Such amount shall be paid by way of reimbursement and in installments that are consistent with the progress of the project, as the Director of the State Cemetery Grants Service may determine and certify for payment to the appropriate Federal institution. Funds paid under this section for an approved Operation and Maintenance Project shall be used solely for carrying out such project as approved. As a condition for the final payment, the State representative must submit to VA each of the following:

(a) Standard Form 271 (Outlay Report and Request for Reimbursement for Construction Programs);

(b) A report on the project accomplishments in accordance with §39.120 and a request in writing for the final architectural/engineering inspection, including the name and telephone number of the local point of contact for the project;

(c) The written statement, "It is hereby agreed that the monetary commitment of the Federal government will have been met and the project will be considered terminated upon payment of this voucher."; and

(d) Evidence that the State has met its responsibility for an audit under the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*) and §39.122.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 0348-0002)

Subpart D—Grant Recipient Responsibilities, Inspections, and Reports Following Project Completion

§39.120 Documentation of grant accomplishments.

Within 60 days of completion of an Operation and Maintenance Project, the State must submit to SCGS a written report regarding the work performed to meet VA's national shrine standards. This report must be based on the original justification for the grant as noted in §39.81(b)(10) and must include statistical data and detailed pictures of the work accomplished.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirement in this section under control number 2900-0559)

§39.121 State responsibilities following project completion.

(a) A State that has received an Establishment, Expansion, and Improvement Project grant or an Operation and Maintenance Project grant shall monitor use of the cemetery by various subgroups and minority groups, including women veterans. If VA determines that under-utilization by any of these groups exists, the State shall establish a program to inform members of these groups about benefits available to them. If a significant number or portion of the population eligible to be served or likely to be directly affected by the grant program needs benefits information in a language other than

English, the State shall make such information available in the necessary language.

(b) A State veterans cemetery that has received an Establishment, Expansion, and Improvement Project grant or an Operation and Maintenance Project grant 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 users.

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

(c) VA, in coordination with the State, shall inspect the project for compliance with the standards set forth in subpart B of this part for Establishment, Expansion, and Improvement Projects and with the standards set forth in subpart C of this part for Operation and Maintenance Projects at the project's completion and at least once in every 3-year period following completion of the project throughout the period the facility is operated as a State veterans cemetery. The State shall forward to the Director, State Cemetery Grants Service, a copy of the inspection report, giving the date and location the inspection was made and citing any deficiencies and corrective action to be taken or proposed.

(d) Failure of a State to comply with any of paragraphs (a) through (c) of this section shall be considered cause for VA to suspend any payments due the State on any project until the compliance failure is corrected.

(Authority: 38 U.S.C. 501, 2408; and E.O. 13166, 65 FR 50121)

§ 39.122 Inspections, audits, and reports.

(a) A State will allow VA inspectors and auditors to conduct inspections as necessary to ensure compliance with the provisions of this part. The State will provide to VA evidence that it has met its responsibility under the Single Audit Act of 1984 (see part 41 of this chapter).

(b) A State will make an annual report on VA Form 40-0241 (State Cemetery Data) signed by the authorized representative of the State. These forms document current burial activity

at the cemetery, use of gravesites, remaining gravesites, and additional operational information intended to answer questions about the status of the grant program.

(c) A State will complete and submit to VA a VA Form 40-0895-13 (Certification Regarding Documents and Information Required for State or Tribal Government Cemetery Construction Grants-Post Grant Requirements) to ensure that the grantee is aware of and complies with all grant responsibilities and to properly and timely close out the grant.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0559)

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

Sec.

- 40.1 Purpose.
- 40.2 Definitions.
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- 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.
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- 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.