

(2) The 2101(b) grant is available to individuals with permanent and total service-connected disability who have been rated as being entitled to compensation under 38 U.S.C. chapter 11 for any of the following conditions:

- (i) Blindness in both eyes with 5/200 visual acuity or less;
- (ii) Anatomical loss, or loss of use, of both hands; or
- (iii) Any other injury identified as eligible for assistance under 38 U.S.C. § 2101(b).

(3) The TRA grant is available to individuals with permanent and total service-connected disability who have been rated as being entitled to compensation under 38 U.S.C. chapter 11 for any of the conditions described under paragraph (a)(1) of this section for the 2101(a) grant or paragraph (a)(2) of this section for the 2101(b) grant.

(b) *Feasibility and suitability requirements.* (1) In order for an individual to be eligible for 2101(a) grant assistance, the Secretary must determine that:

- (i) It is medically feasible for the individual to reside outside of an institutional setting;
- (ii) It is medically feasible for the individual to reside in the proposed housing unit and in the proposed locality;
- (iii) The nature and condition of the proposed housing unit are suitable for the individual's residential living needs; and
- (iv) The cost of the proposed housing unit bears a proper relation to the individual's present and anticipated income and expenses.

(2) In order for an individual to be eligible for 2101(b) grant assistance, the Secretary must determine that:

- (i) The individual is residing in and reasonably intends to continue residing in a housing unit owned by the individual or a member of the individual's family; or
- (ii) If the individual's housing unit is to be constructed or purchased, the individual will be residing in and reasonably intends to continue residing in a housing unit owned by the individual or a member of the individual's family.

(Authority: 38 U.S.C. 501, 2101, 2102, 2102A)

**§ 36.4405 Grant approval.**

(a) *Conditional approval.* (1) The Secretary may provide written notification

to an eligible individual of conditional approval of a specially adapted housing grant if the Secretary has determined that:

- (i) Disability requirements have been satisfied pursuant to § 36.4404(a);
- (ii) Feasibility and suitability requirements have been satisfied pursuant to § 36.4404(b); and
- (iii) The eligible individual has not exceeded the usage or dollar limitations prescribed by §§ 36.4402(d) and 36.4403.

(2) Once conditional approval has been granted, the Secretary may authorize, in writing, an eligible individual to incur certain preconstruction costs pursuant to § 36.4406.

(b) *Final approval.* In order for an individual to obtain final approval for a specially adapted housing grant, the Secretary must determine that the following property requirements are met:

(1) *Proposed adaptations.* The plans and specifications of the proposed adaptations demonstrate compliance with minimum property and design requirements of the specially adapted housing program.

(2) *Ownership.* (i) In the case of 2101(a) grants, the eligible individual must have, or provide satisfactory evidence that he or she will acquire, an ownership interest in the housing unit.

(ii) In the case of 2101(b) grants, the eligible individual or a member of the eligible individual's family must have, or provide satisfactory evidence that he or she will acquire, an ownership interest in the housing unit.

(iii) In the case of TRA grants:

(A) A member of the eligible individual's family must have, or provide satisfactory evidence that he or she will acquire, an ownership interest in the housing unit, and

(B) The eligible individual and the member of the eligible individual's family who has or acquires an ownership interest in the housing unit must sign a certification as to the likelihood of the eligible individual's temporary occupancy of such residence.

(iv) If the ownership interest in the housing unit is or will be vested in the eligible individual and another person, the Secretary will not for that reason reduce by percentage of ownership the amount of a specially adapted housing

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grant. However, to meet the ownership requirement for final approval of a specially adapted housing grant, the eligible individual's ownership interest must be of sufficient quantum and quality, as determined by the Secretary, to ensure the eligible individual's quiet enjoyment of the property.

(3) *Certifications.* The eligible individual must certify, in such form as the Secretary will prescribe, that:

(i) Neither the eligible individual, nor anyone authorized to act for the eligible individual, will refuse to sell or rent, after receiving a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the housing unit acquired by this benefit, to any person because of race, color, religion, sex, familial status, disability, or national origin;

(ii) The eligible individual, and anyone authorized to act for the eligible individual, recognizes that any restrictive covenant on the housing unit relating to race, color, religion, sex, familial status, disability, or national origin is illegal and void, and any such covenant is specifically disclaimed; and

(iii) The eligible individual, and anyone authorized to act for the eligible individual, understands that civil action for preventative relief may be brought by the Attorney General of the United States in any appropriate U.S. District Court against any person responsible for a violation of the applicable law.

(4) *Flood insurance.* The eligible individual's housing unit, if it is or becomes located in an area identified by the Federal Emergency Management Agency as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act, as amended, must be covered by flood insurance. The amount of flood insurance must be at least equal to the lesser of the full insurable value of the housing unit or the maximum limit of coverage available for the particular type of housing unit under the National Flood Insurance Act, as amended. The Secretary will not approve any financial assistance for the acquisition or construction of a housing unit located in an area identified by the Federal Emergency Management Agency as having special

flood hazards unless the community in which such area is situated is then participating in the National Flood Insurance Program

(Authority: 38 U.S.C. 501, chapter 21, 42 U.S.C. 4012a, 4106(a))

(5) *Geographical limits.* Any real property purchased, constructed, or adapted with the proceeds of a specially adapted housing grant must be located:

(i) Within the United States, which, for purposes of 38 U.S.C. chapter 21, includes the several States, Territories, and possessions, including the District of Columbia, and the Commonwealths of Puerto Rico and the Northern Mariana Islands; or,

(ii) If outside the United States, in a country or political subdivision which allows individuals to have or acquire a beneficial property interest, and in which the Secretary, in his or her discretion, has determined that it is reasonably practicable for the Secretary to provide assistance in acquiring specially adapted housing.

(Authority: 38 U.S.C. 2101, 2101A, 2102A)

(The Office of Management and Budget has approved the information collection provisions in this section under control numbers 2900-0031, 2900-0132, and 2900-0300)

**§36.4406 Reimbursement of costs and disbursement of grant funds.**

(a) After providing conditional approval of a specially adapted housing grant for an eligible individual pursuant to §36.4405, the Secretary may authorize the incurrence, prior to obtaining final specially adapted housing grant approval, of preconstruction costs of the types and subject to the limits specified in this paragraph.

(1) Preconstruction costs to be incurred may not exceed 20 percent of the eligible individual's aggregate amount of assistance available, unless the individual is authorized by the Secretary in writing to incur specific preconstruction costs in excess of this 20 percent limitation. Preconstruction costs may include the following items:

(i) Architectural services employed for preparation of building plans and specifications.

(ii) Land surveys.

(iii) Attorneys' and other legal fees.