§ 59.40 Maximum number of nursing home care and domiciliary care beds for veterans by State.

(a) Except as provided in paragraph (b) of this section, a state may not request a grant for a project to construct or acquire a new state home facility, to increase the number of beds available at a state home facility, or to replace beds at a state home facility if the project would increase the total number of state home nursing home and domiciliary beds in that state beyond the maximum number designated for that state, as shown in the following chart. The provisions of 38 U.S.C. 8134 require VA to prescribe for each state the number of nursing home and domiciliary beds for which grants may be furnished (i.e., the unmet need). A state’s unmet need for state home nursing home and domiciliary beds is the number in the following chart for that state minus the sum of the number of nursing home and domiciliary beds in operation at state home facilities and the number of state home nursing home and domiciliary beds not yet in operation but for which a grant has either been requested or awarded under this part.

(b) A State may request a grant for a project that would increase the total number of State nursing home and domiciliary beds beyond the maximum number for that State, if the State submits to VA documentation to establish a need for the exception based on travel distances of at least two hours (by land transportation or any other usual mode of transportation if land transportation is not available) between a veteran population center sufficient for the establishment of a State home and any existing State home. The determination regarding a request

<table>
<thead>
<tr>
<th>State</th>
<th>Maximum number of state home, nursing home &amp; domiciliary beds based on 2020 projections</th>
</tr>
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<tbody>
<tr>
<td>Alabama</td>
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<td>N. Mariana Islands</td>
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§ 59.50 Priority list.

(a) The Secretary will make a list prioritizing the applications that were received on or before August 15 and that were approved under §59.20 of this part. Except as provided in paragraphs (b) and (c) of this section, applications will be prioritized from the highest to the lowest in the following order:

(i) **Priority group 1.** An application from a State that has made sufficient funds available for the project for which the grant is requested so that such project may proceed upon approval of the grant without further action required by the State (such as subsequent issuance of bonds) to make such funds available for the project. To meet this criteria, the State must provide to VA a letter from an authorized State budget official certifying that the State funds are, or will be, available for the project, so that if VA awards the grant, the project may proceed without further State action to make such funds available (such as further action to issue bonds). If the certification is based on an Act authorizing the project and making available the State’s matching funds for the project, a copy of the Act must be submitted with the certification.

(ii) **Priority group 1—subpriority 2.** An application from a State that has not previously applied for a grant under 38 U.S.C. 8131–8137 for construction or acquisition of a State nursing home. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(iii) **Priority group 1—subpriority 3.** An application for construction or acquisition of a nursing home or domiciliary from a State that has a great need for the beds that the State, in that application, proposes to establish. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(iv) **Priority group 1—subpriority 4.** An application for renovations to a State Home facility other than renovations that would be included in subpriority 1 of Priority group 1. Projects will be further prioritized in the following order: adult day health care construction; nursing home construction (e.g., patient privacy); code compliance under the Americans with Disabilities Act; building systems and utilities (e.g., electrical; heating, ventilation, and air conditioning (HVAC); boiler; medical gases; roof; elevators); clinical-support facilities (e.g., for dietetics, laundry, rehabilitation therapy); and general renovation/upgrade (e.g., warehouse, storage, administration/office, multipurpose). Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(v) **Priority group 1—subpriority 5.** An application for construction or acquisition of a nursing home or domiciliary from a State that has a significant building compartmentalization (e.g., smoke barrier, fire walls); fire alarm/detection; asbestos/hazardous materials; and all other projects. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).