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38 CFR Ch. I (7–1–11 Edition)

(5) Expenses incurred in the administration of an educational program which are costs properly chargeable as tuition costs, such as the development of course material or individual educational programs, teacher training or teacher improvement activities, expenses of coordinators, or administrative costs, such as those involving selection and employment of teachers. (This does not preclude reimbursement for expenses of the State agency incurred in the development of standards and criteria for the approval of courses under the law.)

(6) Expenses of a State approving agency for inspecting, approving or supervising courses when the agency is responsible for establishing, conducting or supervising those courses.

(7) Any expense for supervision or other services to be covered by contract which are already being reimbursed or paid from tuition funds under this law.

(e) *Agency operating plan.* A request by a State approving agency for reimbursement under the law will be subject to the requirements of 41 CFR 8–7.5101–8 as to “Equal Opportunity”. The request will be accompanied by the proposed plan of operation and the specific duties and responsibilities of all personnel for which reimbursement of salaries and travel expense is required.

(1) The Department of Veterans Affairs will determine personnel requirements for which the Department of Veterans Affairs provides reimbursement on the basis of estimated workloads agreed upon between the Department of Veterans Affairs and the State agency. Agreements are subject to review and adjustment.

(2) Workloads will be determined upon three factors:

- (i) Inspection and approval visits,
- (ii) Supervisory visits, and
- (iii) Special visits at the request of the Department of Veterans Affairs.

(f) *Contract compliance.* Reimbursement under each contract or agreement is conditioned upon compliance with the standards and provisions of the contract and the law. If the Contracting Officer determines that the State has failed to comply with the standards or provisions of the law or with terms of the reimbursement con-

tract, he or she will withhold reimbursement for claimed expenses under the contract. If the State disagrees, the State may request the Contracting Officer to reconsider his or her decision or may initiate action under the Disputes clause of the contract. See 48 CFR 801.602.

(Authority: 38 U.S.C. 3674)

(g) *Contract disputes.* The State approving agency reimbursement contract is subject to the Contract Disputes Act of 1978. Disputes arising under, or relating to, the contract will be resolved in accordance with the disputes article of the contract and with appropriate procurement regulations.

(Authority: 41 U.S.C. 602)

[31 FR 6774, May 6, 1966, as amended at 40 FR 42880, Sept. 17, 1975; 43 FR 35296, Aug. 9, 1978; 44 FR 62498, Oct. 31, 1979; 48 FR 37983, Aug. 22, 1983; 51 FR 16316, May 2, 1986; 54 FR 49757, Dec. 1, 1989; 61 FR 20728, May 8, 1996; 61 FR 26114, May 24, 1996; 72 FR 16969, Apr. 5, 2007; 74 FR 14667, Mar. 31, 2009]

§21.4154 Report of activities.

(a) *State approving agencies must report their activities.* Each State approving agency entering into a contract or agreement under §21.4153 of this part must submit a report of its activities to VA. The report may be submitted monthly or quarterly by the State approving agency as provided in the contract or agreement.

(Authority: 38 U.S.C. 3674; Pub. L. 100–323)

(b) *Content of the report.* The report:

(1) Shall be in the form prescribed by the Secretary;

(2) Shall detail the activities of the State approving agencies under the agreement or contract during the preceding month or quarter, as appropriate;

(3) May include, at the option of the State approving agency, a cumulative report of its activities from the beginning of the fiscal year to date;

(4) Shall describe the services performed and the determination made in supervising and ascertaining the qualifications of educational institutions in connection with the programs of the Department of Veterans Affairs; and

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(5) Shall include other information as the Secretary may prescribe.

(Authority: 38 U.S.C. 3674)

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900-0051)

[49 FR 26227, June 27, 1984, as amended at 54 FR 49757, Dec. 1, 1989; 57 FR 28087, June 24, 1992; 72 FR 16969, Apr. 5, 2007]

§ 21.4155 Evaluations of State approving agency performance.

(a) *Annual evaluations required.* (1) VA shall conduct in conjunction with State approving agencies an annual evaluation of each State approving agency. The evaluation shall be based on standards developed by VA with State approving agencies. VA shall provide each State approving agency an opportunity to comment upon the evaluation.

(2) VA shall take into account the result of the annual evaluation of a State approving agency when negotiating the terms and conditions of a contract or agreement as provided in § 21.4153(a) of this part.

(Authority: 38 U.S.C. 3674A(a); Pub. L. 100-323)

(b) *Development of a training curriculum.* (1) VA shall cooperate with State approving agencies in developing and implementing a uniform national curriculum, to the extent practicable, for—

(i) Training new employees of State approving agencies, and

(ii) Continuing the training of the employees of the State approving agencies.

(2) VA with the State approving agencies shall sponsor the training and continuation of training provided by this paragraph.

(Authority: 38 U.S.C. 3674A; Pub. L. 100-323)

(c) *Development, adoption and application of qualification and performance standards for employees of State approving agencies.* (1) VA shall:

(i) Develop with the State approving agencies prototype qualification and performance standards;

(ii) Prescribe those standards for State approving agency use in the de-

velopment of qualification and performance standards for State approving agency personnel carrying out approval responsibilities under a contract or agreement as provided in § 21.4153(a) of this part; and

(iii) Review the prototype qualification and performance standards with the State approving agencies no less frequently than once every five years.

(2) In developing and applying standards described in paragraph (d)(1) of this section, a State approving agency may take into consideration the State's merit system requirements and other local requirements and conditions. However, no State approving agency may develop, adopt or apply qualification or performance standards that do not meet the requirements of paragraph (d)(3) of this section.

(3) The qualification and performance standards adopted by the State approving agency shall describe a level of qualification and performance which shall equal or exceed the level of qualification and performance described in the prototype qualification and performance standards developed by VA with the State approving agencies. The State approving agency may amend or modify its adopted qualification and performance standards annually as circumstances may require.

(4) VA shall provide assistance in developing these standards to a State approving agency that requests it.

(5) After November 19, 1989, each State approving agency carrying out a contract or agreement with VA under § 21.4153(a) shall:

(i) Apply qualification and performance standards based on the standards developed under this paragraph, and

(ii) Make available to any person, upon request, the criteria used to carry out its functions under a contract or agreement entered into under § 21.4153(a) of this part.

(6) A State approving agency may not apply these standards to any person employed by the State approving agency on May 20, 1988, as long as that