

Chapter 6. SAH Agent's Responsibility during Construction and Handling Disputes/Complaints

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1. Project Management Responsibilities

Change Date February 12, 2014, Change 1

- This entire section has been updated.

a. Introduction to Project Management The project management process for Specially Adapted Housing (SAH) Agents begins immediately following grant approval and concludes upon completion of final accounting. The SAH Agent is responsible for maintaining communication among all parties and facilitating the successful completion of the SAH/Special Housing Adaptation (SHA) projects.

b. Notifying the Veteran and Builder After Grant Approval The SAH Agent must notify the Veteran receiving the SAH/SHA grant within 3-business days of grant approval by creating the system generated grant approval notification letter and mailing or e-mailing it to the Veteran. The Agent will also mail or e-mail this letter to the escrow Agent and selected builder. It is important to notify the Veteran and builder within 3-business days to allow the Veteran and builder ample time to prepare and make arrangements prior to construction.

Important: The system generated grant approval letter must be sent to the Veteran and builder to notify all parties that construction cannot begin until the escrow agreement is executed by all parties.

c. Drafting the Escrow Agreement The SAH Agent should begin to create the [VA Form 26-1854, Escrow Agreement-Specially Adapted Housing](#), upon entering the disbursement information in the system. The escrow agreement will be finalized upon receipt of the grant check. Refer to Chapter 8 for additional information.

Important: The SAH Agent must upload a copy of the grant Treasury check to the system immediately upon receipt.

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1. Project Management Responsibilities, Continued

d. Assigning the Compliance Inspector To minimize any potential delays, the SAH Agent should confirm the availability of the Compliance Inspector (CI) prior to grant approval. Refer to Chapter 7 for additional information on assigning the CI and the compliance inspection requirements.

e. Notification of When Construction Begins The SAH Agent should contact the Veteran and builder to obtain the approximate construction start date. The construction start date should be obtained when all parties have properly executed the escrow agreement. Obtaining the construction start date will allow the SAH Agent to establish timeframes for the construction process and monitor the duration of each construction stage. The starting date of construction should be entered into the system notes.

f. Required Communication During Construction The SAH Agent must communicate with the Veteran and builder at least every 10-business days, beginning at the construction start date. This contact is required to allow the SAH Agent to have situational awareness throughout the duration of the construction, and may help minimize escalation of disputes. The contact can be in the form of phone calls, e-mail, or personal visits, and must be documented in system notes for the duration of the project.

An example of an acceptable case note when communicating with the Veteran is: "SAH Agent phoned Veteran and discussed the progress of the first stage of construction. The Veteran indicated that the builder has had a crew present for several hours a day, and the builder is excellent at communicating the daily work completed. The Veteran has no concerns at this time and is encouraged by the builder's progress."

An example of an acceptable case note when communicating with the builder is: "SAH Agent e-mailed builder and discussed the current stage of construction. The builder reports that there have been no material or labor delays and that the project is progressing slightly ahead of schedule."

Important: A lack of communication is a primary reason for the majority of construction disputes and complaints. Effective bi-weekly communication with the Veteran and builder will help the SAH Agent effectively manage their projects, and provide strong customer service to external stakeholders.

2. Change Orders

Change Date February 12, 2014, Change 1

- This entire section has been updated.

a. General Information on Change Orders A change order is an amendment to the original terms of a construction project, and may alter the original contract amount and/or completion date.

When a change order is requested, construction work pertaining to the change order cannot commence, until the change order has been approved by the SAH Agent or Regional Loan Center (RLC) management. The builder can continue with construction work included in the original approved scope of work that does not pertain to or impact the change order. This information should be relayed to the Veteran and builder prior to the beginning of construction, preferably during the preconstruction meeting.

b. Requirement to Approve Change Orders Change orders must contain the following:

- the parties to the change order and specified roles, along with signatures of all parties and the dates of signatures;
- the address of the subject property;
- the terms and cost of the change order (specifically highlighting any increase or decrease in contract price);
- a reference to specific plans and specifications;
- a revised scope of work (if applicable);
- the revised estimated time to complete the project (if applicable); and
- revised/additional documentation (e.g., plans, specifications, descriptions of materials), as necessary.

Change orders eliminating/waiving minimum property requirements (MPRs), or changing the cost of the project by more than 5 percent of the original contract price, must be approved by Assistant Valuation Officers (AVOs) and Valuation Officers (VOs). All other change orders may be approved by the SAH Agent.

Change orders must be uploaded in the system. For any change orders exceeding approved grant funds, and remaining grant funds are available, a supplemental grant can be requested. Refer to Chapter 9 for additional information. For any change orders exceeding approved grant funds, and remaining grant funds are not available, the Veteran must provide proof of liquid funds for any excess.

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2. Change Orders, Continued

**c. No-Cost or
Non-MPR
Altering
Change Orders**

Change orders that do not alter the MPRs as defined in the original approved scope of work of a contract, or do not change the cost of a contract by more than 5 percent, can be approved by the SAH Agent. All change order requests must be uploaded to the system.

**d. Change
Order
Approval
Timeliness
Requirements**

In order to ensure the SAH/SHA grant project proceeds without delay, RLC management must review and provide a decision on any requested change order within 5-business days of the change order being uploaded to the system. If the change order is not approved, the RLC reviewing manager must provide a thorough explanation for the decision, and propose a mutually agreeable solution for resolving any construction issues, so the SAH Agent can notify the Veteran and builder.

3. Dispute Resolution

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- This entire section has been updated.

a. Dispute Resolution Introduction During the construction period of the SAH/SHA projects, delays, disputes, or complaints may arise between the Veteran and the builder. The SAH Agent must maintain contact with the builder and Veteran every 10-business days throughout the construction process to help mitigate any issues as they arise.

b. How to Handle Delays During Construction If a delay is identified, the SAH Agent must work with the Veteran and builder to reach a solution as soon as possible. The following are common construction delays and suggested guidance:

- Weather conditions: Escrow of funds must be retained if the construction is complete except for items that must be delayed until acceptable weather permits completion (examples: final grading of lot, completion of ramp, etc.). See Chapter 8 for further details.
- Shortage or discontinuation of construction material: Search for alternative materials and encourage the Veteran and builder to submit a change order if alternative materials are available. The SAH Agent should keep the Veteran and builder informed and up to date regarding availability of grant funds to assist all parties in construction planning, potentially eliminating this delay.
- Disagreement between the Veteran and builder: Attempt to assist with the resolution of the disagreement, and document the system notes with the reason for delay. More information about resolving informal and formal construction disputes appears later in this chapter.

All reasons for construction delays must be documented in the system notes at the onset and throughout the delay until resolution.

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3. Dispute Resolution, Continued

c. How to Handle Complaints

Complaints may arise at any point in the construction process. When handling complaints, the SAH Agent needs to:

- define the problem,
- deal fairly with the involved parties,
- protect VA's interest at all times,
- make sure the scope of work or minimum property requirements (MPRs) of the approved grant are still attainable,
- recommend ways to reach a compromise or solution,
- notify his/her immediate supervisor of written complaints, and
- notate the Complaint Section of the system with clear facts of the case.

The SAH Agent must work with the builder and Veteran until construction complaint items that VA determines to be the builder's responsibility are corrected.

By maintaining contact every 10-business days with the Veteran and builder throughout the duration of the construction project and during any period of dispute or complaint, the SAH Agent should effectively manage the project and avoid issues from escalating beyond the point of control of the SAH Agent.

d. Types of Complaints

Complaints are categorized as follows:

- **Informal:** A verbal, non-written complaint that can be resolved without formal documentation.

Example: A Veteran complains that the selected builder shows up repeatedly late to the job site, but otherwise performs the work as specified by the original approved scope of work of the contract. The SAH Agent can call the builder and re-establish expectations for successful project completion.

- **Formal:** A written complaint that is construction-related and specifically lists all the unacceptable conditions and/or deficiencies.

A formal construction complaint is considered actionable if it is specifically related to the construction completed within the SAH/SHA contract. If the Veteran submits a formal written complaint about the finish materials installed, but it is determined that the construction contract was fulfilled, this is not considered an actionable complaint.

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3. Dispute Resolution, Continued

**e. Handling
Formal
Construction
Complaints**

When a formal actionable construction complaint is received, the SAH Agent must upload all complaint documentation to the system within 5-business days of receipt and notify the AVO and VO.

The SAH Agent must complete a complaint inspection as soon as possible to photograph and document all dispute or complaint items. The Veteran needs to be assured that their complaint has received appropriate attention; therefore, it is important that SAH Agents prioritize any pending actionable complaints. If the Veteran will allow, the complaint inspection should be scheduled with the builder present. The complaint inspection will allow the SAH Agent to determine if the dispute or complaint items specifically apply to the SAH contract scope of work. The complaint inspection report must be completed and uploaded to the system within 10-business days of completing the complaint inspection.

Once the SAH Agent has completed a complaint inspection, he or she should be able to determine which dispute or complaint items specifically apply to the SAH contract scope of work. The SAH Agent must provide written (e-mail or mail) notification to the builder of these items, and provide a timeframe for the builder to provide a written response. The notification and the builder's response must be uploaded to the system.

In most situations, there will not be continued or final disbursement of grant funds or other funds specified in the Escrow Agreement Disbursement Schedule until all applicable construction-related problems are corrected or otherwise resolved. Failure to hold disbursement can seriously jeopardize the position of the Veteran and the fulfillment of VA's responsibilities.

Important: Central Office (CO) will assist with complaints when requested by RLC management.

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3. Dispute Resolution, Continued

f. When the Builder Does Not Comply and Correct the Problem

If the builder fails to respond to the initial dispute/complaint notification, the SAH Agent must send the builder a second written notification, reminding him/her that VA may proceed with sanctions in the form of a Limited Denial of Participation (LDP).

If the builder fails to respond by the date specified in the second notice, the SAH Agent must send the builder a traceable letter that states that unless satisfactory arrangements are made with VA by 30 calendar days from the date of the notice, the builder may be suspended from further Loan Guaranty program participation.

The RLC is to contact CO for processing sanctions against the builder.

Important: VA does not have the authority to determine whether breach of contract has occurred. It is recommended that RLC personnel communicate with Regional Counsel in the event of significant disputes/complaints.

g. How to Handle Legal Action Between the Veteran and Builder

If RLC personnel are informed that legal action has commenced regarding an SAH case, the Agent must document the system with any available details of the litigation and advise CO of the litigation issues.

In cases involving litigation between the Veteran and builder, VA should avoid taking any action that would prejudice the case until the litigation is resolved. However, the SAH Agent should remain in contact with the Veteran and builder to obtain up to date information about the status of any legal actions. The existence of litigation does not negate the contact responsibilities of the SAH Agent.

Important: In litigation cases, no grant funds are to be released without CO approval.

h. Complaints Received After Construction Has Been Completed

Instances may arise in which a Veteran encounters construction deficiencies after the construction is complete and all grant funds have been disbursed to the builder. The SAH Agent should remind the Veteran of the builder's construction warranty and encourage the Veteran to contact the builder as soon as possible. Even if grants are closed in the system, case notes will still be available and should be updated with any contact from the Veteran.
