

We did not receive any comments on the proposed collection of information which is pending at OMB for approval.

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, budgetary, legal, and policy implications of this 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 final 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 final 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 final 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 final 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 final 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 final rule.

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 September 10, 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: November 5, 2010.

William F. Russo,

Director, Regulations Management, Office of General Counsel, Department of Veterans Affairs.

■ For the reasons stated in the preamble, VA amends 38 CFR chapter I by adding part 62 to read as follows:

PART 62—SUPPORTIVE SERVICES FOR VETERAN FAMILIES PROGRAM

Sec.

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- 62.81 Supportive services grant closeout procedures.

(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 child care provider means a provider of child care services for compensation, including a provider of care for a school-age child during non-school hours, that—

- (1) Is licensed, regulated, registered, or otherwise legally operating, under state and local law; and
- (2) Satisfies the state and local requirements, applicable to the child care services the provider provides.

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."

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.

Note to paragraph (a): 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, including an estimate of the total number of very low-income veteran families occupying permanent housing in such area or community;

(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; and

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

(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 and are most in need of 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 that reflect the Supportive Services for Veteran Families Program's aim of reducing and preventing homelessness among very low-income veteran families 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.

(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:

(1) Participants made progress in achieving housing stability.
 (2) Participants were satisfied with the supportive services provided by the grantee.

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

(4) The grantee prevented homelessness among very low-income veteran families occupying permanent housing that were most at risk of homelessness.

(5) The grantee's program reduced homelessness among very low-income veteran families occupying permanent housing in the area or community served by the grantee.

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

(1) The cost per participant household was reasonable.

(2) 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:

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

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

(3) 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)

§ 62.30 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, including at a minimum those listed in paragraphs (a) through (i) below, that are being provided by Federal, State, local, or tribal agencies, or any eligible entity in the area or community served by the grantee by referring the participant to and coordinating with such entity. If a public benefit is not being provided by Federal, State, local, or tribal agencies, or any eligible entity in the area or community, the grantee is not required to obtain, coordinate, or provide such public benefit. Grantees may also elect to provide directly to participants the public benefits identified in paragraphs (c) through (i) below. When grantees directly provide such benefits, the grantees must comply with the same requirements as a third party provider of such benefits.

(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 directly to participants if the grantee determines such assistance is necessary; however, the preferred method of direct 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.

(3) The grantee may make payments on behalf of a participant needing car repairs or maintenance required to operate the vehicle if the payment will allow the participant to remain in permanent housing or obtain permanent housing, subject to the following:

(i) Payments for car repairs or maintenance on behalf of the participant may not exceed \$1,000 during a 3-year period, such period beginning on the date the grantee first pays for any car repairs or maintenance on behalf of the participant.

(ii) Payments for car repairs or maintenance must be reasonable and must be paid by the grantee directly to the third party that repairs or maintains the car.

(iii) Grantees may require participants to share in the cost of car repairs or maintenance as a condition of receiving assistance with car repairs or maintenance.

(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 an eligible child care provider 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 by an eligible child care provider.

(i) Payments for child care services must be paid by the grantee directly to an eligible child care provider and cannot exceed a maximum of 4 months in a 12-month period beginning on the date that the grantee first pays for child care services on behalf of a participant.

(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. Grantees must assist the participant to implement such plan by providing any necessary assistance or helping the participant to obtain any necessary public or private benefits or services.

(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 8 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 5 months in any 12-month period beginning on the date that the grantee first pays rent on behalf of the participant. 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. Grantees must assist the participant to implement such plan by providing any necessary assistance or helping the participant to obtain any necessary public or private benefits or services.

(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 12-month period beginning on the date that the grantee first pays a utility payment on behalf of the participant. 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. Grantees must assist the participant to implement such plan by providing any necessary assistance or helping the participant to obtain any necessary public or private benefits or services.

(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. Grantees must assist the participant to implement such plan by providing any necessary assistance or helping the participant to obtain any necessary public or private benefits or services.

(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. Grantees must assist the participant to implement such plan by providing any necessary assistance or helping the participant to obtain any necessary public or private benefits or services.

(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. The costs for such emergency supplies shall not exceed \$500 per participant during

a 3-year period, such period beginning on the date that the grantee first pays for an emergency supply on behalf of the participant.

(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 of the following:

(i) The supportive services are being paid for, in whole or in part, by VA;

(ii) The supportive services available to the participant through the grantee's program; and

(iii) Any conditions or restrictions on the receipt of supportive services by the participant.

(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.

(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.

(c) Grantees must inform VA in writing of any key personnel changes (e.g., new executive director, supportive services grant program director, or chief financial officer) and grantee address changes within 30 days of the change.

(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) 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) Grantees must use a financial management system that provides adequate fiscal control and accounting records and meets the requirements set forth in OMB Circular A–110, Subpart C, Section 21 (codified at 2 CFR 215.21) and 38 CFR 49.21.

(c) 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.

(d) 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.

(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.

(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.

Note to paragraph (b): For information on corrective action plans, which may be required in this circumstance, see § 62.60.

(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), (2), or (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 (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)

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2006-0132; FRL-9223-2]

Approval and Promulgation of Implementation Plans; Texas; Excess Emissions During Startup, Shutdown, Maintenance, and Malfunction Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is finalizing its proposal to partially approve and partially disapprove a revision to the Texas State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality (TCEQ) in a letter dated January 23, 2006 (the January 23, 2006 SIP submittal). Today's action finalizes our May 13, 2010 proposal that concerned revisions to 30 Texas Administrative Code (TAC) Chapter 101, General Air Quality Rules, Subchapter A General Rules; and Subchapter F Emissions Events and Scheduled Maintenance, Startup, and Shutdown Activities. We are finalizing our proposed approval of those portions of the rule that are consistent with the federal Clean Air Act (the Act or CAA), and finalizing our proposed disapproval of those portions of the rule that are

inconsistent with the Act. More specifically, we are finalizing our proposed disapproval of provisions that provide for an affirmative defense against civil penalties for excess emissions during planned maintenance, startup, or shutdown activities and related provisions that contain nonseverable cross-references to the affirmative defense provision. A disapproval of these provisions means that an affirmative defense is not available in an enforcement action in Federal court to enforce the SIP for violations due to excess emissions during planned maintenance, startup, or shutdown activities. We are taking this action under section 110 of the Act.

DATES: This rule will be effective on January 10, 2011.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2006-0132. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-6691, fax (214) 665-7263, e-mail address shar.alan@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to EPA.