

exception in the interests of patient care. Drug or supply samples may not be provided to VA staff for their personal use.

(3) *Donations of food.* Sales representatives may not provide food items of any type or any value to VA staff (including volunteers and without compensation employees) or bring food items into VA medical facilities for use by non-VA staff (e.g., employees of affiliates). This constraint applies to all sales representatives who have business relationships with VA Clinical Services.

(f) *Conduct of sales representatives.* In addition to any other rules in this section, sales representatives (i.e., promoters) of drugs and drug-related supplies must conform to the following:

(1) *Sales representatives must provide accurate information.* Sales representatives must ensure that all drugs or drug-related supplies are discussed, displayed and represented accurately, in accordance with any applicable Food and Drug Administration and VANF guidelines and restrictions.

(2) *Contacts are to be by appointment only.* In order to minimize the potential for disruption of patient care activities, a sales representative must schedule an appointment before each specific visit. Access to VA medical facilities by a sales representative without an appointment is not permitted under any circumstances. VA medical facilities may develop a list of individuals or departments that do not wish to be called-on by sales representatives. A sales representative must not attempt to make appointments with individuals or departments on the list. The list may be obtained at the local office of the Chief of Pharmacy Services.

(3) *Contacts with VA staff without an appointment.* A sales representative visiting a VA medical facility for a scheduled appointment may not initiate requests for meetings with other VA staff; however, sales representatives may respond to requests initiated by VA staff during the visit.

(4) *Paging VA employees.* The sales representative may not use the public address (paging) system to locate any VA employee. Contacts using the electronic paging system (beepers) are permissible only if specifically requested by the VA employee.

(5) *Marketing to students.* Sales representatives are prohibited from marketing to medical, pharmacy, nursing and other health profession students (including residents). Exceptions may be permitted when approved by, and conducted in the presence of, their clinical staff member.

(6) *Attendance at conferences.* A sales representative is not allowed to attend a medical center conference where patient-specific material is discussed or presented.

(7) *Patient care areas.* Sales representatives generally may not wait for scheduled appointments or make presentations in patient-care areas, but may briefly travel through them, when necessary, to meet in a staff member's office. Patient-care areas include, but are not limited to:

(i) Patient rooms and ward areas where patients may be encountered;

(ii) Clinic examination rooms;

(iii) Nurses stations;

(iv) Intensive care units;

(v) Operating room suites;

(vi) Emergency rooms;

(vii) Urgent care centers; and

(viii) Ambulatory treatment centers.

(g) *Failure to properly promote drugs or drug-related supplies within VA.*

(1) A sales representative's commercial visiting privileges at one or more VA medical facilities may be restricted by the written order of the director of the VA medical center of jurisdiction if the director determines the sales representative failed to comply with the requirements of this section. The director will notify the representative of the noncompliance and of the director's proposed action under paragraph (g)(3) of this section. The director will also notify the manager or other appropriate supervisor of the sales force if there have been instances of widespread misconduct by an individual, or by multiple representatives of the same sales force, and the director proposes to suspend or permanently revoke the sales force's commercial visiting privileges at one or more VA medical facilities. The notice will offer 30 days to provide a response; however, the proposed action will be enforced effective the date of the notice.

(2) At the end of the 30-day period for a response, or after the director receives a timely response, the director may, as appropriate to prevent future noncompliance, issue a written order suspending or permanently revoking the sales representative's or sales force's commercial visiting privileges, impose a lesser sanction, or decide that no further action is required. In determining the appropriate action, the director shall consider the requirements of this section, the circumstances of the improper conduct, any prior acts of misconduct by the same sales representative or sales force, any response submitted by the sales representative or sales force manager, and any prior orders issued or other actions taken with respect to similar

acts of misconduct. Any final order issued by the director shall include a summary of the circumstances of the violation, a listing of the specific provisions of this section that the sales representative or sales force violated, and the bases for the director's determination regarding the appropriate remedial action.

(3) Actions that may be imposed under this section include limitation, suspension, or permanent revocation of commercial visiting privileges at one or more VA medical facilities. Instances of widespread misconduct by an individual or multiple sales representatives may result in the imposition of a VISN-wide or VA-wide limitation, suspension, or revocation of commercial visiting privileges of the entire sales force of a given manufacturer, if necessary to prevent further noncompliance. The director will provide the sales representative or sales force manager written notice of any final order issued under this section.

(4) Notice concerning a final order suspending or permanently revoking an entire sales force's commercial visiting privileges shall include specific notice concerning the right to appeal the director's order to the Under Secretary for Health. The sales force manager or other corporate representative may request the Under Secretary's review within 30 days of the date of the director's order by submitting a written request to the director. The director shall forward the initial notice, any response, the final order, and the request for review to the Under Secretary for a final VA decision. VA will enforce the director's order while it is under review by the Under Secretary. The director will provide the individual who made the request written notice of the Under Secretary's decision.

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

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 62

RIN 2900-AN53

#### Supportive Services for Veteran Families Program

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish regulations concerning the Supportive Services for Veteran Families Program (SSVF Program) of the Department of Veterans Affairs (VA). This proposed rule is necessary to implement the provisions of section 604 of the Veterans' Mental Health and Other Care Improvements Act of 2008. The purpose of the SSVF Program is to provide supportive services grants to private non-profit organizations and consumer cooperatives who would coordinate or provide supportive services to very low-income veteran families who are residing in permanent housing, are homeless and scheduled to become residents of permanent housing within a specified time period, or after exiting permanent housing, are seeking other housing that is responsive to such very low-income veteran family's needs and preferences. The new SSVF Program is within the continuum of VA's homeless services programs.

**DATES:** Comments on the proposed rule, including comments on the information collection provisions, must be received on or before June 4, 2010.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AN53." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Vincent Kane, Supportive Services for Veteran Families Program Office (116), National Center on Homelessness Among Veterans, c/o Philadelphia VA Medical Center, 3900 Woodland Avenue, Philadelphia, PA 19104, (202) 273-7462 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Section 604 of the Veterans' Mental Health and Other Care Improvements Act of 2008, Public Law 110-387 (the Act), codified at 38 U.S.C. 2044, directed the Secretary of VA (Secretary) to provide financial

assistance to eligible entities to provide supportive services to very low-income veteran families who are occupying permanent housing. This proposed rule would establish regulations concerning the SSVF Program and is necessary to implement section 604 of the Act.

For organization and clarity of implementation, the proposed rule sets forth a new 38 CFR part 62. The proposed rule would establish regulations authorizing VA to award supportive services grants to private non-profit organizations and consumer cooperatives, who would provide or coordinate the provision of supportive services to very low-income veteran families who: (i) Are residing in permanent housing, (ii) are homeless and scheduled to become residents of permanent housing within a specified time period; or (iii) after exiting permanent housing, are seeking other housing that is responsive to such very low-income veteran family's needs and preferences.

VA has several programs that offer care to eligible homeless veterans, such as the Health Care for Homeless Veterans (HCHV) Program, the Grant and Per Diem (GPD) Program, the Residential Rehabilitation and Treatment Programs (RRTP), the Homeless Dental Program, and the Housing and Urban Development—VA Supported Housing (HUD—VASH Program). The SSVF Program is unique among the other VA programs because of the population it serves and the wide range of supportive services it provides to that population. For example, unlike other VA programs, the SSVF Program permits supportive services to be provided to veterans and their family members. (While the GPD program authorizes certain services for minor dependents of women veterans, it does not generally authorize the provision of supportive services to family members). Subject to SSVF Program limitations, these very low-income veteran families could be residing in permanent housing or be homeless. A broad range of supportive services assist participants to obtain housing stability, such as case management, assist participants to obtain any VA, Federal, State, local, or tribal benefits for which they may be eligible, and provide temporary financial assistance.

The SSVF Program will benefit very low-income veteran families by helping them to achieve housing stability. In particular, the SSVF Program will aim to prevent very low-income veteran families from becoming homeless and assist those very low-income veteran families who are homeless with rapid re-housing. The SSVF Program will

assist participants in obtaining the skills and resources necessary to maintain long-term housing stability.

## Content of Proposed Rule

### 62.1 Purpose

Proposed § 62.1 sets forth the purpose of the SSVF Program. Consistent with the Act (38 U.S.C. 2044), the proposed rule states that the purpose of the SSVF Program is to provide supportive services grants to eligible entities to facilitate the provision of supportive services to very low-income veteran families who are occupying permanent housing.

### 62.2 Definitions

Proposed § 62.2 contains definitions for key terms that would be used in part 62 and Notices of Fund Availability. Although the proposed rule lists definitions in alphabetical order, this notice discusses the definitions as follows:

(a) Definitions that are critical for understanding the SSVF Program; (b) Definitions that are included to provide clarity; and (c) Definitions that are based upon existing VA regulations or statutes.

#### Definitions That Are Critical for Understanding the SSVF Program

In accordance with the Act (38 U.S.C. 2044(f)(2)), proposed § 62.2 defines the term "eligible entity" as a private non-profit organization or consumer cooperative, which in turn are separately defined in proposed § 62.2.

The proposed definition of "veteran family" is consistent with the definition provided in the Act (38 U.S.C. 2044(f)(7)). The proposed rule defines a veteran family as either a single veteran or a family in which the head of household, or the spouse of the head of household, is a veteran.

Under the proposed rule, to be eligible for supportive services, a veteran family must be considered a "very low-income veteran family." Consistent with the Act (38 U.S.C. 2044(f)(6)), proposed § 62.2 defines a very low-income veteran family as a veteran family whose annual income does not exceed 50 percent of the median income for an area or community. This is subject to adjustment by VA in the Notice of Fund Availability. A veteran family's annual income will be determined in accordance with the income criteria for programs under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) as found in the Department of Housing and Urban Development regulation 24 CFR 5.609. VA has

determined that, unless stated otherwise in the Notice of Fund Availability, the income limits and area or community designations most recently published by the Department of Housing and Urban Development for programs under section 8 of the United States Housing Act of 1937 will be used to determine the median income for an area or community.

Under 38 U.S.C. 2044(f)(4), “permanent housing” is defined as “community-based housing without a designated length of stay.” The term “permanent housing” is defined in proposed § 62.2 consistent with the statute, but clarifying language is included in the proposed rule to explain that under our interpretation of the statute, permanent housing includes, but is not limited to, a house or apartment with a month-to-month or annual lease term, or home ownership. Permanent housing is not intended to include certain types of institutional housing that generally involve a designated length of stay, such as imprisonment or detention pursuant to Federal or State law, which are not considered “community-based housing” under industry standards or common parlance.

The proposed rule assigns a definition to the phrase “occupying permanent housing,” as set forth in proposed § 62.11(a).

“Supportive services” are defined in the proposed rule as outreach services, as specified under proposed § 62.30; case management services, as specified under proposed § 62.31; assisting participants to obtain VA benefits, as specified under proposed § 62.32; assisting participants in obtaining and coordinating other public benefits, as specified under proposed § 62.33; and other services, as specified under proposed § 62.34. This proposed definition is derived from the description of supportive services provided in the Act (38 U.S.C. 2044(b)).

The proposed rule defines the term “participant” as those single veterans and veteran families who qualify for and are receiving supportive services from a private non-profit organization or consumer cooperative awarded a supportive services grant.

The proposed rule defines the term “homeless” by restating the definition from the Act (38 U.S.C. 2044(f)(3)), which gives the term the same “meaning given that term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).”

#### Definitions That Are Included To Provide Clarity

The terms “applicant,” “emergency supplies,” “grantee,” “Notice of Fund Availability,” “subcontractor,” “supportive services grant,” and “supportive services grant agreement” are included in the proposed rule to provide clarity. The proposed definitions are based on a plain language understanding of those terms.

#### Definitions That Are Based Upon Existing VA Regulations or Statutes

The terms “area or community,” “date of completion,” “disallowed costs,” “State,” “suspension,” “third party in-kind contributions,” “VA,” “veteran,” and “withholding” are defined by VA in the Homeless Providers Grant and Per Diem Program (38 CFR 61.1); in VA’s regulations regarding uniform requirements for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations (38 CFR 49.2); or the definitions in 38 U.S.C. 101. These existing definitions are used in the proposed rule because they are understood by VA and its grantees, which would simplify the implementation of this new program.

Some of these existing definitions would be modified for use in the SSVF Program. For example, “area or community” is broadened in the proposed rule to include tribal reservations, because the Act (38 U.S.C. 2044(a)(5)) requires the equitable distribution of supportive services grants across geographic regions, including rural communities and tribal lands. To specifically acknowledge the proposed rule’s termination and closeout provisions, the term “date of completion” includes the date that a supportive services grant is terminated.

#### 62.10 Supportive Services Grants—General

Under proposed § 62.10, at least 90 percent of supportive services grant funds would need to be used by grantees to provide and coordinate the provision of supportive services to very low-income veteran families occupying permanent housing; a maximum of 10 percent of supportive services grant funds could be used for administrative costs identified in proposed § 62.70(e). In accordance with the intent of the Act (38 U.S.C. 2044) and VA’s goals for the SSVF Program, VA proposes that the vast majority of supportive services grant funds (90 percent) be used to serve very low-income veteran families occupying permanent housing. VA expects that 10 percent would be a

reasonable maximum for administrative costs associated with a supportive services grant, and any additional funds required by grantees for administration should be provided by non-VA funds. This percentage split (90/10) is based upon VA’s past experience administering similar programs and VA’s goals for the SSVF Program.

#### 62.11 Participants—Occupying Permanent Housing

Proposed § 62.11 provides that a very low-income veteran family will be considered to be occupying permanent housing, and thereby eligible to receive supportive services from a grantee as a participant subject to proposed § 62.35, if such family meets the conditions of any one of the three categories described in proposed § 62.11(a)(1)–(3).

Consistent with the Act (38 U.S.C. 2044(b)(1)), proposed § 62.11(a)(1) defines the first category of very low-income families occupying permanent housing as “residing in permanent housing.”

Consistent with the Act (38 U.S.C. 2044(b)(2)), proposed § 62.11(a)(2) defines the second category of families occupying permanent housing as being homeless and scheduled to become a resident of permanent housing within 90 days pending the location or development of housing suitable for permanent housing. Development of permanent housing includes, but is not limited to, the construction, rehabilitation or modification of permanent housing.

Consistent with the Act (38 U.S.C. 2044(b)(3)), proposed § 62.11(a)(3) defines the third category of families occupying permanent housing as having exited permanent housing within the previous 90 days and seeking other housing that is responsive to the very low-income veteran family’s needs and preferences.

Proposed § 62.11(b) authorizes a grantee to reclassify a participant’s classification for occupying permanent housing if the participant’s housing changes while receiving supportive services. The SSVF Program is designed to ensure that very low-income veteran families who are transitioning (including, but not limited to, transitioning from homelessness to permanent housing and transitioning between various classifications of housing) maintain eligibility to receive supportive services through the SSVF Program. For example, if a very low-income veteran family who is homeless consistent with proposed § 62.11(a)(2) moves into permanent housing, such family would then be reclassified under proposed § 62.11(a)(1). By reclassifying

the participant under proposed § 62.11(a)(1), the participant would remain eligible to receive supportive services from a grantee, and the limitations to which the participant was subject when classified under proposed § 62.11(a)(2) would no longer apply. Permitting participants to be reclassified if their housing changes is consistent with the purpose of the Act and the SSVF Program's focus on promoting housing stability.

#### *62.20 Applications for Supportive Services Grants*

Proposed § 62.20(a) would require applicants to submit a complete supportive services grant application package and identify the items that would be included in such supportive services grant application package. The items listed are derived from the Act (38 U.S.C. 2044(c)) and the application requirements prescribed for VA's Homeless Providers Grant and Per Diem Program (38 CFR 61.11) and are designed to ensure that VA can fully evaluate the ability of applicants to achieve the goals of the SSVF Program.

Proposed § 62.20(b) would authorize grantees to submit an application for renewal of a supportive services grant if the grantee's program will remain substantially the same. By allowing grantees to submit a supportive services grant renewal application, grantees would be able to efficiently seek additional supportive services grant funds for a subsequent period, subject to the availability of VA funds, without a lapse in the provision of supportive services to participants.

Proposed § 62.60(c) would allow VA to request other information or documentation related to a supportive services grant application in the event that particular information not set forth in the supportive services grant application is needed for VA to fully consider the applicant or grantee, as applicable.

#### *62.21 Threshold Requirements Prior to Scoring Supportive Services Grant Applicants*

The Act (38 U.S.C. 2044(c)(3)) requires VA to establish criteria for the selection of eligible entities to be provided supportive services grants. Proposed § 62.21 contains minimum threshold requirements that each applicant would be required to satisfy before VA would score the applicant. The threshold requirements are intended to be an administrative checklist with which applicants would confirm compliance prior to submitting a supportive services grant application. For example, if an applicant is not an

eligible entity, if the application is not completed in all parts, or if the applicant is in default by failing to meet the requirements for any previous Federal assistance, VA would not process the application.

The threshold requirements in proposed § 62.21 are consistent with the threshold requirements in VA's Homeless Providers Grant and Per Diem Program (38 CFR 61.12). In administering that program, VA has found that screening applications to identify those that do not fulfill the threshold requirements enables VA to devote its resources to evaluating qualified supportive services grant applicants.

#### *62.22 Scoring Criteria for Supportive Services Grant Applicants*

A limited amount of funds are available for VA to distribute through the SSVF Program. In accordance with the Act (38 U.S.C. 2044(c)(3)) and because the number of applicants may exceed available funds or VA may have more funds than qualified applicants, VA has established scoring criteria for awarding supportive services grants. Utilization of the scoring criteria would allow VA to distribute supportive services grants consistent with Congressional intent and VA's goals for the SSVF Program.

Proposed § 62.22 describes the scoring criteria that VA proposes to use to score applicants fulfilling the threshold requirements. The scoring criteria are derived from VA's experience with programs such as the Homeless Providers Grant and Per Diem Program (38 CFR 61.13) and the Loan Guarantee for Multifamily Transitional Housing Program (38 U.S.C. 2051 *et seq.*). The proposed categories are weighted according to their likelihood of impacting a grantee's successful development and operation of a supportive services grant program. For example, the background, qualifications, experience, and past performance category is assigned the highest point value because applicants, and any identified subcontractors, with both experience implementing similar programs and strong staff qualifications would be most likely to develop and operate effective programs designed to meet the needs of very low-income veteran families and expend supportive services grant funds in an effective and efficient manner. In contrast, the area or community linkages and relations category is assigned 10 points. VA assigns point value to this category because VA recognizes the importance of an applicant's past working relationships, local presence, and

knowledge, and would reward applicants that have established such relationships or have such knowledge. However, VA does not consider this category to be as effective an indicator of program success as the background, qualifications, experience, and past performance category. This is because, if necessary, area or community linkages can be developed over the course of normal operations after the applicant is awarded a supportive services grant.

When scoring applicants, VA proposes to award points to applicants who exceed the 10 percent cost sharing requirement in proposed § 62.26, as described in proposed § 62.22(d)(3). The Notice of Fund Availability would state the maximum percentage for which the full amount of points for this criterion would be awarded. For example, the Notice of Fund Availability could state that applicants matching a maximum 25 percent of the supportive services grant amount would receive the maximum amount of points for this criterion; therefore, applicants matching 25 percent of the supportive services grant amount would receive the same amount of points for this criterion as applicants matching 100 percent of the supportive services grant amount. VA wishes to reward those applicants demonstrating a match higher than 10 percent of the supportive services grant amount, but VA also recognizes that applicants would have varying amounts of resources available for cash or in-kind contributions.

#### *62.23 Selecting Applicants To Receive Supportive Services Grants*

Proposed § 62.23 describes the process VA proposes using to select applicants for supportive services grants. This process is similar to the selection process VA uses in the Homeless Providers Grant and Per Diem Program (38 CFR 61.14), but also includes a preference and an equitable distribution requirement set forth in the Act (38 U.S.C. 2044(a)(4) and 38 U.S.C. 2044(a)(5)).

VA would first group applicants by funding priorities, if any such priorities are set forth in the Notice of Fund Availability. VA would then score applicants using the criteria in proposed § 62.22 and rank applicants who receive at least the minimum amount of total points and points per category set forth in the Notice of Fund Availability, within their respective funding priority group, if any. Applicants would be ranked in order from highest to lowest scores, within their respective funding priority group, if any.

Although VA would use the applicant's ranking as the primary basis

for selection, in accordance with the Act (38 U.S.C. 2044(a)(4) and 38 U.S.C. 2044(a)(5)), VA would: (1) Give preference to applicants that provide or coordinate the provision of supportive services for very low-income veteran families transitioning from homelessness to permanent housing, and (2) ensure, to the extent practicable, that the supportive services grants are equitably distributed across geographic regions, including rural communities and tribal lands. The supportive services grant application would require applicants to identify the target populations and the area or community that the applicant proposes to serve. VA would use this information in the selection of grantees to ensure VA is complying with the Act's requirements for distribution of supportive services grants.

Subject to the preference and equitable distribution requirement described in proposed § 62.23(d), VA would fund the highest-ranked applicants for which funding is available, within the highest funding priority group, if any. Under proposed § 62.40, VA would be able to choose to include funding priorities in the Notice of Fund Availability in order to meet the mandates of the Act (38 U.S.C. 2044) and VA goals for the SSVF Program. If funding priorities have been established, to the extent funding is available and subject to proposed § 62.23(d), VA would select applicants in the next highest funding priority group based on their rank within that group.

#### *62.24 Scoring Criteria for Grantees Applying for Renewal of Supportive Services Grants*

Proposed § 62.24 describes the criteria VA would use to score grantees applying for renewal of a supportive services grant. Utilizing criteria specific to renewal applications would help VA more appropriately evaluate grantees who are already operating programs. Accordingly, as described in proposed § 62.24, VA would award points to a grantee seeking renewal based upon the grantee's program's success, cost-effectiveness, and compliance with VA goals and requirements.

#### *62.25 Selecting Grantees for Renewal of Supportive Services Grants*

Proposed § 62.25 describes the process VA proposes using to select grantees applying for renewal of supportive services grants. This is a simplified version of the process used to initially award supportive services grants.

In order to be considered for renewal, proposed § 62.25(a) requires grantees to continue to meet the threshold requirements applicable to applicants in proposed § 62.21. VA would score grantees using the criteria in proposed § 62.24 and rank grantees who receive at least the minimum amount of total points and points per category set forth in the Notice of Fund Availability. In accordance with proposed § 62.25(c), VA would fund the highest-ranked grantees for which funding is available. The amount of supportive services grant funds awarded to a grantee would be dependent upon the grantee's request, the availability of funds, and any requirements described in the Notice of Fund Availability.

#### *62.26 Cost Sharing Requirement*

Proposed § 62.26 requires grantees to match a minimum of 10 percent of the amount of VA-provided supportive services grant funds with cash resources or third party in-kind contributions from non-VA sources. This requirement is intended to demonstrate the grantee's commitment to the SSVF Program and ensure continuity of program operations and assistance to participants. After reviewing comparable programs' cost sharing requirements and acknowledging that grantees will have varying amounts of resources, VA determined that 10 percent would be an appropriate cost sharing requirement.

#### *62.30 Supportive Service: Outreach Services*

Proposed § 62.30 prescribes outreach services, and it is the first of five sections describing the types of supportive services that grantees would provide through the SSVF Program. Outreach is critical to the success of the SSVF Program. Outreach would help ensure that supportive services are provided to very low-income veteran families occupying permanent housing who are difficult to locate or serve, such as those very low-income veteran families who live in rural areas, who are not already receiving VA benefits, or who reside in permanent housing but are at risk of losing such housing. Working with local facilities and agencies would help grantees assist participants in obtaining benefits of which the participants may not be aware. In addition, contact with local groups who serve veterans would help grantees identify additional participants.

#### *62.31 Supportive Service: Case Management Services*

To effectively assist participants in achieving housing stability, grantees

would need to provide case management services. Accordingly, proposed § 62.31 includes a listing of tasks to ensure that applicants, grantees, and VA share the same understanding of "case management services." The proposed description of case management services is based on the definitions of case management services provided in other Federal programs, such as the Housing and Urban Development-Veterans Affairs Supported Housing (HUD-VASH) Program, the Department of Housing and Urban Development's Congregate Housing Services Program (24 CFR 700.105), and the Department of Health and Human Services' Medicare and Medicaid Services Program (42 CFR 440.169).

#### *62.32 Supportive Service: Assistance in Obtaining VA Benefits*

Grantees would provide an additional means for VA to notify eligible veteran families of available VA benefits. Consequently, and in accordance with the Act (38 U.S.C. 2044(b)(1)(C)), proposed § 62.32 requires grantees to assist participants to obtain any benefits from VA for which the participants are eligible. In light of 38 U.S.C. ch. 59, as implemented in 38 CFR part 14, VA does not interpret the Act to allow grantees to represent veterans in benefit claims before VA. Nor does VA interpret the Act as requiring that grantees become recognized organizations pursuant to 38 U.S.C. 5902 or that their employees or members become accredited service organization representatives, claims agents, or attorneys. Rather, benefit claims assistance by grantees may include providing information about available benefits and helping veterans locate a recognized veterans service organization or accredited individual and other services short of actual representation before VA, unless an individual employee or agent of the grantee is appropriately accredited pursuant to 38 CFR 14.629.

#### *62.33 Supportive Service: Assistance in Obtaining and Coordinating Other Public Benefits*

VA would expect grantees to maximize the number of participants who will be served. Grantees may be able to directly provide many necessary supportive services; however, in some situations it would be more efficient for grantees to provide a referral for participants to obtain services provided by another Federal, State, or local agency or an eligible entity in the area or community served by the grantee. Accordingly, and in accordance with

the Act (38 U.S.C. 2044(b)(1)(D)), proposed § 62.33 requires grantees to assist participants to obtain, and coordinate the provision of, other public benefits that are being provided by Federal, State, local, or tribal agencies, or any eligible entity in the area or community served by the grantee.

Proposed § 62.33 lists each of the examples of public benefits set forth in the Act (38 U.S.C. 2044(b)(1)(D)) and includes a definition for each listed public benefit. Most of the proposed definitions are derived from existing Federal programs. The proposed definitions are provided to ensure that applicants and grantees share the same understanding as VA of what constitutes each of the listed public benefits.

The Act (38 U.S.C. 2044(b)(1)) broadly defines supportive services as those “provided by an eligible entity or subcontractor of an eligible entity that address the needs of very low-income veteran families occupying permanent housing, including” services specified under the Act (38 U.S.C. 2044(b)(1)(A)–(D)). The use of “including” indicates that the list of services which follows is not intended to be exhaustive. Hence, proposed § 62.33(d)(1)–(2) and proposed § 62.33(h)(2) permit direct payments from grantees for transportation and child care needs. VA has defined such payments as supportive services necessary to address the needs of very low-income veteran families occupying permanent housing. VA recognizes that the availability of adequate transportation and child care are important for obtaining and maintaining employment, and, therefore, housing stability. Accordingly, under proposed § 62.33(d), grantees are authorized to provide temporary transportation services to participants if the grantee determines such assistance is necessary. Public transportation is generally less expensive than maintenance of private vehicles and may be more sustainable by both grantees and participants on a long-term basis. Consequently, the preferred method of providing transportation services under a supportive services grant would be the provision of tokens, vouchers, or other appropriate instruments to participants for use on public transportation. However, if an applicant determines that public transportation options are not sufficient within the area or community to be served, such as in a rural community, in the applicant’s supportive services grant application, the applicant would be able to include costs related to the applicant’s lease of vehicle(s) for the purpose of providing transportation services to participants.

Proposed § 62.33(h) authorizes grantees to make payments on behalf of a participant to a State-licensed facility providing child care services. Because the grantee’s payment for child care services is intended to be temporary, prior to making child care payments on behalf of a participant, under the proposed rule, the grantee must help the participant develop a reasonable plan to address the participant’s future ability to pay for child care services and assist the participant to implement such plan. If this plan cannot reasonably be developed, the proposed rule provides that supportive services grant funds should not be expended on behalf of a participant for child care services and other options should be considered by the grantee and the participant. In accordance with the purpose of the SSVF Program, grantees would be limited to providing payments for child care services with supportive services grant funds for a maximum of 2 months in a calendar year. The 2-month limitation is designed to prevent child care services from consuming a disproportionate amount of supportive services grant funds. Grantees should provide participants with information on other available programs if long-term child care assistance is needed.

#### *62.34 Other Supportive Services*

The Act (38 U.S.C. 2044(b)(1)) broadly defines supportive services as those “provided by an eligible entity or subcontractor of an eligible entity that address the needs of very low-income veteran families occupying permanent housing, including” services specified under the Act (38 U.S.C. 2044(b)(1)(A)–(D)). The use of “including” indicates that the list of services which follows is not intended to be exhaustive. Hence, proposed § 62.34 defines the payment of temporary financial assistance in certain instances as a supportive service that VA has determined is necessary to address the needs of very low-income veteran families occupying permanent housing.

To prevent imminent homelessness or assist currently homeless very low-income veteran families who are scheduled to become residents of permanent housing within 90 days pending the location or development of suitable permanent housing, it may be necessary in certain circumstances for the grantee to assist the participant in paying certain expenses. Accordingly, VA proposes classifying the following as a supportive service: Temporary financial assistance paid directly to a third party on behalf of a participant for rental payments, penalties, or fees; utility payments; security deposits;

utility deposits; moving costs; and emergency supplies.

For example, repeated failure to pay rent often leads to eviction, leaving a veteran family to contend with homelessness in addition to the initial lack of needed resources. A grantee’s provision of temporary financial assistance for rent, as provided in proposed § 62.34, may be necessary to stabilize and maintain the participant’s occupancy in permanent housing while the participant locates other resources that will help achieve housing stability on a long-term basis. Similarly for the reasons discussed in connection with proposed § 62.33, it may be necessary for a grantee to provide temporary assistance for transportation services or child care to maintain a participant’s occupancy in permanent housing.

Grantees would be able to provide this type of temporary financial assistance if the grantee can reasonably determine that the payment by the grantee for the item requested would help the participant remain in permanent housing or obtain permanent housing as scheduled; if this determination cannot be reached, the grantee would assist the participant to obtain other types of available assistance.

Similar to the child care payments discussed above, as a condition of the grantee’s provision of temporary financial assistance for rental or utility fee payments, rental or utility deposits, and moving costs, the proposed rule requires the grantee to help the participant develop and implement a plan to address the participant’s future housing stability. This requirement would limit the expenditure of supportive services grant funds to situations where the outcome would be housing stability for the participant.

To the extent that proposed § 62.34 authorizes the provision of temporary financial assistance on behalf of a participant, it is generally on a temporary or infrequent basis. The proposed rule includes time restrictions for the provision of temporary financial assistance because the SSVF Program is not a long-term financial assistance program; instead, if a participant needs long-term financial assistance, the grantee would have a duty to connect the participant with other programs providing such assistance. For example, rental assistance is limited to 4 months during a 3-year period, and moving costs may only be paid once in 3 years.

Proposed § 62.34 contains additional restrictions. For example, with respect to temporary rental payments described in proposed § 62.34(a), rent payments would need to meet a “rent

reasonableness” standard, which is similar to the standard used by the Department of Housing and Urban Development in certain programs. Similarly, rental assistance in the form of payment of penalties or fees would need to be reasonable and required to be paid by the participant under an existing lease or court order. Further, grantees cannot provide temporary financial assistance on behalf of a participant for the same period of time and for the same cost types that are being provided through another Federal, State or local program. A restriction on the provision of “emergency supplies” is provided in the proposed rule to ensure that grantees understand that such assistance is intended to assist in the case of a temporary emergency where supplies are necessary for the participant’s life or safety, and is not intended to permit regular or ongoing aid.

Under proposed § 62.34(f), VA may identify additional services in future Notices of Fund Availability, and grantees may request VA’s approval to provide a supportive service that is not listed in the proposed rule or future Notices of Fund Availability.

#### *62.35 Limitations on and Continuations of the Provision of Supportive Services to Certain Participants*

Proposed § 62.35 discusses the provision of supportive services to certain categories of participants (as described in proposed §§ 62.11(a)(2) and 62.11(a)(3)) and would authorize the continuation of supportive services to a veteran’s family member(s) in the event of absence or death of the veteran.

The Act (38 U.S.C. 2044(b)(2)) authorizes the provision of supportive services to a participant who is “homeless and scheduled to become a resident of permanent housing within 90 days pending the location or development of housing suitable for permanent housing.” VA recognizes that a participant scheduled to move into permanent housing may encounter unexpected delays, such as delays relating to construction, housing application processing, or other circumstances beyond the participant’s control. The proposed rule would not require a grantee to stop providing supportive services to a participant in the event the participant does not become a resident of permanent housing within the original 90-day period. In such instances, proposed § 62.35(a) authorizes the grantee to continue providing supportive services to the participant beyond the original 90-day period under proposed § 62.11(a)(2) so

long as the participant continues to meet the conditions of proposed § 62.11(a)(2) by being homeless and scheduled to become a resident of permanent housing within 90 days. This approach is consistent with the SSVF Program’s goal of assisting participants to achieve housing stability and the Act’s (38 U.S.C. 2044(a)(4)) requirement for VA to preference entities serving very low-income veteran families transitioning from homelessness to permanent housing.

In accordance with the Act (38 U.S.C. 2044(b)(3)), proposed § 62.35(b)(1) limits the provision of supportive services to participants classified under proposed § 62.11(a)(3) until the earlier of (a) the participant’s commencement of other housing services adequate to meet the participant’s needs, or (b) 90 days from the date the participant exits permanent housing. In accordance with the Act (38 U.S.C. 2044(b)(3)), proposed § 62.35(b)(2) requires that all supportive services provided to participants classified under proposed § 62.11(a)(3) be designed to support such families in their choice to transition into housing that is responsive to their individual needs and preferences.

Since the SSVF Program serves both veterans and their families, consistent with the purposes of the Act, proposed § 62.35(c) requires grantees to establish a reasonable grace period during which a veteran’s family member(s) may continue to receive supportive services if the veteran becomes absent from the household or dies. This grace period would allow the veteran’s family member(s) to continue receiving supportive services for a maximum of 1 year from the date of the absence or death of the veteran, subject to the requirements of proposed § 62.35(a) and (b). Participants could be harmed by the sudden withdrawal of supportive services at a time when the participant may most need such supportive services. The grace period would allow the grantee discretion in establishing the duration of the grace period because the grantee would be most familiar with the participant’s individualized needs.

If a participant becomes ineligible to receive supportive services for any of the reasons described in proposed § 62.35, proposed § 62.35(d) requires the grantee to provide the participant with information on other available programs or resources.

#### *62.36 General Operation Requirements*

To ensure that grantees are expending supportive services grant funds on eligible participants, proposed § 62.36(a) requires grantees to certify the eligibility of each participant for supportive

services and classify the participant under one of the categories set forth in proposed § 62.11(a). This certification and classification must occur at least once every 3 months. In addition, grantees would be required to maintain the confidentiality of records kept on participants, as required by proposed § 62.36(b). Pursuant to proposed § 62.36(c), grantees would be required to notify participants of satisfaction surveys at certain times in order to assist VA to evaluate grantees’ performance and participants’ satisfaction with the supportive services they receive. To encourage grantees to leverage other financial resources to ensure continuity of program operations and assistance to participants, proposed § 62.36(d) requires grantees to regularly assess how supportive services grant funds can be used in conjunction with other available funds and services.

#### *62.37 Fee Prohibition*

In accordance with the intent of the Act, VA proposes that all very low-income veteran families be eligible to receive supportive services under the SSVF Program, regardless of whether such very low-income veteran family is able to pay for such services. Accordingly, proposed § 62.37 prohibits grantees from charging a fee to very low-income veteran families for providing supportive services that are funded with amounts from a supportive services grant or cost-sharing funds. However, as described in proposed §§ 62.33(h) and 62.34, grantees would be permitted to require a participant to share in the cost of any rental or utility fee payment, rental or utility deposits, moving costs, or child care costs which would be paid by the grantee on behalf of the participant.

#### *62.40 Notice of Fund Availability*

Similar to the existing process in VA’s Homeless Providers Grant and Per Diem Program (38 CFR 61.60), in order to notify the public when funds are available for supportive services grants, in accordance with proposed § 62.40, VA would publish a Notice of Fund Availability in the **Federal Register** identifying such items as the location for obtaining supportive services grant application packages; the date, time, and place for submitting completed supportive services grant applications; the estimated amount and type of funding available, such as the amount of funds available for initial and renewal supportive services grants; the length of term for supportive services grant payments; and other information necessary for the supportive services grant application process as determined

by VA. The Notice of Fund Availability may require applicants to submit evidence of financial responsibility, such as financial statements and an Internal Revenue Service certification, and VA would use this information to confirm that applicants are financially responsible to receive funds under the SSVF Program.

In addition, under the proposed rule, the Notice of Fund Availability may include a minimum number of total points and points per category that an applicant or grantee, as applicable, must receive in order for a supportive services grant to be funded in order to provide a minimal baseline which applicants or grantees, as applicable, must meet. Under the proposed rule, VA would be able to choose to include funding priorities in the Notice of Fund Availability in order to meet the mandates of the Act (38 U.S.C. 2044) and VA goals for the SSVF Program. For example, VA may decide to award a certain amount of available supportive services grant funds to applicants in certain areas or communities in order to fulfill the Act's requirement to equitably distribute supportive services grants across geographical regions (38 U.S.C. 2044(a)(5)). VA may limit the amount of supportive services grant funds for specific supportive services in the Notice of Fund Availability to ensure that grantees do not expend funds in a manner inconsistent with VA's goals for the SSVF Program. For example, the Notice of Fund Availability may prohibit a grantee from using more than 10 percent of the supportive services grant funds for temporary financial assistance; this requirement would ensure that the grantee has sufficient funds to provide the other required supportive services. Whether VA continues to fund any particular grantee from one year to the next will depend upon the priorities announced in the Notice of Fund Availability. For example, VA may decide to award a certain amount of available supportive services grant funds to renewal applicants.

VA would also plan to notify interested parties of the availability of supportive services grant funds on the appropriate VA Web site.

#### *62.50 Supportive Services Grant Agreements*

Upon selection, proposed § 62.50 requires the applicant or grantee, as applicable, to execute a supportive services grant agreement with VA confirming compliance with all requirements of the proposed rule and other terms and conditions required by VA. The supportive services grant

agreement would be enforceable against the grantee, which would provide VA with assurance that the grantee would use the supportive services grant funds in the manner described in the supportive services grant application and in accordance with the requirements of the proposed rule.

#### *62.51 Payments Under the Supportive Services Grant*

The Act (38 U.S.C. 2044(a)(3)(B)) authorizes VA to establish intervals of payment for the administration of supportive services grants and establish a maximum amount to be awarded, in accordance with the supportive services being provided and their duration. Proposed § 62.51 notifies grantees that information regarding the timeframe and manner of payment of supportive services grants would be described in the Notice of Fund Availability. Including these requirements in the Notices of Fund Availability allows VA flexibility to determine the appropriate time and manner of payment of supportive services grants during each funding cycle.

#### *62.60 Program or Budget Changes and Corrective Action Plans*

Proposed § 62.60(a), which is derived from VA's Homeless Providers Grant and Per Diem Program (38 CFR 61.62), would require grantees to receive prior approval from VA in the form of an amendment to the supportive services grant agreement before any significant change to the grantee's program is implemented. Examples of significant changes would include: A change in the grantee or any subcontractors identified in the supportive services grant agreement, a change in the area or community served by the grantee, additions or deletions of supportive services provided by the grantee, a change in the category of participants to be served, and a change in budget line items that are more than 10 percent of the total supportive services grant award. The grantee would be obligated to implement the agreed upon program until such time, if any, that VA consents to a significant change.

The Act (38 U.S.C. 2044(a)(7)) permits VA to require grantees to submit a report that describes the projects carried out using supportive services grant funds. Proposed § 62.60(b) provides that if, on a quarterly basis, actual supportive services grant expenditures vary from the amount disbursed to a grantee for that same quarter or actual supportive services vary from the grantee's program description provided in the supportive services grant agreement, VA may require the grantee

to submit a corrective action plan to demonstrate how the grantee would adjust to meet the requirements of the supportive services grant agreement in accordance with proposed § 62.60(b). The corrective action plan would explain how a grantee would adjust its behavior in order to comply with the requirements of the supportive services grant agreement, and the correction may involve an amendment as described under proposed § 62.60(a).

The requirements in proposed § 62.60 would help VA maintain control over the quality of the supportive services provided by grantees and ensure that supportive services grant funds are not misused.

#### *62.61 Procedural Error*

Similar to the existing process in VA's Homeless Providers Grant and Per Diem Program (38 CFR 61.63), proposed § 62.61 would authorize VA to select an applicant for available funding, based on the applicant's previously submitted application, if that applicant is not selected because of VA's procedural error. This is intended to ease the administrative burden on applicants and, under the proposed rule, may be used in situations where there is no material change in the application that would have resulted in the applicant's selection.

#### *62.62 Religious Organizations*

Proposed § 62.62, which describes that religious or faith-based organizations are eligible for supportive services grants and contains certain conditions on the use of supportive services grant funds as it relates to religious activities, is similar to the language used in the regulations for VA's Homeless Providers Grant and Per Diem Program (38 CFR 61.64). This language is included in the proposed rule because VA expects that religious or faith-based organizations may apply for supportive services grants.

#### *62.63 Visits To Monitor Operations and Compliance*

Proposed § 62.63 provides VA with the right, at all reasonable times, to make visits to all grantee locations where a grantee is using supportive services grant funds in order to review grantee accomplishments and management control systems and to provide such technical assistance as may be required. VA may also conduct inspections of all program locations and records of a grantee at such times as are deemed necessary to determine compliance with the provisions of this part. In the event that a grantee delivers services in a participant's home, or at a

location away from the grantee's place of business, VA may accompany the grantee. If the grantee's visit is to the participant's home, VA will only accompany the grantee with the consent of the participant. These provisions are critical for VA oversight over supportive services grants.

#### *62.70 Financial Management and Administrative Costs*

Proposed § 62.70 requires grantees to comply with applicable Office of Management and Budget requirements and VA's standards for financial management for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations (38 CFR 49.21). This provision is included in the proposed rule to ensure grantees are aware of additional requirements with which they must comply.

Proposed § 62.70(e) requires that costs for administration by a grantee do not exceed 10 percent of the total amount of a supportive services grant, which, as explained above in the discussion regarding proposed § 62.10, VA has determined to be reasonable and consistent with the purpose of the SSVF Program. This requirement would ensure that the vast majority of supportive services grant funds (90 percent) are used to provide supportive services to participants, which is the purpose of the SSVF Program.

#### *62.71 Grantee Reporting Requirements*

The Act (38 U.S.C. 2044(a)(7)) permits VA to require grantees to submit a report that describes projects carried out using supportive services grant funds. To obtain the information VA deems necessary to analyze and monitor a grantee's performance, proposed § 62.71 contains reporting requirements for grantees to provide information (in such form as may be prescribed by VA) as VA determines necessary to carry out the SSVF Program. Under the proposed rule, grantees must report, on a quarterly basis, any instances when actual supportive services grant expenditures vary from the amount disbursed to a grantee for that same quarter or actual supportive services grant activities vary from the grantee's program description provided in the supportive services grant agreement; this information may lead VA to require a corrective action plan, as described under proposed § 62.60(b).

Proposed § 62.71(f) requires grantees to provide VA with consent to post information from reports on the Internet and use such information in other ways deemed appropriate by VA. Under the proposed rule, grantees are required to

clearly mark information that is confidential to individual participants. VA may post portions of the reports on the Internet so that the public has a greater understanding of the SSVF Program. In addition, VA may use the information for promotional or evaluation purposes.

#### *62.72 Recordkeeping*

Proposed § 62.72 requires grantees to keep records, and maintain such records for at least a 3 year period, to document compliance with the SSVF Program requirements. Under the proposed rule, grantees would need to produce these records at VA's request. This would assist VA in providing oversight over grantees. In addition, this proposed rule would help VA comply with the Act, which requires VA to study the effectiveness of the program. Public Law 110-387, section 604(c).

#### *62.73 Technical Assistance*

Under the Act (38 U.S.C. 2044(d)), proposed § 62.73 explains that VA would provide technical assistance, as necessary, to eligible entities to meet the requirements of the proposed rule. The technical assistance may consist of activities related to the planning, development, and provision of supportive services to very low-income veteran families occupying permanent housing.

In addition to other forms of technical assistance that would be provided, VA will develop a program guide to be used by applicants, grantees, VA staff members, and other interested third parties to assist with understanding and implementing the SSVF Program.

#### *62.80 Withholding, Suspension, Deobligation, Termination, and Recovery of Funds By VA*

In accordance with proposed § 62.80, VA may recover from grantees any funds that are not used in accordance with the SSVF Program requirements. In addition, the proposed rule provides that if a grantee fails to comply with these requirements, upon 7 days notice to the grantee, VA may withhold further payment, suspend the supportive services grant, or prohibit the grantee from incurring additional obligations of supportive services grant funds. Proposed § 62.80(c)(1)–(3) provides that VA may terminate a supportive services grant in whole or in part only if the grantee: (1) Materially fails to comply with the terms and conditions of a supportive services grant award or the proposed rule; (2) consents to a termination; or (3) sends written notification setting forth the reasons for termination, the effective date, and in

the case of partial termination, the portion to be terminated. In the event VA determines a grantee's requested partial termination would not accomplish the purposes of the supportive services grant, the proposed rule would permit VA to terminate the supportive services grant under proposed § 62.80(c)(1) or § 62.80(c)(2).

The proposed rule provides that VA may deobligate all or a portion of the amounts approved for use by a grantee if, in accordance with proposed § 62.80(d), (1) the activity for which funding was approved is not provided in accordance with the approved application and the SSVF Program requirements, (2) such amounts have not been expended within 1 year from the date the supportive services grant agreement was signed, or (3) other circumstances set forth in the supportive services grant agreement authorize or require such deobligation. Under the proposed rule, VA may advertise in a Notice of Fund Availability the availability of funds that have been deobligated or may award deobligated funds to applicants who have previously submitted applications in response to the most recently published Notice of Fund Availability.

The requirements in proposed § 62.80 would help VA ensure that grant funds are used appropriately. Similar requirements are used in VA's Homeless Providers Grant and Per Diem Program (38 CFR 61.67) and VA's regulations regarding uniform requirements for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations (38 CFR 49.61 and 38 CFR 49.62), and VA has found that they are adequate to safeguard, and maximize optimal use of, grant funds.

#### *62.81 Supportive Services Grant Closeout Procedures*

Proposed § 62.81 contains closeout procedures for a supportive services grant which are similar to the procedures established in VA's regulations regarding uniform requirements for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations (38 CFR 49.71). No later than 90 days after the date of completion of a supportive services grant, the proposed rule provides that the grantee must refund to VA any unobligated balance of supportive services grant funds the grantee is not authorized to retain and submit all financial, performance and other reports as required by VA to closeout the supportive services grant. VA would retain the right to recover appropriate

amounts from grantees if final audits are completed after the date of completion.

### Paperwork Reduction Act

This proposed rule includes provisions constituting collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) that require approval by the Office of Management and Budget (OMB). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking to OMB for review. OMB assigns control numbers to collections of information it approves. Except for emergency approvals under 44 U.S.C. 3507(j), VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The proposed rule at proposed §§ 62.20, 62.36(c), 62.60, and 62.71 contains collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to OMB for its review of the collections of information. VA has requested OMB to approve the collection of information on an emergency basis by June 4, 2010. This date is consistent with the shortened comment period for comments on the proposed rule and will help avoid a delay in implementation of the SSVF Program. The increased services and funding provided by the SSVF Program are critical to both achieve VA's goal of eliminating veteran homelessness and meet the Congressional mandates for this program. In addition, because the SSVF program would also support VA's homelessness prevention efforts, a delay in funding disbursement may even lead to an increase in homelessness among very low-income veteran families. Therefore, the need to take action is particularly great for those veterans and their families who would benefit from the increased supportive services funded by the SSVF Program. If OMB does not approve the collections of information as requested, VA will immediately remove the provisions containing a collection of information or take such other action as is directed by OMB.

Comments on the collections of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to: The Director, Office of Regulation Policy and Management (02REG), Department of Veterans

Affairs, 810 Vermont Ave, NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or through <http://www.Regulations.gov>. Comments should indicate that they are submitted in response to “RIN 2900–AN53.”

Because VA has requested OMB to approve the collections of information on an emergency basis, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed amendments to title 38, CFR chapter I contain collections of information under the Paperwork Reduction Act for which we are requesting approval by OMB. These collections of information are described immediately following this paragraph, under their respective titles.

*Title:* Supportive Services for Veteran Families Program.

*Summary of collection of information:* The proposed rule at proposed § 62.20 contains application provisions for supportive services grants. The proposed rule at proposed § 62.36(c) contains a reference to participant satisfaction surveys. The proposed rule at proposed § 62.60 contains provisions for program or budget changes and submission of corrective action plans. The proposed rule at proposed § 62.71 contains requirements for compliance reports.

*Application Provisions for SSVF Program*

*Description of the need for information and proposed use of information:* This information is needed to award supportive services grants to eligible entities.

*Description of likely respondents:* Non-profit private organizations and

consumer cooperatives requesting a supportive service grant.

*Estimated number of respondents per year:* 100.

*Estimated frequency of responses per year:* 1.

*Estimated total annual reporting and recordkeeping burden:* 3,500 hours.

*Estimated annual burden per collection:* 35 hours.

*Supportive Services Grant Renewal Applications for SSVF Program*

*Description of the need for information and proposed use of information:* This information is needed to renew supportive services grants previously awarded.

*Description of likely respondents:* Entities who have received supportive services grants.

*Estimated number of respondents per year:* 30.

*Estimated frequency of responses per year:* 1.

*Estimated total annual reporting and recordkeeping burden:* 300 hours.

*Estimated annual burden per collection:* 10 hours.

*Participant Satisfaction Surveys*

*Description of the need for information and proposed use of information:* This information is needed for VA to evaluate grantees' performance and participants' satisfaction with the supportive services they receive.

*Description of likely respondents:* Very low-income veteran families occupying permanent housing that are receiving supportive services from a grantee.

*Estimated number of respondents per year:* 11,250.

*Estimated frequency of responses per year:* 2.

*Estimated total annual reporting and recordkeeping burden:* 5,625 hours.

*Estimated annual burden per collection:* 15 minutes.

*Program or Budget Changes and Corrective Action Plans*

*Description of the need for information and proposed use of information:* This information is needed in order for a grantee to inform VA of significant changes that will alter a supportive services grant program approved by VA. In addition, VA may require grantees to initiate, develop and submit to VA for approval corrective action plans if, on a quarterly basis, actual supportive services grant expenditures vary from the amount disbursed to a grantee for that same quarter or actual supportive services grant activities vary from the grantee's program description provided in the supportive services grant agreement.

*Description of likely respondents:* entities receiving supportive services grants who desire to change their approved supportive services grant program.

*Estimated number of respondents per year:* 10.

*Estimated frequency of responses per year:* 1.

*Estimated total annual reporting and recordkeeping burden:* 20 hours.

*Estimated annual burden per collection:* 2 hours.

*Compliance reports for SSVF Program*

*Description of the need for information and proposed use of information:* This information is needed to determine compliance with the requirements for a supportive services grant.

*Description of likely respondents:* entities receiving supportive services grants.

*Estimated number of respondents per year:* 30.

*Estimated frequency of responses per year:* 4.

*Estimated total annual reporting and recordkeeping burden:* 270 hours.

*Estimated annual burden per collection:* 2.25 hours.

#### *Comment Period*

Although under the rulemaking guidelines in Executive Order 12866, VA ordinarily provides a 60-day comment period, the Secretary has determined that there is good cause to limit the public comment period on this proposed rule to 30 days. This proposed rule is necessary to implement section 604 of Public Law 110-387, the Veterans' Mental Health and Other Care Improvements Act of 2008, which authorizes VA to award grants to eligible entities to provide and coordinate the supportive services described in 38 U.S.C. 2044(b) for very low-income veteran families occupying permanent housing. These increased services and funding are critical to both achieve VA's goal of eliminating veteran homelessness and meet the Congressional mandates for this program. In addition, because the SSVF program would also support VA's homelessness prevention efforts, a delay in funding disbursement may even lead to an increase in homelessness among very low-income veteran families. Therefore, the need to take action is particularly great for those veterans and their families who would benefit from the increased supportive services funded by the SSVF Program. Accordingly, the Secretary has provided a 30-day comment period for this proposed rule.

#### **Executive Order 12866**

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by OMB unless OMB waives such a review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action planned or taken by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, economic, legal, and policy implications of this proposed rule have been examined and it has been determined to be a significant regulatory action under Executive Order 12866 because it may result in a rule that raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This proposed rule would only impact those entities that choose to participate in the SSVF Program. Small entity applicants will not be affected to a greater extent than large entity applicants. Small entities must elect to participate, and it is considered a benefit to those who choose to apply. To the extent this proposed rule would have any impact on small entities, it would not have an impact on a substantial number of small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirement of sections 603 and 604.

#### **Unfunded Mandates**

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, or tribal governments, or on the private sector.

#### **Catalog of Federal Domestic Assistance Program**

There is no Catalog of Federal Domestic Assistance program number and title for the program in this proposal.

#### **Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on January 26, 2010, for publication.

#### **List of Subjects in 38 CFR Part 62**

Administrative practice and procedure, Day care, Disability benefits, Government contracts, Grant programs-health, Grant programs-social services, Grant programs-transportation, Grant programs-veterans, Grants-housing and community development, Health care, Homeless, Housing, Housing assistance payments, Indians-lands, Individuals with disabilities, Low and moderate income housing, Manpower training program, Medicare, Medicaid, Public assistance programs, Public housing, Relocation assistance, Rent subsidies, Reporting and recordkeeping requirements, Rural areas, Social security, Supplemental security income (SSI), Travel and transportation expenses, Unemployment compensation, Veterans.

Dated: April 29, 2010.

**Robert C. McFetridge,**

*Director, Regulation Policy and Management, Office of the General Counsel.*

For the reasons stated in the preamble, VA proposes to amend 38 CFR chapter I to add a new part 62 to read as follows:

#### **PART 62—SUPPORTIVE SERVICES FOR VETERAN FAMILIES PROGRAM**

Sec.

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**Authority:** 38 U.S.C. 501, 2044, and as noted in specific sections

### § 62.1 Purpose.

This part implements the Supportive Services for Veteran Families Program, which provides supportive services grants to eligible entities to facilitate the provision of supportive services to very low-income veteran families who are occupying permanent housing.

(Authority: 38 U.S.C. 501, 2044)

### § 62.2 Definitions.

For purposes of this part and any Notice of Fund Availability issued under this part:

*Applicant* means an eligible entity that submits an application for a supportive services grant announced in a Notice of Fund Availability.

*Area or community* means a political subdivision or contiguous political subdivisions (such as a precinct, ward, borough, city, county, State, Congressional district or tribal reservation) with an identifiable population of very low-income veteran families.

*Consumer cooperative* has the meaning given such term in section 202 of the Housing Act of 1959 (12 U.S.C. 1701q).

*Date of completion* means the earliest of the following dates:

- (1) The date on which all required work is completed;
- (2) The date specified in the supportive services grant agreement, or any supplement or amendment thereto; or
- (3) The effective date of a supportive services grant termination under § 62.80(c).

*Disallowed costs* means costs charged by a grantee that VA determines to be unallowable based on applicable Federal cost principles, or based on this part or the supportive services grant agreement.

*Eligible entity* means a:

- (1) Private non-profit organization, or
- (2) Consumer cooperative.

*Emergency supplies* means items necessary for a participant's life or safety that are provided to the participant by a grantee on a temporary basis in order to address the participant's emergency situation.

*Grantee* means an eligible entity that is awarded a supportive services grant under this part.

*Homeless* has the meaning given that term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).

*Notice of Fund Availability* means a Notice of Fund Availability published in the **Federal Register** in accordance with § 62.40.

*Occupying permanent housing* means meeting any of the conditions set forth in § 62.11(a).

*Participant* means a very low-income veteran family occupying permanent housing who is receiving supportive services from a grantee.

*Permanent housing* means community-based housing without a designated length of stay. Examples of permanent housing include, but are not limited to, a house or apartment with a month-to-month or annual lease term or home ownership.

*Private non-profit organization* means any of the following:

- (1) An incorporated private institution or foundation that:
  - (i) Has no part of the net earnings that inure to the benefit of any member, founder, contributor, or individual;

- (ii) Has a governing board that is responsible for the operation of the supportive services provided under this part; and

- (iii) Is approved by VA as to financial responsibility.

- (2) A for-profit limited partnership, the sole general partner of which is an organization meeting the requirements of paragraphs (1)(i), (ii) and (iii) of this definition.

- (3) A corporation wholly owned and controlled by an organization meeting the requirements of paragraphs (1)(i), (ii), and (iii) of this definition.

- (4) A tribally designated housing entity (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)).

*State* means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under the United States Housing Act of 1937.

*Subcontractor* means any third party contractor, of any tier, working directly for an eligible entity.

*Supportive services* means any of the following provided to address the needs of a participant:

- (1) Outreach services as specified under § 62.30.

- (2) Case management services as specified under § 62.31.

- (3) Assisting participants in obtaining VA benefits as specified under § 62.32.

- (4) Assisting participants in obtaining and coordinating other public benefits as specified under § 62.33.

- (5) Other services as specified under § 62.34.

*Supportive services grant* means a grant awarded under this part.

*Supportive services grant agreement* means the agreement executed between VA and a grantee as specified under § 62.50.

*Suspension* means an action by VA that temporarily withdraws VA funding under a supportive services grant, pending corrective action by the grantee or pending a decision to terminate the supportive services grant by VA. Suspension of a supportive services grant is a separate action from suspension under VA regulations implementing Executive Orders 12549 and 12689, "Debarment and Suspension."

*Third party in-kind contributions* means the value of non-cash contributions provided by non-Federal third parties. Third party in-kind

contributions may be in the form of real property, equipment, supplies, and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the grantee's program.

VA means the Department of Veterans Affairs.

*Very low-income veteran family* means a veteran family whose annual income, as determined in accordance with 24 CFR 5.609, does not exceed 50 percent of the median income for an area or community, as will be adjusted by VA based on family size and as may be adjusted and announced by VA in the Notice of Fund Availability based on residency within an area with unusually high or low construction costs, fair market rents (as determined under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f)), or family incomes. Unless VA announces otherwise in the Notice of Fund Availability, the median income for an area or community will be determined using the income limits most recently published by the Department of Housing and Urban Development for programs under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

*Veteran* means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

*Veteran family* means a veteran who is a single person or a family in which the head of household, or the spouse of the head of household, is a veteran.

*Withholding* means that payment of a supportive services grant will not be paid until such time as VA determines that the grantee provides sufficiently adequate documentation and/or actions to correct a deficiency for the supportive services grant. Costs for supportive services provided by grantees under the supportive services grant from the date of the withholding letter would be reimbursed only if the grantee is able to submit the documentation or actions that the deficiency has been corrected to the satisfaction of VA.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.10 Supportive services grants—general.**

(a) VA provides supportive services grants to eligible entities as described in this part.

(b) Grantees must use at least 90 percent of supportive services grant funds to provide and coordinate the provision of supportive services to very low-income veteran families who are occupying permanent housing.

(c) Grantees may use up to 10 percent of supportive services grant funds for

administrative costs identified in § 62.70.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.11 Participants—occupying permanent housing.**

(a) *Occupying permanent housing.* A very low-income veteran family will be considered to be occupying permanent housing if the very low-income veteran family:

(1) Is residing in permanent housing;

(2) Is homeless and scheduled to become a resident of permanent housing within 90 days pending the location or development of housing suitable for permanent housing; or

(3) Has exited permanent housing within the previous 90 days to seek other housing that is responsive to the very low-income veteran family's needs and preferences.

Cross Reference: For limitations on and continuations of the provision of supportive services to participants classified under paragraphs (a)(2) and (a)(3) of this section, see § 62.35.

(b) *Changes to a participant's classification for occupying permanent housing.* If a participant's classification for occupying permanent housing changes while the participant is receiving supportive services from a grantee, the participant may be reclassified under the categories set forth in paragraph (a) of this section.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.20 Applications for supportive services grants.**

(a) To apply for a supportive services grant, an applicant must submit to VA a complete supportive services grant application package, as described in the Notice of Fund Availability. A complete supportive services grant application package includes the following:

(1) A description of the supportive services to be provided by the applicant and the identified need for such supportive services among very low-income veteran families;

(2) A description of the characteristics of very low-income veteran families occupying permanent housing who will be provided supportive services by the applicant;

(3) An estimate with supporting documentation of the number of very low-income veteran families occupying permanent housing who will be provided supportive services by the applicant and a description of the area or community where such very low-income veteran families are located;

(4) Documentation evidencing the experience of the applicant and any identified subcontractors in providing supportive services to very low-income

veteran families and very low-income families;

(5) Documentation relating to the applicant's ability to coordinate with any identified subcontractors;

(6) Documentation of the managerial capacity of the applicant to:

(i) Coordinate the provision of supportive services with the provision of permanent housing by the applicant or by other organizations;

(ii) Assess continuously the needs of participants for supportive services;

(iii) Coordinate the provision of supportive services with services provided by VA;

(iv) Customize supportive services to the needs of participants;

(v) Continuously seek new sources of assistance to ensure the long-term provision of supportive services to very low-income veteran families occupying permanent housing;

(vi) Comply with and implement the requirements of this part throughout the term of the supportive services grant; and

(7) Any additional information as deemed appropriate by VA.

(b) Grantees may submit an application for renewal of a supportive services grant if the grantee's program will remain substantially the same. To apply for renewal of a supportive services grant, a grantee must submit to VA a complete supportive services grant renewal application package, as described in the Notice of Fund Availability.

(c) VA may request in writing that an applicant or grantee, as applicable, submit other information or documentation relevant to the supportive services grant application.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.21 Threshold requirements prior to scoring supportive services grant applicants.**

VA will only score applicants that meet the following threshold requirements:

(a) The application is filed within the time period established in the Notice of Fund Availability, and any additional information or documentation requested by VA under § 62.20(c) is provided within the time frame established by VA;

(b) The application is completed in all parts;

(c) The applicant is an eligible entity;

(d) The activities for which the supportive services grant is requested are eligible for funding under this part;

(e) The applicant's proposed participants are eligible to receive supportive services under this part;

(f) The applicant agrees to comply with the requirements of this part;

(g) The applicant does not have an outstanding obligation to the Federal government that is in arrears and does not have an overdue or unsatisfactory response to an audit;

(h) The applicant is not in default by failing to meet the requirements for any previous Federal assistance; and

(i) The applicant provides evidence that the minimum cost sharing requirement is satisfied.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.22 Scoring criteria for supportive services grant applicants.**

VA will use the following criteria to score applicants who are applying for a supportive services grant:

(a) VA will award up to 35 points based on the background, qualifications, experience, and past performance, of the applicant, and any subcontractors identified by the applicant in the supportive services grant application, as demonstrated by the following:

(1) *Background and organizational history.*

(i) Applicant's, and any identified subcontractors', background and organizational history are relevant to the program.

(ii) Applicant, and any identified subcontractors, maintain organizational structures with clear lines of reporting and defined responsibilities.

(iii) Applicant, and any identified subcontractors, have a history of complying with agreements and not defaulting on financial obligations.

(2) *Staff qualifications.*

(i) Applicant's staff, and any identified subcontractors' staff, have experience working with very low-income families.

(ii) Applicant's staff, and any identified subcontractors' staff, have experience administering programs similar to the Supportive Services for Veteran Families Program.

(3) *Organizational qualifications and past performance.*

(i) Applicant, and any identified subcontractors, have organizational experience providing supportive services to very low-income families.

(ii) Applicant, and any identified subcontractors, have organizational experience coordinating services for very low-income families among multiple organizations, Federal, State, local and tribal governmental entities.

(iii) Applicant, and any identified subcontractors, have organizational experience administering a program similar in type and scale to the Supportive Services for Veteran Families Program to very low-income families.

(4) *Experience working with veterans.*

(i) Applicant's staff, and any identified subcontractors' staff, have experience working with veterans.

(ii) Applicant, and any identified subcontractors, have organizational experience providing supportive services to veterans.

(iii) Applicant, and any identified subcontractors, have organizational experience coordinating services for veterans among multiple organizations, Federal, State, local and tribal governmental entities.

(b) VA will award up to 25 points based on the applicant's program concept and supportive services plan, as demonstrated by the following:

(1) *Need for program.*

(i) Applicant has shown a need amongst very low-income veteran families occupying permanent housing in the area or community where the program will be based.

(ii) Applicant understands the unique needs for supportive services of very low-income veteran families.

(2) *Outreach and screening plan.*

(i) Applicant has a feasible outreach and referral plan to identify and assist very low-income veteran families occupying permanent housing that may be eligible for supportive services.

(ii) Applicant has a plan to process and receive participant referrals.

(iii) Applicant has a plan to assess and accommodate the needs of incoming participants.

(3) *Program concept.*

(i) Applicant's program concept, size, scope, and staffing plan are feasible.

(ii) Applicant's program is designed to meet the needs of very low-income veteran families occupying permanent housing.

(4) *Program implementation timeline.*

(i) Applicant's program will be implemented in a timely manner and supportive services will be delivered to participants as quickly as possible and within a specified timeline.

(ii) Applicant has a hiring plan in place to meet the applicant's program timeline or has existing staff to meet such timeline.

(5) *Collaboration and communication with VA.* Applicant has a plan to coordinate outreach and services with local VA facilities.

(6) *Ability to meet VA's requirements, goals and objectives for the Supportive Services for Veteran Families Program.* Applicant is committed to ensuring that its program meets VA's requirements, goals and objectives for the Supportive Services for Veteran Families Program as identified in this part and the Notice of Fund Availability.

(7) *Capacity to undertake program.*

Applicant has sufficient capacity,

including staff resources, to undertake the program.

(c) VA will award up to 15 points based on the applicant's quality assurance and evaluation plan, as demonstrated by the following:

(1) *Program evaluation.*

(i) Applicant has created clear, realistic, and measurable goals against which the applicant's program performance can be evaluated.

(ii) Applicant plans to continually assess the program.

(2) *Monitoring.*

(i) Applicant has adequate controls in place to regularly monitor the program, including any subcontractors, for compliance with all applicable laws, regulations, and guidelines.

(ii) Applicant has adequate financial and operational controls in place to ensure the proper use of supportive services grant funds.

(iii) Applicant has a plan for ensuring that the applicant's staff and any subcontractors are appropriately trained and stays informed of industry trends and the requirements of this part.

(3) *Remediation.* Applicant has a plan to establish a system to remediate non-compliant aspects of the program if and when they are identified.

(4) *Management and reporting.*

Applicant's program management team has the capability and a system in place to provide to VA timely and accurate reports at the frequency set by VA.

(d) VA will award up to 15 points based on the applicant's financial capability and plan, as demonstrated by the following:

(1) *Organizational finances.*

Applicant, and any identified subcontractors, are financially stable.

(2) *Financial feasibility of program.*

(i) Applicant has a realistic plan for obtaining all funding required to operate the program for the time period of the supportive services grant.

(ii) Applicant's program is cost-effective and can be effectively implemented on-budget.

(3) *Cost sharing requirement.*

Applicant has exceeded the minimum cost sharing requirement up to a certain percentage as set forth in the Notice of Fund Availability.

(e) VA will award up to 10 points based on the applicant's area or community linkages and relations, as demonstrated by the following:

(1) *Area or community linkages.*

Applicant has a plan for developing or has existing linkages with Federal (including VA), State, local, and tribal government agencies, and private entities for the purposes of providing additional services to participants.

(2) *Past working relationships.*

Applicant (or applicant's staff), and any

identified subcontractors (or subcontractors' staff), have fostered successful working relationships and linkages with public and private organizations providing services to veterans or very low-income families in need of services similar to the supportive services.

(3) *Local presence and knowledge.*

(i) Applicant has a presence in the area or community to be served by the applicant.

(ii) Applicant understands the dynamics of the area or community to be served by the applicant.

(4) *Integration of linkages and program concept.* Applicant's linkages to the area or community to be served by the applicant enhance the effectiveness of the applicant's program.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.23 Selecting applicants to receive supportive services grants.**

VA will use the following process to select applicants to receive supportive services grants:

(a) VA will score all applicants that meet the threshold requirements set forth in § 62.21 using the scoring criteria set forth in § 62.22.

(b) VA will group applicants within the applicable funding priorities if funding priorities are set forth in the Notice of Fund Availability.

(c) VA will rank those applicants who receive at least the minimum amount of total points and points per category set forth in the Notice of Fund Availability, within their respective funding priority group, if any. The applicants will be ranked in order from highest to lowest scores, within their respective funding priority group, if any.

(d) VA will use the applicant's ranking as the primary basis for selection for funding. However, VA will also use the following considerations to select applicants for funding:

(1) VA will give preference to applicants that provide or coordinate the provision of supportive services for very low-income veteran families transitioning from homelessness to permanent housing; and

(2) To the extent practicable, VA will ensure that supportive services grants are equitably distributed across geographic regions, including rural communities and tribal lands.

(e) Subject to paragraph (d) of this section, VA will fund the highest-ranked applicants for which funding is available, within the highest funding priority group, if any. If funding priorities have been established, to the extent funding is available and subject to paragraph (d) of this section, VA will select applicants in the next highest

funding priority group based on their rank within that group.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.24 Scoring criteria for grantees applying for renewal of supportive services grants.**

VA will use the following criteria to score grantees applying for renewal of a supportive services grant:

(a) VA will award up to 55 points based on the success of the grantee's program, as demonstrated by the following:

(i) Participants made progress in achieving housing stability.

(ii) Participants were satisfied with the supportive services provided by the grantee.

(iii) The grantee implemented the program and delivered supportive services to participants in a timely manner.

(b) VA will award up to 30 points based on the cost-effectiveness of the grantee's program, as demonstrated by the following:

(i) The cost per participant household was reasonable.

(ii) The grantee's program was effectively implemented on-budget.

(c) VA will award up to 15 points based on the extent to which the grantee's program complies with Supportive Services for Veteran Families Program goals and requirements, as demonstrated by the following:

(i) The grantee's program was administered in accordance with VA's goals for the Supportive Services for Veteran Families Program.

(ii) The grantee's program was administered in accordance with all applicable laws, regulations, and guidelines.

(iii) The grantee's program was administered in accordance with the grantee's supportive services grant agreement.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.25 Selecting grantees for renewal of supportive services grants.**

VA will use the following process to select grantees applying for renewal of supportive services grants:

(a) So long as the grantee continues to meet the threshold requirements set forth in § 62.21, VA will score the grantee using the scoring criteria set forth in § 62.24.

(b) VA will rank those grantees who receive at least the minimum amount of total points and points per category set forth in the Notice of Fund Availability. The grantees will be ranked in order from highest to lowest scores.

(c) VA will use the grantee's ranking as the basis for selection for funding. VA

will fund the highest-ranked grantees for which funding is available.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.26 Cost sharing requirement.**

(a) The grantee must match the amount of VA-provided supportive services grant funds with a minimum of 10 percent of funds from non-VA sources. The matching funds can be in the form of either or both of the following:

(1) Cash resources provided by one or more of the following: the grantee; the Federal government (but excluding any funds provided by VA); State, local and tribal governments; or private resources.

(2) Third party in-kind contributions.

(b) Contributions will be accepted as part of the grantee's cost sharing when such contributions meet the conditions of § 49.23 of this chapter.

(c) The grantee must ensure that any funds used to satisfy the cost sharing requirement of this section are eligible to be used under the rules governing such funds. (Use of Federal funds as a match requires that the agency whose funds would be so used has specific statutory authority allowing its funding to be used for cost sharing or matching.)

(Authority: 38 U.S.C. 501, 2044)

**§ 62.30 Supportive service: outreach services.**

(a) Grantees must provide outreach services and use their best efforts to ensure that hard-to-reach very low-income veteran families occupying permanent housing are found, engaged, and provided supportive services.

(b) Outreach services must include active liaison with local VA facilities, State, local, tribal (if any), and private agencies and organizations providing supportive services to very low-income veteran families in the area or community to be served by the grantee.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.31 Supportive service: case management services.**

Grantees must provide case management services that include, at a minimum:

(a) Performing a careful assessment of participant functions and developing and monitoring case plans in coordination with a formal assessment of supportive services needed, including necessary follow-up activities, to ensure that the participant's needs are adequately addressed;

(b) Establishing linkages with appropriate agencies and service providers in the area or community to help participants obtain needed supportive services;

(c) Providing referrals to participants and related activities (such as scheduling appointments for participants) to help participants obtain needed supportive services, such as medical, social, and educational assistance or other supportive services to address participants' identified needs and goals;

(d) Deciding how resources are allocated to participants on the basis of need; and

(e) Educating participants on issues, including, but not limited to, supportive services availability and participant rights.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.32 Supportive service: assistance in obtaining VA benefits.**

(a) Grantees must assist participants in obtaining any benefits from VA for which the participants are eligible. Such benefits include, but are not limited to:

- (1) Vocational and rehabilitation counseling;
- (2) Employment and training service;
- (3) Educational assistance; and
- (4) Health care services.

(b) Grantees are not permitted to represent participants before VA with respect to a claim for VA benefits unless they are recognized for that purpose pursuant to 38 U.S.C. 5902. Employees and members of grantees are not permitted to provide such representation unless the individual providing representation is accredited pursuant to 38 U.S.C. chapter 59.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.33 Supportive service: assistance in obtaining and coordinating other public benefits.**

Grantees must assist participants to obtain, and coordinate the provision of, other public benefits that are being provided by Federal, State, local, or tribal agencies, or any eligible entity in the area or community served by the grantee. Such public benefits may include, but are not limited to:

- (a) Health care services, which include:
- (1) Health insurance; and
  - (2) Referral to a governmental or eligible entity that provides any of the following services:

(i) Hospital care, nursing home care, out-patient care, mental health care, preventive care, habilitative and rehabilitative care, case management, respite care, and home care;

(ii) The training of any very low-income veteran family member in the care of any very low-income veteran family member; and

(iii) The provision of pharmaceuticals, supplies, equipment, devices, appliances, and assistive technology.

(b) Daily living services, which may consist of the referral of a participant, as appropriate, to an entity that provides services relating to the functions or tasks for self-care usually performed in the normal course of a day, including, but not limited to, eating, bathing, grooming, dressing, and home management activities.

(c) Personal financial planning services, which include, at a minimum, providing recommendations regarding day-to-day finances and achieving long-term budgeting and financial goals.

(d) Transportation services.

(1) The grantee may provide temporary transportation services to participants if the grantee determines such assistance is necessary; however, the preferred method of provision of transportation services is the provision of tokens, vouchers, or other appropriate instruments so that participants may use available public transportation options.

(2) If public transportation options are not sufficient within an area or community, costs related to the lease of vehicle(s) may be included in a supportive services grant application if the applicant or grantee, as applicable, agrees that:

(i) The vehicle(s) will be safe, accessible, and equipped to meet the needs of the participants;

(ii) The vehicle(s) will be maintained in accordance with the manufacturer's recommendations; and

(iii) All transportation personnel (employees and subcontractors) will be trained in managing any special needs of participants and handling emergency situations.

(e) Income support services, which may consist of providing assistance in obtaining other Federal, State, tribal and local assistance, in the form of, but not limited to, mental health benefits, employment counseling, medical assistance, veterans' benefits, and income support assistance.

(f) Fiduciary and representative payee services, which may consist of acting on behalf of a participant by receiving the participant's paychecks, benefits or other income, and using those funds for the current and foreseeable needs of the participant and saving any remaining funds for the participant's future use in an interest bearing account or saving bonds.

(g) Legal services to assist a participant with issues that interfere with the participant's ability to obtain or retain permanent housing or supportive services.

(h) Child care, which includes the:

(1) Referral of a participant, as appropriate, to a State-licensed facility that provides child care with sufficient

hours of operation and serves appropriate ages, as needed by the participant; and

(2) Payment by a grantee on behalf of a participant for child care at a State-licensed facility.

(i) Payments for child care services must be paid by the grantee directly to a State-licensed facility and cannot exceed a maximum of 2 months in a calendar year.

(ii) Grantees may require participants to share in the cost of child care as a condition of receiving payments for child care services.

(iii) Payments for child care services cannot be provided on behalf of participants for the same period of time and for the same cost types that are being provided through another Federal, State or local subsidy program.

(iv) As a condition of providing payments for child care services, the grantee must help the participant develop a reasonable plan to address the participant's future ability to pay for child care services and assist the participant to implement such plan.

(i) Housing counseling, which includes the provision of counseling relating to the stabilization of a participant's residence in permanent housing. At a minimum, housing counseling includes providing referrals to appropriate local, tribal, State, and Federal resources, and providing counseling, education and outreach directly to participants on the following topics, as appropriate:

(1) Housing search assistance, including the location of vacant units, the scheduling of appointments, viewing apartments, reviewing tenant leases, and negotiating with landlords on behalf of a participant;

(2) Rental and rent subsidy programs;

(3) Federal, State, tribal, or local assistance;

(4) Fair housing;

(5) Landlord tenant laws;

(6) Lease terms;

(7) Rent delinquency;

(8) Resolution or prevention of mortgage delinquency, including, but not limited to, default and foreclosure, loss mitigation, budgeting, and credit; and

(9) Home maintenance and financial management.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.34 Other supportive services.**

Grantees may provide the following services which are necessary for maintaining independent living in permanent housing and housing stability:

(a) *Rental assistance.* Payment of rent, penalties or fees to help the participant

remain in permanent housing or obtain permanent housing.

(1) A participant may receive rental assistance for a maximum of 4 months during a 3-year period, such period beginning on the date that the grantee first pays rent on behalf of the participant; however, a participant cannot receive rental assistance for more than 2 months in any calendar year. The rental assistance may be for rental payments that are currently due or are in arrears, and for the payment of penalties or fees incurred by a participant and required to be paid by the participant under an existing lease or court order. In all instances, rental assistance may only be provided if the payment of such rental assistance will directly allow the participant to remain in permanent housing or obtain permanent housing.

(2) Rental assistance must be paid by the grantee directly to the third party to whom rent is owed.

(3) As a condition of providing rental assistance, the grantee must help the participant develop a reasonable plan to address the participant's future ability to pay rent and assist the participant to implement such plan.

(4) The rental assistance paid by a grantee must be in compliance with the following "rent reasonableness" standard. "Rent reasonableness" means the total rent charged for a unit must be reasonable in relation to the rents being charged during the same time period for comparable units in the private unassisted market and must not be in excess of rents being charged by the property owner during the same time period for comparable non-luxury unassisted units. To make this determination, the grantee should consider: (i) The location, quality, size, type, and age of the unit; and (ii) any amenities, housing services, maintenance, and utilities to be provided by the property owner. Comparable rents can be checked by using a market study, by reviewing comparable units advertised for rent, or using a note from the property owner verifying the comparability of charged rents to other units owned by the property owner. Prior to providing rental assistance in the form of payment of penalties or fees incurred by a participant, the grantee must determine that such penalties or fees are reasonable.

(5) With respect to shared housing arrangements, the rent charged for a participant must be in relation to the size of the private space for that participant in comparison to other private space in the shared unit, excluding common space. A participant

may be assigned a pro rata portion based on the ratio derived by dividing the number of bedrooms in their private space by the number of bedrooms in the unit. Participation in shared housing arrangements must be voluntary.

(6) Rental assistance payments cannot be provided on behalf of participants for the same period of time and for the same cost types that are being provided through another Federal, State, or local housing subsidy program.

(7) Grantees may require participants to share in the cost of rent as a condition of receiving rental assistance.

(b) *Utility-fee payment assistance.* Payment of utility fees to help the participant to remain in permanent housing or obtain permanent housing.

(1) A participant may receive payments for utilities for a maximum of 4 months during a 3-year period, such period beginning on the date that the grantee first pays utility fees on behalf of the participant; provided, however, that a participant cannot receive payments for utilities for more than 2 months in any calendar year. The payment for utilities may be for utility payments that are currently due or are in arrears, provided that the payment of such utilities will allow the participant to remain in permanent housing or obtain permanent housing.

(2) Payments for utilities must be paid by the grantee directly to a utility company. Payments for utilities only will be available if a participant, a legal representative of the participant, or a member of his/her household, has an account in his/her name with a utility company or proof of responsibility to make utility payments, such as cancelled checks or receipts in his/her name from a utility company.

(3) As a condition of providing payments for utilities, the grantee must help the participant develop a reasonable plan to address the participant's future ability to pay utility payments and assist the participant to implement such plan.

(4) Payments for utilities cannot be provided on behalf of participants for the same period of time and for the same cost types that are being provided through another Federal, State, or local program.

(5) Grantees may require participants to share in the cost of utility payments as a condition of receiving payments for utilities.

(c) *Deposits.* Payment of security deposits or utility deposits to help the participant remain in permanent housing or obtain permanent housing.

(1) A participant may receive assistance with the payment of a security deposit a maximum of one time

in every 3-year period, such period beginning on the date the grantee pays a security deposit on behalf of a participant.

(2) A participant may receive assistance with the payment of a utility deposit a maximum of one time in every 3-year period, such period beginning on the date the grantee pays a utility deposit on behalf of a participant.

(3) Any security deposit or utility deposit must be paid by the grantee directly to the third party to whom the security deposit or utility deposit is owed. The payment of such deposit must allow the participant to remain in the participant's existing permanent housing or help the participant to obtain and remain in permanent housing selected by the participant.

(4) As a condition of providing a security deposit payment or a utility deposit payment, the grantee must help the participant develop a reasonable plan to address the participant's future housing stability and assist the participant to implement such plan.

(5) Security deposits and utility deposits covering the same period of time in which assistance is being provided through another housing subsidy program are eligible, as long as they cover separate cost types.

(6) Grantees may require participants to share in the cost of the security deposit or utility deposit as a condition of receiving assistance with such deposit.

(d) *Moving costs.* Payment of moving costs to help the participant to obtain permanent housing.

(1) A participant may receive assistance with moving costs a maximum of one time in every 3-year period, such period beginning on the date the grantee pays moving costs on behalf of a participant.

(2) Moving costs assistance must be paid by the grantee directly to a third party. Moving costs assistance includes reasonable moving costs, such as truck rental, hiring a moving company, or short-term storage fees for a maximum of 3 months or until the participant is in permanent housing, whichever is shorter.

(3) As a condition of providing moving costs assistance, the grantee must help the participant develop a reasonable plan to address the participant's future housing stability and assist the participant to implement such plan.

(4) Moving costs assistance payments cannot be provided on behalf of participants for the same period of time and for the same cost types that are being provided through another Federal, State, or local program.

(5) Grantees may require participants to share in the cost of moving as a condition of receiving assistance with moving costs.

*(e) Purchase of emergency supplies for a participant.*

(1) A grantee may purchase emergency supplies for a participant on a temporary basis.

(2) The costs of the emergency supplies must be paid by the grantee directly to a third party.

*(f) Other.* Other services as set forth in the Notice of Fund Availability or as approved by VA that are consistent with the Supportive Services for Veteran Families Program. Applicants may propose additional services in their supportive services grant application, and grantees may propose additional services by submitting a written request to modify the supportive services grant in accordance with § 62.60.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.35 Limitations on and continuations of the provision of supportive services to certain participants.**

*(a) Continuation of the provision of supportive services to a participant classified under § 62.11(a)(2).* If a participant classified under § 62.11(a)(2) does not become a resident of permanent housing within the originally scheduled 90-day period, the grantee may continue to provide supportive services to a participant classified under § 62.11(a)(2) for such time that the participant continues to meet the requirements of § 62.11(a)(2).

*(b) Limitations on the provision of supportive services to participants classified under § 62.11(a)(3).*

(1) A grantee may provide supportive services to a participant classified under § 62.11(a)(3) until the earlier of the following dates:

(i) The participant commences receipt of other housing services adequate to meet the participant's needs; or

(ii) Ninety days from the date the participant exits permanent housing.

(2) Supportive services provided to participants classified under § 62.11(a)(3) must be designed to support the participants in their choice to transition into housing that is responsive to their individual needs and preferences.

*(c) Continuation of supportive services to veteran family member(s).* If a veteran becomes absent from a household or dies while other members of the veteran family are receiving supportive services, then such supportive services must continue for a grace period following the absence or death of the veteran. The grantee must establish a reasonable grace period for

continued participation by the veteran's family member(s), but that period may not exceed 1 year from the date of absence or death of the veteran, subject to the requirements of paragraphs (a) and (b) of this section. The grantee must notify the veteran's family member(s) of the duration of the grace period.

*(d) Referral for other assistance.* If a participant becomes ineligible to receive supportive services under this section, the grantee must provide the participant with information on other available programs or resources.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.36 General operation requirements.**

*(a) Eligibility documentation.* Grantees must verify and document each participant's eligibility for supportive services and classify the participant under one of the categories set forth in § 62.11(a). Grantees must certify the eligibility and classification of each participant at least once every 3 months.

*(b) Confidentiality.* Grantees must maintain the confidentiality of records kept on participants. Grantees that provide family violence prevention or treatment services must establish and implement procedures to ensure the confidentiality of:

(1) Records pertaining to any individual provided services, and

(2) The address or location where the services are provided.

*(c) Notifications to participants.*

(1) Prior to initially providing supportive services to a participant, the grantee must notify each participant that the supportive services are being paid for, in whole or in part, by VA.

(2) The grantee must provide each participant with a satisfaction survey which can be submitted by the participant directly to VA, within 45 to 60 days of the participant's entry into the grantee's program and again within 30 days of such participant's pending exit from the grantee's program.

*(d) Assessment of funds.* Grantees must regularly assess how supportive services grant funds can be used in conjunction with other available funds and services to assist participants.

*(e) Administration of supportive services grants.* Grantees must ensure that supportive services grants are administered in accordance with the requirements of this part, the supportive services grant agreement, and other applicable laws and regulations. Grantees are responsible for ensuring that any subcontractors carry out activities in compliance with this part.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.37 Fee prohibition.**

Grantees must not charge a fee to very low-income veteran families for providing supportive services that are funded with amounts from a supportive services grant or cost-sharing funds under § 62.26.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.40 Notice of Fund Availability.**

When funds are available for supportive services grants, VA will publish a Notice of Fund Availability in the **Federal Register**. The notice will identify:

(a) The location for obtaining supportive services grant applications;

(b) The date, time, and place for submitting completed supportive services grant applications;

(c) The estimated amount and type of supportive services grant funding available;

(d) Any priorities for or exclusions from funding to meet the statutory mandates of 38 U.S.C. 2044 and VA goals for the Supportive Services for Veteran Families Program;

(e) The length of term for the supportive services grant award;

(f) The minimum number of total points and points per category that an applicant or grantee, as applicable, must receive in order for a supportive services grant to be funded;

(g) Any maximum uses of supportive services grant funds for specific supportive services;

(h) The timeframes and manner for payments under the supportive services grant; and

(i) Other information necessary for the supportive services grant application process as determined by VA.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.50 Supportive services grant agreements.**

(a) After an applicant is selected for a supportive services grant in accordance with § 62.23, VA will draft a supportive services grant agreement to be executed by VA and the applicant. Upon execution of the supportive services grant agreement, VA will obligate supportive services grant funds to cover the amount of the approved supportive services grant, subject to the availability of funding. The supportive services grant agreement will provide that the grantee agrees, and will ensure that each subcontractor agrees, to:

(1) Operate the program in accordance with the provisions of this part and the applicant's supportive services grant application;

(2) Comply with such other terms and conditions, including recordkeeping

and reports for program monitoring and evaluation purposes, as VA may establish for purposes of carrying out the Supportive Services for Veteran Families Program, in an effective and efficient manner; and

(3) Provide such additional information as deemed appropriate by VA.

(b) After a grantee is selected for renewal of a supportive services grant in accordance with § 62.25, VA will draft a supportive services grant agreement to be executed by VA and the grantee. Upon execution of the supportive services grant agreement, VA will obligate supportive services grant funds to cover the amount of the approved supportive services grant, subject to the availability of funding. The supportive services grant agreement will contain the same provisions described in paragraph (a) of this section.

(c) No funds provided under this part may be used to replace Federal, State, tribal, or local funds previously used, or designated for use, to assist very low-income veteran families.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.51 Payments under the supportive services grant.**

Grantees are to be paid in accordance with the timeframes and manner set forth in the Notice of Fund Availability.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.60 Program or budget changes and corrective action plans.**

(a) A grantee must submit to VA a written request to modify a supportive services grant for any proposed significant change that will alter the supportive services grant program. If VA approves such change, VA will issue a written amendment to the supportive services grant agreement. A grantee must receive VA's approval prior to implementing a significant change. Significant changes include, but are not limited to, a change in the grantee or any subcontractors identified in the supportive services grant agreement; a change in the area or community served by the grantee; additions or deletions of supportive services provided by the grantee; a change in category of participants to be served; and a change in budget line items that are more than 10 percent of the total supportive services grant award.

(1) VA's approval of changes is contingent upon the grantee's amended application retaining a high enough rank to have been competitively selected for funding in the year that the application was granted.

(2) Each supportive services grant modification request must contain a

description of the revised proposed use of supportive services grant funds.

(b) VA may require that the grantee initiate, develop and submit to VA for approval a Corrective Action Plan (CAP) if, on a quarterly basis, actual supportive services grant expenditures vary from the amount disbursed to a grantee for that same quarter, or actual supportive services grant activities vary from the grantee's program description provided in the supportive services grant agreement.

(1) The CAP must identify the expenditure or activity source that has caused the deviation, describe the reason(s) for the variance, provide specific proposed corrective action(s), and provide a timetable for accomplishment of the corrective action.

(2) After receipt of the CAP, VA will send a letter to the grantee indicating that the CAP is approved or disapproved. If disapproved, VA will make beneficial suggestions to improve the proposed CAP and request resubmission, or take other actions in accordance with this part.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.61 Procedural error.**

If an applicant would have been selected but for a procedural error committed by VA, VA may select that applicant for funding when sufficient funds become available if there is no material change in the information that would have resulted in the applicant's selection. A new application will not be required for this purpose.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.62 Religious organizations.**

(a) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the Supportive Services for Veteran Families Program under this part. In the selection of applicants, the Federal government will not discriminate for or against an organization on the basis of the organization's religious character or affiliation.

(b)(1) No organization may use direct financial assistance from VA under this part to pay for any of the following:

(i) Inherently religious activities, such as religious worship, instruction, or proselytization; or

(ii) Equipment or supplies to be used for any of those activities.

(2) For purposes of this section, "indirect financial assistance" means Federal assistance in which a service provider receives program funds through a voucher, certificate,

agreement, or other form of disbursement, as a result of the independent and private choices of individual beneficiaries. "Direct financial assistance" means Federal aid in the form of a grant, contract, or cooperative agreement where the independent choices of individual beneficiaries do not determine which organizations receive program funds.

(c) Organizations that engage in inherently religious activities, such as worship, religious instruction, or proselytization, must offer those services separately in time or location from any programs or services funded with direct financial assistance from VA under this part, and participation in any of the organization's inherently religious activities must be voluntary for the beneficiaries of a program or service funded by direct financial assistance from VA under this part.

(d) A religious organization that participates in the Supportive Services for Veteran Families Program under this part will retain its independence from Federal, State, or local governments and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct financial assistance from VA under this part to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide VA-funded services under this part, without removing religious art, icons, scripture, or other religious symbols. In addition, a VA-funded religious organization retains its authority over its internal government, and it may retain religious terms in its organization's name, select its board members and otherwise govern itself on a religious basis, and include religious reference in its organization's mission statement and other governing documents.

(e) An organization that participates in a VA program under this part must not, in providing direct program assistance, discriminate against a program beneficiary or a prospective program beneficiary regarding supportive services, financial assistance, or technical assistance, on the basis of religion or religious belief.

(f) If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this provision applies to all of the commingled funds.

(g) To the extent otherwise permitted by Federal law, the restrictions on inherently religious activities set forth in this section do not apply where VA funds are provided to religious organizations through indirect assistance as a result of a genuine and independent private choice of a beneficiary, provided the religious organizations otherwise satisfy the requirements of this part. A religious organization may receive such funds as the result of a beneficiary's genuine and independent choice if, for example, a beneficiary redeems a voucher, coupon, or certificate, allowing the beneficiary to direct where funds are to be paid, or a similar funding mechanism provided to that beneficiary and designed to give that beneficiary a choice among providers.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.63 Visits to monitor operations and compliance.**

(a) VA has the right, at all reasonable times, to make visits to all grantee locations where a grantee is using supportive services grant funds in order to review grantee accomplishments and management control systems and to provide such technical assistance as may be required. VA may conduct inspections of all program locations and records of a grantee at such times as are deemed necessary to determine compliance with the provisions of this part. In the event that a grantee delivers services in a participant's home, or at a location away from the grantee's place of business, VA may accompany the grantee. If the grantee's visit is to the participant's home, VA will only accompany the grantee with the consent of the participant. If any visit is made by VA on the premises of the grantee or a subcontractor under the supportive services grant, the grantee must provide, and must require its subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of the VA representatives in the performance of their duties. All visits and evaluations will be performed in such a manner as will not unduly delay services.

(b) The authority to inspect carries with it no authority over the management or control of any applicant or grantee under this part.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.70 Financial management and administrative costs.**

(a) All grantees must comply with applicable requirements of the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, “Audits of States, Local

Governments, and Non-Profit Organizations,” codified by VA at 38 CFR part 41.

(b) All grantees must use an adequate financial management system that follows generally accepted accounting principles and provides adequate fiscal control and accounting records, including cost accounting records that are supported by documentation. Such cost accounting must be reflected in the grantee's fiscal cycle financial statements to the extent that the actual costs can be determined for the program for which assistance is provided. Grantees must meet the applicable requirements of the appropriate OMB Circular for Cost-Principles.

(c) Grantees' financial management systems must comply with the requirements of § 49.21 of this part.

(d) Payment up to the amount specified in the supportive services grant must be made only for allowable, allocable, and reasonable costs in conducting the work under the supportive services grant. The determination of allowable costs must be made in accordance with the applicable Federal Cost Principles set forth in OMB Circular A–122, Cost Principles for Non-Profit Organizations, codified at 2 CFR part 235.

(e) Costs for administration by a grantee must not exceed 10 percent of the total amount of the supportive services grant. Administrative costs will consist of all direct and indirect costs associated with the management of the program. These costs will include the administrative costs, both direct and indirect, of subcontractors. For the purposes of the supportive services grant, all indirect costs are considered administrative costs, and, therefore, will not exceed 10 percent of the total supportive services grant.

(f) If indirect charges are claimed in the applicant's proposed budget, the applicant must provide on a separate sheet the following information:

(1) Name and address of the cognizant government audit agency (the agency that is providing the most Federal funds);

(2) Name, address, and phone number of the government auditor;

(3) Documentation from the cognizant agency indicating:

(i) Indirect cost rate and the base against which the rate should be applied;

(ii) Effective period (dates) for the rate; and

(iii) Date that the last rate was computed and negotiated.

(g) If no government audit agency computed and authorized the rate claimed, applicant must provide a brief

explanation of computation, who computed it, and the date. If the applicant is awarded a supportive services grant, the proposed indirect rate must be submitted to a Federal audit agency within 90 days of award for approval.

(h) Grantees are subject to the Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-Profit Organizations, codified at 38 CFR part 49.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.71 Grantee reporting requirements.**

(a) VA may require grantees to provide, in such form as may be prescribed, such reports or answers in writing to specific questions, surveys, or questionnaires as VA determines necessary to carry out the Supportive Services for Veteran Families Program.

(b) If, on a quarterly basis, actual supportive services grant expenditures vary from the amount disbursed to a grantee for that same quarter or actual supportive services grant activities vary from the grantee's program description provided in the supportive services grant agreement, grantees must report the deviation to VA.

(c) At least once per year, or at the frequency set by VA, each grantee must submit to VA a report containing information relating to operational effectiveness, fiscal responsibility, supportive services grant agreement compliance, and legal and regulatory compliance, including a description of the use of supportive services grant funds, the number of participants assisted, the types of supportive services provided, and any other information that VA may request.

(d) Grantees must relate financial data to performance data and develop unit cost information whenever practical.

(e) All pages of the reports must cite the assigned supportive services grant number and be submitted in a timely manner.

(f) Grantees must provide VA with consent to post information from reports on the Internet and use such information in other ways deemed appropriate by VA. Grantees shall clearly mark information that is confidential to individual participants.

(Authority: 38 U.S.C. 501, 2044)

**§ 62.72 Recordkeeping.**

Grantees must ensure that records are maintained for at least a 3 year period to document compliance with this part. Grantees must produce such records at VA's request.

(Authority: 38 U.S.C. 501, 2044)

#### § 62.73 Technical assistance.

VA will provide technical assistance, as necessary, to eligible entities to meet the requirements of this part. Such technical assistance will be provided either directly by VA or through grants or contracts with appropriate public or non-profit private entities.

(Authority: 38 U.S.C. 501, 2044, 2064)

#### § 62.80 Withholding, suspension, deobligation, termination, and recovery of funds by VA.

(a) *Recovery of funds.* VA will recover from the grantee any supportive services grant funds that are not used in accordance with the requirements of this part. VA will issue to the grantee a notice of intent to recover supportive services grant funds. The grantee will then have 30 days to submit documentation demonstrating why the supportive services grant funds should not be recovered. After review of all submitted documentation, VA will determine whether action will be taken to recover the supportive services grant funds.

(b) *VA actions when grantee fails to comply.* When a grantee fails to comply with the terms, conditions, or standards of the supportive services grant, VA may, on 7-days notice to the grantee, withhold further payment, suspend the supportive services grant, or prohibit the grantee from incurring additional obligations of supportive services grant funds, pending corrective action by the grantee or a decision to terminate in accordance with paragraph (c) of this section. VA will allow all necessary and proper costs that the grantee could not reasonably avoid during a period of suspension if such costs meet the provisions of the applicable Federal Cost Principles.

(c) *Termination.* Supportive services grants may be terminated in whole or in part only if paragraphs (c)(1), (c)(2), or (c)(3) of this section apply.

(1) By VA, if a grantee materially fails to comply with the terms and conditions of a supportive services grant award and this part.

(2) By VA with the consent of the grantee, in which case VA and the grantee will agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(3) By the grantee upon sending to VA written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if VA determines in the case of partial termination that

the reduced or modified portion of the supportive services grant will not accomplish the purposes for which the supportive services grant was made, VA may terminate the supportive services grant in its entirety under either paragraphs (c)(1) or (c)(2) of this section.

(d) *Deobligation of funds.* (1) VA may deobligate all or a portion of the amounts approved for use by a grantee if:

(i) The activity for which funding was approved is not provided in accordance with the approved application and the requirements of this part;

(ii) Such amounts have not been expended within a 1-year period from the date of the signing of the supportive services grant agreement;

(iii) Other circumstances set forth in the supportive services grant agreement authorize or require deobligation.

(2) At its discretion, VA may re-advertise in a Notice of Fund Availability the availability of funds that have been deobligated under this section or award deobligated funds to applicants who previously submitted applications in response to the most recently published Notice of Fund Availability.

(Authority: 38 U.S.C. 501, 2044)

#### § 62.81 Supportive services grant closeout procedures.

Supportive services grants will be closed out in accordance with the following procedures upon the date of completion:

(a) No later than 90 days after the date of completion, the grantee must refund to VA any unobligated (unencumbered) balance of supportive services grant funds that are not authorized by VA to be retained by the grantee.

(b) No later than 90 days after the date of completion, the grantee must submit all financial, performance and other reports required by VA to closeout the supportive services grant. VA may authorize extensions when requested by the grantee.

(c) If a final audit has not been completed prior to the date of completion, VA retains the right to recover an appropriate amount after considering the recommendations on disallowed costs once the final audit has been completed.

(Authority: 38 U.S.C. 501, 2044)

[FR Doc. 2010-10372 Filed 5-4-10; 8:45 am]

**BILLING CODE P**

## POSTAL SERVICE

### 39 CFR Part 111

#### Treatment of Cigarettes and Smokeless Tobacco as Nonmailable Matter

**AGENCY:** Postal Service™.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service proposes to revise *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) 601.11, pertaining to the mailing of tobacco cigarettes and smokeless tobacco. These provisions implement specific requirements to be in compliance with the Prevent All Tobacco Cigarettes Trafficking (PACT) Act, Public Law No. 111-154, which restricts the mailability of cigarettes and smokeless tobacco.

**DATES:** Submit comments on or before May 17, 2010.

**ADDRESSES:** Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L'Enfant Plaza, SW., Room 3436, Washington, DC 20260-3436. You may inspect and photocopy all written comments at USPS Headquarters Library, 475 L'Enfant Plaza, SW., 11th Floor North, Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday. E-mail comments, containing the name and address of the commenter, may be sent to:

*MailingStandards@usps.gov*, with a subject line of "PACT Act." Faxed comments are not accepted.

**FOR FURTHER INFORMATION CONTACT:** Anthony Alverno, 202-268-2997, or Mary Collins, 202-268-5440.

#### SUPPLEMENTARY INFORMATION:

On March 31, 2010, the Prevent All Cigarette Trafficking (PACT) Act of 2009, Public Law No. 111-154 was enacted. The Act's purposes include:

- Requiring Internet-based and other remote sellers of cigarettes and smokeless tobacco to comply with laws applied to other tobacco retailers;
- Creating disincentives for the illegal smuggling of tobacco products;
- Enhancing enforcement tools to deal with cigarette smuggling;
- Stemming trafficking;
- Increasing collection of federal, state, and local excise taxes on cigarettes and smokeless tobacco; and
- Preventing youth access through Internet and contraband sales.

Section 3 of the PACT Act pertains to the Postal Service and creates a new section 1716E of Title 18, U.S. Code. Section 3 of the PACT Act provides that, subject to certain exceptions, cigarettes, including roll-your-own tobacco and