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Title 38, Parts 17, 46, 47, 51–53,
58–64, 70, 71, and 200

Medical

Veterans Benefits Administration

Supplement No. 75

Covering period of *Federal Register* issues
through March 1, 2013

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GENERAL INSTRUCTIONS

Custom Federal Regulations Service™

Supplemental Materials for *Book I*

Code of Federal Regulations

Title 38, Parts 17, 46, 47, 51–53, 58–64, 70, 71, and 200

Medical

Veterans Benefits Administration

Supplement No. 75

5 March 2013

Covering the period of Federal Register issues
through March 1, 2013

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FILING INSTRUCTIONS

**Book I, Supplement No. 75
March 5, 2013**

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I-23 to I-26	I-23 to I-26	Book I Lead Material
All of Part 61	All of Part 61	Part 61
(none)	All of Part 64 (new)	Part 64

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HIGHLIGHTS

Book I, Supplement No. 75 March 5, 2013

Supplement Highlights references: Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §17.100, you will see a note at the end of that section which reads: “Supplement *Highlights* references—37(1).” This means that paragraph 1 of the *Highlights* section in Supplement No. 37 contains information about the changes made in §17.100. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

Supplement frequency: Beginning 1 January 2000, supplements for this Book I will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

Modifications in this supplement include the following:

1. On 25 February 2013 the VA published a final rule effective 27 March 2013, to revise and reorganize regulations which contain the Department of Veterans Affairs’ (VA) Homeless Providers Grant and Per Diem Program. This rulemaking updates current regulations, implements and authorizes new VA policies, and generally improves the clarity of part 61. Change:

- Revised entire Part 61.

2. On 25 February 2013 the VA published a final rule effective 27 March 2013, to establish a pilot program known as the Rural Veterans Coordination Pilot (RVCP). The RVCP will provide grants to eligible community-based organizations and local and State government entities to be used by these organizations and entities to assist veterans and their families who are transitioning from military service to civilian life in rural or underserved communities. Change:

- Added entire Part 64.



59.3 Federal Application Identifier 59.3-1

59.4 Decisionmakers, notifications, and additional information 59.4-1

59.5 Submissions of information and documents to VA 59.5-1

59.10 General requirements for a grant..... 59.10-1

59.20 Initial application requirements 59.20-1

59.30 Documentation 59.30-1

59.40 Maximum number of nursing home care and domiciliary care beds
for veterans by State..... 59.40-1

59.50 Priority list 59.50-1

59.60 Additional application requirements 59.60-1

59.70 Award of grants..... 59.70-1

59.80 Amount of grant 59.80-1

59.90 Line item adjustments to grants 59.90-1

59.100 Payment of grant award 59.100-1

59.110 Recapture provisions..... 59.110-1

59.120 Hearings 59.120-1

59.121 Amendments to application 59.121-1

59.122 Withdrawal of application..... 59.122-1

59.123 Conference 59.123-1

59.124 Inspections, audits, and reports 59.124-1

59.130 General requirements for all State home facilities 59.130-1

59.140 Nursing home care requirements 59.140-1

59.150 Domiciliary care requirements 59.150-1

59.160 Adult day health care requirements..... 59.160-1

59.170 Forms 59.170-1

Part 60 — Fisher Houses and Other Temporary Lodging

60.1 Purpose and scope..... 60.1-1

60.2 Definitions..... 60.2-1

60.3 Other donated temporary lodging 60.3-1

60.10 Eligibility criteria for Fisher House or other temporary lodging 60.10-1

60.15 Application process..... 60.15-1

60.20 Duration of Fisher House or other temporary lodging..... 60.20-1

Part 61 — VA Homeless Providers Grant and Per Diem Program

Subpart A—General Provisions

61.0 Purpose. 61.0-1

61.1 Definitions. 61.1-1

61.2 Supportive services—general. 61.2-1

61.3 Notice of Fund Availability. 61.3-1

61.4 Definition of capital lease. 61.4-1

Subpart B—Capital Grants

61.10 Capital grants—general. 61.10-1

61.11 Capital grants—application packages. 61.11-1

I-24

61.12 Capital grant application packages—threshold requirements.	61.12-1
61.13 Capital grant application packages—rating criteria.	61.13-1
61.14 Capital grants—selection of grantees.	61.14-1
61.15 Capital grants—obtaining additional information and awarding capital grants.	61.15-1
61.16 Matching funds for capital grants.	61.16-1
61.17 Site control for capital grants.	61.17-1
61.18 Capital grants for vans.	61.18-1
61.19 Transfer of capital grants.	61.19-1

Subpart C—Per Diem Payments

61.30 Per diem—general.	61.30-1
61.31 Per diem—application packages.	61.31-1
61.32 Per diem application packages—rating criteria.	61.32-1
61.33 Payment of per diem.	61.33-1

Subpart D—Special Need Grants

61.40 Special need grants—general.	61.40-1
61.41 Special need grants—application packages and threshold requirements.	61.41-1
61.44 Awarding special need grants and payment of special need per diem.	61.44-1

Subpart E—Technical Assistance Grants

61.50 Technical assistance grants—general.	61.50-1
61.51 Technical assistance grants—application packages.	61.51-1
61.52 Technical assistance grant application packages—threshold requirements.	61.52-1
61.53 Technical assistance grant application packages—rating criteria.	61.53-1
61.54 Awarding technical assistance grants.	61.54-1
61.55 Technical assistance reports.	61.55-1

Subpart F—Awards, Monitoring, and Enforcement of Agreements

61.61 Agreement and funding actions.	61.61-1
61.62 Program changes.	61.62-1
61.63 Procedural error.	61.63-1
61.64 Religious organizations.	61.64-1
61.65 Inspections.	61.65-1
61.66 Financial management.	61.66-1
61.67 Recovery provisions.	61.67-1
61.80 General operation requirements for supportive housing and service centers.	61.80-1
61.81 Outreach activities.	61.81-1
61.82 Participant fees for supportive housing.	61.82-1

Part 63—Health Care for Homeless Veterans (HCHV) Program

63.1 Purpose and scope.....	63.1-1
63.2 Definitions.....	63.2-1
63.3 Eligible veterans.....	63.3-1
63.10 Selection of non-VA community-based providers.....	63.10-1
63.15 Duties of, and standards applicable to, non-VA community-based providers.....	63.15-1

Part 64 — Grants for the Rural Veterans Coordination Pilot (RVCP)

64.0 Purpose and scope.....	64.0-1
64.2 Definitions.....	64.2-1
64.4 RVCP grants—general.....	64.4-1
64.6 Permissible uses of RVCP grants	64.6-1
64.8 Notice of Funds Availability (NOFA)	64.8-1
64.10 Application.....	64.10-1
64.12 Scoring and selection	64.12-1
64.14 RVCP grant agreement	64.14-1
64.16 Reporting.....	64.16-1
64.18 Recovery of funds	64.18-1

Part 70 — VHA Beneficiary Travel Under 38 U.S.C. 111

70.1 Purpose and scope.....	70.1-1
70.2 Definitions.....	70.2-1
70.3 Determination of Secretary	70.3-1
70.4 Criteria for approval.....	70.4-1
70.10 Eligible persons.....	70.10-1
70.20 Application.....	70.20-1
70.21 Where to apply	70.21-1
70.30 Payment principles	70.30-1
70.31 Deductibles	70.31-1
70.32 Reimbursement or prior payment	70.32-1
70.40 Administrative procedures	70.40-1
70.41 Recovery of payments.....	70.41-1
70.42 False statements	70.42-1
70.50 Reduced fare requests	70.50-1

Part 200 — Compliance with the National Environmental Policy Act

200.1 Purpose..... 200.1-1
200.2 Background..... 200.2-1
200.3 Responsibilities..... 200.3-1
200.4 Implementation of NEPA and related authorities..... 200.4-1
200.5 Coordination with other authorities..... 200.5-1
200.6 Public involvement..... 200.6-1
200.7 Cooperating agencies..... 200.7-1
200.8 AFRH participation in NEPA compliance by other agencies..... 200.8-1

Appendix A to Part 200—Categorical Exclusions 200.App. A-1
Appendix B to Part 200—The Action Requiring an Environmental Assessment200.App. B-1
Appendix C to Part 200—Actions Requiring Environmental Impact Statement200.App. C-1



Part 61

VA Homeless Providers Grant and Per Diem Program

Reserved

Part 61

VA Homeless Providers Grant and Per Diem Program

Authority: 38 U.S.C. 501, 2001, 2002, 2011, 2012, 2061, 2064.

Source: 78 Fed. Reg. 12604, February 25, 2013, unless otherwise indicated.

— Index —

Agreement and funding actions.	61.61-1
Awarding special need grants and payment of special need per diem.	61.44-1
Awarding technical assistance grants.	61.54-1
Capital grant application packages—rating criteria.	61.13-1
Capital grant application packages—threshold requirements.	61.12-1
Capital grants—application packages.	61.11-1
Capital grants—general.	61.10-1
Capital grants—obtaining additional information and awarding capital grants.	61.15-1
Capital grants—selection of grantees.	61.14-1
Capital grants for vans.	61.18-1
Definition of capital lease.	61.4-1
Definitions.	61.1-1
Financial management.	61.66-1
General operation requirements for supportive housing and service centers.	61.80-1
Inspections.	61.65-1
Matching funds for capital grants.	61.16-1
Notice of Fund Availability.	61.3-1
Outreach activities.	61.81-1
Participant fees for supportive housing.	61.82-1
Payment of per diem.	61.33-1
Per diem application packages—rating criteria.	61.32-1
Per diem—application packages.	61.31-1
Per diem—general.	61.30-1
Program changes.	61.62-1
Procedural error.	61.63-1
Purpose.	61.0-1
Recovery provisions.	61.67-1
Religious organizations.	61.64-1
Site control for capital grants.	61.17-1
Special need grants—application packages and threshold requirements.	61.41-1
Special need grants—general.	61.40-1
Supportive services—general.	61.2-1

Technical assistance grant application packages—rating criteria. 61.53-1
Technical assistance grant application packages—threshold requirements. 61.52-1
Technical assistance grants—application packages. 61.51-1
Technical assistance grants—general. 61.50-1
Technical assistance reports. 61.55-1
Transfer of capital grants. 61.19-1

Subpart A—General Provisions**§61.0 Purpose.**

This part implements the VA Homeless Providers Grant and Per Diem Program which consists of the following components: capital grants, per diem, special need capital and non-capital grants, and technical assistance grants. (Authority: 38 U.S.C. 501, 2001, 2002, 2011, 2012, 2061, 2064)

[78 FR 12604, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.1 Definitions.

For purposes of this part:

Area or community means a political subdivision or contiguous political subdivisions (such as a precinct, ward, borough, city, county, State, Congressional district, etc.) with a separately identifiable population of homeless veterans.

Capital grant means a grant for construction, renovation, or acquisition of a facility, or a grant for acquisition of a van.

Capital lease is defined by § 61.4.

Chronically mentally ill means a condition of schizophrenia or major affective disorder (including bipolar disorder) or post-traumatic stress disorder (PTSD), based on a diagnosis from a licensed mental health professional, with at least one documented hospitalization for this condition sometime in the last 2 years or with documentation of a formal assessment on a standardized scale of any serious symptomatology or serious impairment in the areas of work, family relations, thinking, or mood.

Default means a determination by VA that an awardee has materially failed to comply with the terms and conditions of an award.

Fixed site means a physical structure that under normal conditions is not capable of readily being moved from one location to another location.

Frail elderly means 65 years of age or older with one or more chronic health problems and limitations in performing one or more activities of daily living (such as bathing, toileting, transferring from bed to chair, etc.).

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

New construction means building a structure where none existed, or building an addition to an existing structure that increases the floor area by more than 100 percent.

Nonprofit organization means a private organization, no part of the net earnings of which may inure to the benefit of any member, founder, contributor, or individual. The organization must be recognized as a section 501(c)(3) or 501(c)(19) nonprofit organization by the United States Internal Revenue Service, and meet all of the following criteria:

- (1) Have a voluntary board;
- (2) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or designate an entity to maintain such a functioning accounting system; and
- (3) Practice nondiscrimination in the provision of supportive housing and supportive services assistance.

Notice of Fund Availability (NOFA) means a notice published in the **Federal Register** in accordance with § 61.60.

Operating costs means expenses incurred in operating supportive housing, supportive services or service centers with respect to:

- (1) Administration (including staff salaries; costs associated with accounting for the use of grant funds, preparing reports for submission to VA, obtaining program audits, and securing accreditation; and similar costs related to administering the grant after the award), maintenance, repair and security for the supportive housing;
- (2) Van costs or building rent (except under capital leases), e.g., fuel, insurance, utilities, furnishings, and equipment;
- (3) Conducting on-going assessments of supportive services provided for and needed by participants and the availability of such services; and
- (4) Other costs associated with operating the supportive housing.

Operational means a program for which all VA inspection requirements under this part have been met and an activation document has been issued by the VA National GPD Program.

Outpatient health services means outpatient health care, outpatient mental health services, outpatient alcohol and/or substance abuse services, and case management.

Participant means a person receiving services based on a grant or per diem provided under this part.

Participant agreement means any written or implied agreement between a grant recipient agency and a program participant that outlines the requirements for program compliance, participant or service delivery.

Project means all activities that define the parameters of the purpose of the grant.

Public entity means any of the following:

(1) A county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government; or

(2) The governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by the Bureau of Indian Affairs.

Recipient means the entity whose employer or taxpayer identification number is on the Application for Federal Assistance (SF 424) and is consequently responsible to comply with all terms and conditions of the award. For the purpose of this part the terms “grantee,” “recipient,” and “awardee” are synonymous and interchangeable.

Rehabilitation means the improvement or repair of an existing structure. Rehabilitation does not include minor or routine repairs.

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 United States Housing Act of 1937.

Supportive housing means housing with supportive services provided for homeless veterans that:

(1) Is not shelter care, other emergent housing, or housing designed to be permanent or long term (more than 24 months), with no requirement to move; and

(2) Is designed to either:

(i) Facilitate the movement of homeless veterans to permanent housing within a period that is not less than 90 days and does not exceed 24 months, subject to § 61.80; or

(ii) Provide specific medical treatment such as detoxification, respite, or hospice treatments that are used as step-up or step-down programs within that specific project's continuum.

Supportive services has the meaning assigned to it under § 61.2.

Terminally ill means a prognosis of 9 months or less to live, based on a written medical diagnosis from a physician.

Total project cost means the sum of all costs incurred by a recipient for the acquisition, rehabilitation, and new construction of a facility, or van(s), identified in a grant application.

VA means the Department of Veterans Affairs.

VA National GPD Program refers to the VA Homeless Providers Grant and Per Diem Program.

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

(Authority: 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064)

[78 FR 12604, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.2 Supportive services—general.

(a) Recipients must design supportive services. Such services must provide appropriate assistance, or aid participants in obtaining appropriate assistance, to address the needs of homeless veterans. The following are examples of supportive services:

- (1) Outreach activities;
- (2) Providing food, nutritional advice, counseling, health care, mental health treatment, alcohol and other substance abuse services, case management services;
- (3) Establishing and operating child care services for dependents of homeless veterans;
- (4) Providing supervision and security arrangements necessary for the protection of residents of supportive housing and for homeless veterans using supportive housing or services;
- (5) Assistance in obtaining permanent housing;
- (6) Education, employment counseling and assistance, and job training;
- (7) Assistance in obtaining other Federal, State and local assistance available for such residents including mental health benefits, employment counseling and assistance, veterans' benefits, medical assistance, and income support assistance; and
- (8) Providing housing assistance, legal assistance, advocacy, transportation, and other services essential for achieving and maintaining independent living.

(b) Supportive services do not include inpatient acute hospital care.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061)

[78 FR 12605, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.3 Notice of Fund Availability.

When funds are made available for a grant or per diem award under this part, VA will publish a Notice of Fund Availability in the **Federal Register**. The notice will:

- (a) Give the location for obtaining application packages;
- (b) Specify the date, time, and place for submitting completed applications;
- (c) State the estimated amount and type of funding available; and

(d) State any priorities for or exclusions from funding to meet the statutory mandate of 38 U.S.C. 2011, to ensure that awards do not result in the duplication of ongoing services and to reflect the maximum extent practicable appropriate geographic dispersion and an appropriate balance between urban and nonurban locations.

(e) Provide other information necessary for the application process, such as the grant period, where applicable.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061, 2064)

[78 FR 12605, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.4 Definition of capital lease.

A capital lease, for purposes of this part, means a conditional sales contract that either:

(a) Will be in effect for all of the period of recovery listed in § 61.67(b); or

(b) That satisfies one of the following criteria:

(1) The lease transfers ownership to the lessee at the expiration of the lease term.

(2) The lease contains a bargain purchase option.

(3) The present value of lease payments that are applied to the purchase are equal to or greater than 90 percent of the fair market value of the asset.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061, 2064)

[78 FR 12605, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

Next Section is §61.10

Subpart B—Capital Grants**§61.10 Capital grants—general.**

(a) Subject to the availability of appropriations provided for such purpose, VA will provide capital grants to public or nonprofit private entities so they can assist homeless veterans by helping to ensure the availability of supportive housing and service centers to furnish outreach, rehabilitative services, and vocational counseling and training. Specifically, VA provides capital grants for up to 65 percent of the cost to:

(1) Construct structures and purchase the underlying land to establish new supportive housing facilities or service centers, or to expand existing supportive housing facilities or service centers;

(2) Acquire structures to establish new supportive housing facilities or service centers, or to expand existing supportive housing facilities or service centers;

(3) Renovate existing structures to establish new supportive housing facilities or service centers, or to expand existing supportive housing facilities or service centers; and

(4) Procure a van in accordance with § 61.18, Capital grants for vans.

(b) Capital grants may not be used for acquiring buildings located on VA-owned property. However, capital grants may be awarded for construction, expansion, or renovation of buildings located on VA-owned property.

(Authority: 38 U.S.C. 501, 2011)

[78 FR 12605, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.11 Capital grants—application packages.

(a) *General.* To apply for a capital grant, an applicant must obtain from, complete, and submit to VA a capital grant application package within the time period established in the Notice of Fund Availability.

(b) *Content of application.* The capital grant application package will require the following:

(1) Site description, site design, and site cost estimates.

(2) Documentation supporting:

(i) Eligibility to receive a capital grant under this part;

(ii) Matching funds committed to the project;

(iii) A proposed operating budget and cost sharing;

(iv) Supportive services committed to the project;

(v) The applicant's authority to control the site and meet appropriate zoning laws; and

(vi) The boundaries of the area or community that would be served.

(3) If capital grant funds would be used for acquisition or rehabilitation, documentation demonstrating that the costs associated with acquisition or rehabilitation are less than the costs associated with new construction.

(4) If capital grant funds would be used for new construction, documentation demonstrating that the costs associated with new construction are less than the costs associated with rehabilitation of an existing building, that there is a lack of available appropriate units that could be rehabilitated at a cost less than new construction, and that new construction is less costly than acquisition of an existing building (for purposes of this cost comparison, costs associated with rehabilitation or new construction may include the cost of real property acquisition).

(5) If proposed construction includes demolition:

(i) A demolition plan that describes the extent and cost of existing site features to be removed, stored, or relocated; and

(ii) Information establishing that the proposed construction is either in the same location as the building to be demolished or that the demolition is inextricably linked to the

design of the construction project. Without such information, the cost of demolition cannot be included in the cost of construction.

(6) If the applicant is a state, comments or recommendations by appropriate state (and area wide) clearinghouses pursuant to E.O. 12372 (3 CFR, 1982 Comp., p. 197).

(7) A statement from the applicant that all of the following are true:

(i) The project will furnish to veterans the level of care for which such application is made, and services provided will meet the requirements of this part.

(ii) The applicant will continue to operate the project until the expiration of the period during which VA could seek full recovery under § 61.67.

(iii) Title to the site will vest solely in the applicant and the applicant will insure the site to the same extent they would insure a site bought with their own funds.

(iv) Adequate financial support will be available for the completion of the project.

(v) The applicant will keep records and submit reports as VA may reasonably require, within the time frames required, and, upon demand, allow VA access to the records upon which such information is based.

(vi) The applicant will state that no more than 25 percent of the grant-awarded beds are occupied by non-veterans.

(c) *Multiple capital grant applications.* Subject to § 61.12(i), applicants may apply for more than one capital grant.

(Authority: 38 U.S.C. 501, 2011) (The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0554).

[78 FR 12606, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.12 Capital grant application packages—threshold requirements.

The following threshold requirements for a capital grant application must be met, or the application will be rejected before being rated under § 61.13:

(a) The application package must meet all of the following criteria:

(1) Be on the correct application form.

(2) Be completed in all parts, including all information requested in the Notice of Fund Availability and application package.

(3) Include a signed Application for Federal Assistance (SF 424) that contains the Employer Identification Number or Taxpayer Identification Number (EIN/TIN) that corresponds to the applicant's Internal Revenue Service (IRS) 501(c)(3) or (19) determination letter. All applicants must provide such an IRS determination letter, which includes their EIN/TIN. Applicants that apply under a group EIN/TIN must be identified by the parent EIN/TIN as a member or sub-unit of the parent EIN/TIN and provide supporting documentation.

(4) Be submitted before the deadline established in the Notice of Fund Availability.

(b) The applicant must be a public or nonprofit private entity at the time of application.

(c) The activities for which assistance is requested must be eligible for funding under this part.

(d) The applicant must demonstrate that adequate financial support will be available to carry out the project for which the capital grant is sought, consistent with the plans, specifications, and schedule submitted by the applicant.

(e) The application must demonstrate compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655).

(f) The applicant must agree to comply with the requirements of this part and demonstrate the capacity to do so.

(g) The applicant must not have an outstanding obligation to VA that is in arrears, or have an overdue or unsatisfactory response to an audit.

(h) The applicant must not have been notified by VA as being in default.

(i) The applicant, during the 5 years preceding the date of the application, must not have done any of the following:

(1) Had more than two grants awarded under this part that remain in development;

(2) Failed to establish two previous awarded grant projects under this part; or

(3) Had a previous grant or per diem project awarded under this part terminated or transferred to another eligible entity for failure to comply with the terms and conditions of the award.

(Authority: 38 U.S.C. 501, 2011) (The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0554).

[78 FR 12606, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.13 Capital grant application packages—rating criteria.

(a) *General.* Applicants that meet the threshold requirements in § 61.12 will be rated using the selection criteria listed in this section. To be eligible for a capital grant, an applicant must receive at least 750 points (out of a possible 1000) and must receive points under each of the following paragraphs (b), (c), (d), (e), (f), and (g) of this section.

(b) *Project plan.* VA will award up to 300 points based on the demonstration and quality of the following:

- (1) The selection of the proposed housing in light of the population to be served.
- (2) The process used for deciding which veterans are appropriate for admission.
- (3) How, when, and by whom the progress of participants toward meeting their individual goals will be monitored, evaluated, and documented.
- (4) The role program participants will have in operating and maintaining the housing.
- (5) The responsibilities the applicant, sponsors, or contractors will have in operating and maintaining the housing.
- (6) The supportive services that will be provided and by whom to help participants achieve residential stability, increase skill level and/or income, and become involved in making life decisions that will increase self-determination.
- (7) The measureable objectives that will be used to determine success of the supportive services.
- (8) How the success of the program will be evaluated on an ongoing basis.
- (9) How the nutritional needs of veterans will be met.
- (10) How the agency will ensure a clean and sober environment.
- (11) How participants will be assisted in assimilating into the community through access to neighborhood facilities, activities, and services.
- (12) How the proposed project will be implemented in a timely fashion.
- (13) How permanent affordable housing will be identified and made known to participants upon leaving the supportive housing.
- (14) How participants will be provided necessary follow-up services.

(15) The description of program policies regarding participant agreements, rent, and fees.

(c) *Outreach to persons on streets and in shelters.* VA will award up to 100 points based on:

(1) The agency's outreach plan to serve homeless veterans living in places not ordinarily meant for human habitation (e.g., streets, parks, abandoned buildings, automobiles, under bridges, in transportation facilities) and those who reside in emergency shelters; and

(2) The likelihood that proposed plans for outreach and selection of participants will result in these populations being served.

(d) *Ability of applicant to develop and operate a project.* VA will award up to 200 points based on the extent to which the application demonstrates the necessary staff and organizational experience to complete and operate the proposed project, based on the following:

(1) Staffing plan for the project that reflects the appropriate professional staff, both administrative and clinical;

(2) Experience of staff, if staff not yet hired, position descriptions and expectations of time to hire;

(3) Amount of time each staff position is dedicated to the project, and in what capacity;

(4) Applicant's previous experience assessing and providing for the housing needs of homeless veterans;

(5) Applicant's previous experience assessing and providing supportive services for homeless veterans;

(6) Applicant's previous experience assessing supportive service resources and entitlement benefits;

(7) Applicant's previous experience with evaluating the progress of both individual participants and overall program effectiveness using quality and performance data to make changes;

(8) Applicant's previous experience operating housing for homeless individuals;

(9) Overall agency organizational overview (org. chart); and

(10) Historical documentation of past performance both with VA and non-VA projects, including those from other Federal, state and local agencies and audits by private or public entities.

(e) *Need.* VA will award up to 150 points based on the extent to which the applicant demonstrates:

(1) Substantial unmet needs, particularly among the target population living in places not ordinarily meant for human habitation such as the streets, emergency shelters, based on reliable data from surveys of homeless populations or other reports or data gathering mechanisms that directly support claims made; and

(2) An understanding of the homeless population to be served and its unmet housing and supportive service needs.

(f) *Completion confidence.* VA will award up to 50 points based on the review panel's confidence that the applicant has effectively demonstrated the supportive housing or service center project will be completed as described in the application. VA may use historical program documents of past performance both VA and non-VA, including those from other Federal, state and local agencies as well as audits by private or public entities in determining confidence scores.

(g) *Coordination with other programs.* VA will award up to 200 points based on the extent to which applicants demonstrate that they have coordinated with Federal, state, local, private and other entities serving homeless persons in the planning and operation of the project. Such entities may include shelter transitional housing, health care, or social service providers; providers funded through Federal initiatives; local planning coalitions or provider associations; or other program providers relevant to the needs of homeless veterans in the local community. Applicants are required to demonstrate that they have coordinated with the VA medical care facility of jurisdiction and/or VA Regional Office of jurisdiction in their area. VA will award up to 50 points of the 200 points based on the extent to which commitments to provide supportive services are documented at the time of application. Up to 150 points of the 200 points will be given to the extent applicants demonstrate that:

(1) They are part of an ongoing community-wide planning process within the framework described above which is designed to share information on available resources and reduce duplication among programs that serve homeless veterans;

(2) They have consulted directly with the closest VA Medical Center and other providers within the framework described above regarding coordination of services for project participants; and

(3) They have coordinated with the closest VA Medical Center their plan to assure access to health care, case management, and other care services.

(Authority: 38 U.S.C. 501, 2011)

[78 FR 12607, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.14 Capital grants—selection of grantees.

(a) Applicants will first be grouped in categories according to the funding priorities set forth in the NOFA, if any. Applicants will then be ranked, within their respective funding category if applicable. The highest-ranked applications for which funding is available, within highest priority funding category if applicable, will be conditionally selected to receive a capital grant in accordance with their ranked order, as determined under §61.13. If funding priorities have been established and funds are still available after selection of those applicants in the highest priority group VA will continue to conditionally select applicants in lower priority categories in accordance with the selection method set forth in this paragraph subject to available funding.

(b) In the event of a tie between applicants, VA will use the score from §61.13(g) to determine the ranking. If the score from §61.13(g) is also tied, VA will use the score from § 61.13(d) to determine the ranking.

(c) VA may reject an application where the project is not cost effective based on the cost and number of new supportive housing beds made available—or based on the cost, amount, and types of supportive services made available—when compared to other supportive housing or services projects, and when adjusted for high cost areas. For those applications that VA believes not to be cost-effective VA will;

- (1) Reduce the award; or
- (2) Not select the application for funding.

(d) VA may not reject an application solely on the basis that the entity proposes to use funding from other private or public sources, if the entity demonstrates that a private nonprofit organization will provide oversight and site control for the project. In this section “private nonprofit organization” means one of the following:

- (1) An incorporated private institution, organization, or foundation—
 - (i) That has received, or has temporary clearance to receive, tax-exempt status under paragraph (2), (3), or (19) of section 501(c) of the Internal Revenue Code of 1986;
 - (ii) For which no part of the net earnings of the institution, organization, or foundation inures to the benefit of any member, founder, or contributor of the institution, organization, or foundation; and
 - (iii) That VA determines is financially responsible.

(2) A for-profit limited partnership or limited liability company, the sole general partner or manager of which is an organization that is described by paragraph (d)(1) of this section.

(3) A corporation wholly owned and controlled by an organization that is described by paragraph (d)(1) of this section.

(e) In the case of a previously awarded project that can no longer provide services and or housing and the recipient agency has decided to withdraw or the project has been terminated for failure to comply with the terms and conditions of the award; VA may transfer a capital grant or non-capital grant to another eligible entity in the same geographical area without competition, in order to prevent a loss of capacity of services and housing to homeless veterans. The new entity must meet all of the requirements to which the original grantee was subject. In the case of a capital grant transfer the new grantee will only be entitled to the funding that remains from the original capital obligation and remains responsible for all commitments made by the original grantee.

(Authority: 38 U.S.C. 501, 2011)

[78 FR 12608, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.15 Capital grants—obtaining additional information and awarding capital grants.

(a) Each applicant who has been conditionally selected for a capital grant will be requested by VA to submit additional documentation or information as necessary, including:

(1) Any additional information necessary to show that the project is feasible, including a plan from an architect, contractor, or other building professional who provides estimated costs for the proposed design;

(2) Documentation showing the sources of funding for the project and firm financing commitments for the matching requirements described in §61.16;

(3) Documentation establishing site control described in §61.17;

(4) Documentation establishing compliance with the National Historic Preservation Act (16 U.S.C. 470);

(5) Information necessary for VA to ensure compliance both with Uniform Federal Accessibility Standards (UFAS) and the Americans with Disabilities Act Accessibility Guidelines;

(6) Documentation establishing compliance with local and state zoning codes;

(7) Documentation in the form of one set of design development (35 percent completion) drawings demonstrating compliance with local codes, state codes, and the current Life Safety Code of the National Fire Protection Association.

(8) Information necessary for VA to ensure compliance with the provisions of the National Environmental Policy Act (42 U.S.C. 4321 et seq.);

(9) A site survey performed by a licensed land surveyor; and

(10) Such other documentation as specified by VA in writing or verbally to the applicant to confirm or clarify information provided in the application.

(b) Items requested under paragraph (a) of this section must be received by VA in acceptable form within the time frame established in accordance with the Notice of Fund Availability.

(c) Following receipt of the additional information in acceptable form, VA will execute an agreement and make payments to the grant recipient in accordance with § 61.61 and other applicable provisions of this part.

(Authority: 38 U.S.C. 501, 2011) (The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0554)

[78 FR 12604, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.16 Matching funds for capital grants.

(a) VA cannot award a capital grant for more than 65 percent of the total allowable costs of the project. The grantee must provide funding (“matching funding”) for the remaining 35 percent of the total cost, using non-federal funds. VA requires that applicants provide documentation of all costs related to the project including those that are not allowable under OMB Circular A-122 as codified at 2 CFR part 230. Allowable costs means those related to the portion (percentage) of the property that would be used to provide supportive housing and services under this part.

(b) Capital grants may include application costs, including site surveys, architectural, and engineering fees, but may not include relocation costs or developer's fees.

(c) *Documentation of matching funds.* The matching funds described in paragraph (a) of this section must be documented as follows; no other format will be accepted as evidence of a firm commitment of matching funds:

(1) Donations must be on the donor's letterhead, signed and dated.

(2) The applicant's own cash must be committed on the applicant's letterhead, signed, and dated.

(3) No conditions may be placed on the matching funds other than the organization's receipt of the capital grant.

(4) Funds must be committed to the same activity as the capital grant application (i.e., acquisition, renovation, new construction, or a van), and must not relate to operating costs or services.

(5) The value of matching funds must be for a cost that is included in the calculation of the total project cost, thereby decreasing the total expenditures of the grantee.

(d) *Van applications.* The requirements of this section also apply to applications for a capital grant for a van under § 61.18.

(Authority: 38 U.S.C. 501, 2011)

[78 FR 12608, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.17 Site control for capital grants.

(a) In order to receive a capital grant for supportive housing or a fixed site service center, an applicant must demonstrate site control. Site control must be demonstrated through a deed or an executed contract of sale, or a capital lease, which assigns control or ownership to the entity whose Federal employer or taxpayer identification number is on the Application for Federal Assistance (SF424), unless one of the following apply:

(1) VA gives written permission for an alternate assignment. VA will permit alternate assignments except when:

(i) The alternate assignment is to a for-profit entity which is neither controlled by the applicant or by the applicant's parent organization or the entity is controlled by the applicant's parent organization which is a for-profit entity; or

(ii) VA has a reasonable concern that the assignment may provide an economic or monetary benefit to the assignee other than the benefit that would have inured to the applicant had the applicant not made the alternate assignment.

(2) The site is in a building or on land owned by VA, and the applicant has an agreement with VA for site control.

(b) A capital grant recipient may change the site to a new site meeting the requirements of this part subject to VA approval under § 61.62. However, the recipient is responsible for and must demonstrate ability to provide for any additional costs resulting from the change in site.

(c) If site control is not demonstrated within 1 year after execution of an agreement under § 61.61, the grantee may request a reasonable extension from the VA national GPD office, or the grant may be terminated. VA will authorize an extension request if the grantee was not at fault for being unable to exercise site control and the lack of site control does not affect the grantee's ability to complete the project.

(Authority: 38 U.S.C. 501, 2011) (The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0554)

[78 FR 12609, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.18 Capital grants for vans.

(a) *General.* A capital grant may be used to procure one or more vans, as stated in a NOFA, to provide transportation or outreach for the purpose of providing supportive services. The grant may cover the purchase price, sales taxes, and title and licensing fees. Title to the van must vest solely in the applicant, and the applicant must insure the van to the same extent they would insure a van bought with their own funds.

(b) *Who can apply for a van.* VA will only award vans to applicants who currently have an operational grant under this part, or in conjunction with a new application.

(c) *Application packages for van(s).* In order to receive a van, the application must demonstrate the following:

- (1) Clear need for the van(s);
- (2) Specific use of the van(s);
- (3) Frequency of use of the van(s);
- (4) Qualifications of the van driver(s);
- (5) Training of the van driver(s);
- (6) Type of van(s) to be obtained; and

(7) Adequate financial support will be available for the completion of the project or for the purchase and maintenance, repair, and operation of the van(s).

(d) *Rating criteria.* Applications will be scored using the selection criteria listed in this section. To be eligible for a van grant, an applicant must receive at least 80 points (out of a possible 100) of this section.

(1) *Need.* VA will award up to 60 points based on the extent to which the applicant demonstrates a substantial unmet need for transportation due to:

- (i) Lack of alternative public transportation,
- (ii) Project location,
- (iii) Expired life use of current van, or
- (iv) Special disabled individual transportation.

(2) *Activity*. VA will award up to 20 points based on the extent to which the applicant demonstrates:

(i) Frequency of use,

(ii) Type of use, and

(iii) Type of van, e.g., whether there is a justification for a van with a wheelchair lift or other modifications.

(3) *Operator qualification*. VA will award up to 20 points based on the extent to which the applicant demonstrates a job description for the van operator that details:

(i) Requirements of the position, and

(ii) Training that will be provided to the driver.

(Authority: 38 U.S.C. 501, 2011)

[78 FR 12609, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.19 Transfer of capital grants.

In the case of a previously awarded project that can no longer provide services and/or housing and the recipient agency has decided to withdraw or the project has been terminated for failure to comply with the terms and conditions of the award, VA may transfer a capital grant or non-capital grant to another eligible entity in the same geographical area without competition, in order to prevent a loss of capacity of services and housing to homeless veterans. The new entity must meet all of the requirements to which the original grantee was subject. In the case of a capital grant transfer the new grantee will only be entitled to the funding that remains from the original capital obligation and remains responsible for all commitments made by the original grantee.

(Authority: 38 U.S.C. 501, 2011)

[78 FR 12609, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

Next Section is §61.30

Subpart C—Per Diem Payments**§61.30 Per diem—general.**

(a) *General.* VA may provide per diem funds to offset operating costs for a program of supportive housing or services. VA may provide:

(1) Per diem funds to capital grant recipients; or

(2) Per diem only (PDO) funds to entities eligible to receive a capital grant, if the entity established a program of supportive housing or services after November 10, 1992.

(b) *Capital grant recipients.* Capital grant recipients may request per diem funds after completion of a project funded by a capital grant and a site inspection under § 61.80 to ensure that the grantee is capable of providing supportive services.

(c) *Per diem only applicants.* PDO awards to entities eligible to receive a capital grant must provide supportive housing or services to the homeless veteran population within 180 days after the date on the notification of award letter, or VA will terminate the PDO payments.

(Authority: 38 U.S.C. 501, 2012)

[78 FR 12609, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.31 Per diem—application packages.

(a) *Capital grant recipient.* To apply for per diem, a capital grant recipient need only indicate the intent to receive per diem on the capital grant application or may separately request per diem by submitting to VA a written statement requesting per diem.

(b) *Non-capital-grant recipient (per diem only).* To apply for per diem only, a non-capital grant applicant must obtain from VA a non-capital grant application package and submit to VA the information called for in the application package within the time period established in the Notice of Fund Availability. The application package includes exhibits to be prepared and submitted as part of the application process, including:

(1) Documentation on eligibility to receive per diem under this part;

(2) Documentation on operating budget and cost sharing;

(3) Documentation on supportive services committed to the project;

(4) Comments or recommendations by appropriate state (and area wide) clearinghouses pursuant to E.O. 12372 (3 CFR, 1982 Comp., p. 197), if the applicant is a state; and

(5) Reasonable assurances with respect to receipt of per diem under this part that:

(i) The project will be used principally to furnish to veterans the level of care for which such application is made; that not more than 25 percent of participants at any one time will be non-veterans; and that such services will meet the requirements of this part;

(ii) Adequate financial support will be available for the per diem program; and

(iii) The recipient will keep records and submit reports as VA may reasonably require, within the time frames required; and give VA, upon demand, access to the records upon which such information is based.

(Authority: 38 U.S.C. 501, 2012) (The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0554)

[78 FR 12609, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.32 Per diem application packages—rating criteria.

(a) *Conditional selection.* Application packages for per diem only (i.e., from non-capital grant applicants) in response to a Notice of Fund Availability (NOFA) will be reviewed and grouped in categories according to the funding priorities set forth in the NOFA, if any. Such applications will then be ranked within their respective funding category according to scores achieved only if the applicant scores at least 750 cumulative points out of a possible 1000 from each of the following paragraphs: (b), (c), (d), (e), (f), and (g) of §61.13. The highest-ranked applications for which funding is available, within highest funding priority category if applicable, will be conditionally selected for eligibility to receive per diem payments or special need payment in accordance with their ranked order. If funding priorities have been established and funds are still available after selection of those applicants in the highest priority group, VA will continue to conditionally select applicants in lower priority categories in accordance with the selection method set forth in this paragraph subject to available funding. Conditional selectees will be subsequently awarded per diem, if they otherwise meet the requirements of this part, including passing the inspection required by §61.80.

(b) *Ranking applications.* In the event of a tie between applicants, VA will use the score from §61.13(g) to determine the ranking. Note: Capital grant recipients are not required to be ranked; however, continuation of per diem payments to capital grant recipients will be subject to limitations set forth in §61.33.

(c) *Executing per diem agreements.* VA will execute per diem agreements with an applicant whose per diem application was conditionally selected under this section using the same procedures applicable to a capital grant under §61.15.

(Authority: 38 U.S.C. 501, 2012)

[78 FR 12610, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.33 Payment of per diem.

(a) *General.* VA will pay per diem to the recipient for those homeless veterans:

(1) Who VA referred to the recipient; or

(2) For whom VA authorized the provision of supportive housing or supportive service.

(b) *Rate of payments for individual veterans.* The rate of per diem for each veteran in supportive housing shall be the lesser of:

(1) The daily cost of care estimated by the per diem recipient minus other sources of payments to the per diem recipient for furnishing services to homeless veterans that the per diem recipient certifies to be correct (other sources include payments and grants from other departments and agencies of the United States, from departments of local and State governments, from private entities or organizations, and from program participants); or

(2) The current VA state home program per diem rate for domiciliary care, as set by the Secretary under 38 U.S.C. 1741(a)(1).

(c) *Rate of payments for service centers.* The per diem amount for service centers shall be 1/8 of the lesser of the amount in paragraph (b)(1) or (b)(2) of this section, per hour, not to exceed 8 hours in any day.

(d) *Continuing payments.* Recipients may continue to receive per diem only so long as funding is available, they continue to provide the supportive services described in their application, and they continue to meet the applicable ongoing requirements of this part. For non-capital grant recipients of per diem only, funds will be paid to the highest-ranked applicants, within the highest-funding priority category if applicable, in descending order until funds are expended. Generally, payments will continue for the time frame specified in the Notice of Fund Availability. When necessary due to funding limitations, VA will reduce the rate of per diem.

(e) *Retroactive payments.* Per diem may be paid retroactively for services provided not more than 3 days before VA approval is given or where, through no fault of the recipient, per diem payments should have been made but were not made.

(f) *Payments for absent veterans.* VA will pay per diem for up to, and not more than, 72 consecutive hours (scheduled or unscheduled) of absence.

(g) *Supportive housing limitation.* VA will not pay per diem for supportive housing for any homeless veteran who has had three or more episodes (admission and discharge for each episode) of supportive housing services paid for under this part. VA may waive this limitation if the services offered are different from those previously provided and may lead to a successful outcome.

(h) *Veterans receiving supportive housing and services.* VA will not pay per diem for both supportive housing and supportive services provided to the same veteran by the same per diem recipient.

(i) At the time of receipt, a per diem recipient must report to VA all other sources of income for the project for which per diem was awarded. The report provides a basis for adjustments to the per diem payment under paragraph (b)(1) of this section.

(Authority: 38 U.S.C. 501, 2012)

[78 FR 12610, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

Next Section is §61.40

Subpart D—Special Need Grants**§61.40 Special need grants—general.**

(a) VA provides special need grants to public or nonprofit private entities that will create or provide supportive housing and services, which they would not otherwise create or provide, for the following special need homeless veteran populations:

- (1) Women;
- (2) Frail elderly;
- (3) Terminally ill;
- (4) Chronically mentally ill; or
- (5) Individuals who have care of minor dependents.

(b) Applicants must submit an application package for a capital or non-capital grant, which will be processed by the VA National GPD Program in accordance with this part; however, to be eligible for a capital special need grant, an applicant must receive at least 800 points (out of a possible 1000) and must receive points under each of the following paragraphs: (b), (c), (d), (e), (f), and (g) of §61.13. Non-capital special need grants are rated in the same manner as non-capital grant applications under §61.32.

(c) A recipient of a grant under paragraph (a) of this section may use amounts under the grant to provide services directly to a dependent of a homeless veteran with special needs who is under the care of such homeless veteran while such homeless veteran receives services from the grant recipient under this section.

(d) The following sections apply to special need grants: §§61.61 through 61.67, §61.80, and §61.82.

(Authority: 38 U.S.C. 501, 2061)

[78 FR 12610, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.41 Special need grants—application packages and threshold requirements.

(a) *Applications.* To apply for a special need grant, an applicant must obtain, complete, and submit to VA a special need capital grant or special need per diem only application package within the time period established in the Notice of Fund Availability. A special need grant application must meet the same threshold requirements applicable to a capital grant under § 61.12.

(b) *Additional requirement.* In addition to the requirements of § 61.11, applicants must describe how they will address the needs of one or more of the homeless veteran populations identified in paragraphs (c) through (g) of this section.

(c) *Women.* Applications must show how the program design will:

(1) Ensure transportation for women, especially for health care and educational needs; and

(2) Address safety and security issues including segregation from other program participants if deemed appropriate.

(d) *Individuals who have care of minor dependents.* Applications must show how the program design will:

(1) Ensure transportation for individuals who have care of minor dependents, and their children, especially for health care and educational needs;

(2) Provide directly or offer referrals for adequate and safe child care;

(3) Ensure children's health care needs are met, especially age-appropriate wellness visits and immunizations; and

(4) Address safety and security issues including segregation from other program participants if deemed appropriate.

(e) *Frail elderly.* Applications must show how the program design will:

(1) Ensure the safety of the residents in the facility to include preventing harm and exploitation;

(2) Ensure opportunities to keep residents mentally and physically agile to the fullest extent through the incorporation of structured activities, physical activity, and plans for social engagement within the program and in the community;

(3) Provide opportunities for participants to address life transitional issues and separation and/or loss issues;

(4) Provide access to walkers, grippers, or other assistance devices necessary for optimal functioning;

(5) Ensure adequate supervision, including supervision of medication and monitoring of medication compliance; and

(6) Provide opportunities for participants either directly or through referral for other services particularly relevant for the frail elderly, including services or programs addressing emotional, social, spiritual, and generative needs.

(f) *Terminally ill*. Applications must show how the program design will:

(1) Help participants address life-transition and life-end issues;

(2) Ensure that participants are afforded timely access to hospice services;

(3) Provide opportunities for participants to engage in “tasks of dying,” or activities of “getting things in order” or other therapeutic actions that help resolve end of life issues and enable transition and closure;

(4) Ensure adequate supervision including supervision of medication and monitoring of medication compliance; and

(5) Provide opportunities for participants either directly or through referral for other services particularly relevant for terminally ill such as legal counsel and pain management.

(g) *Chronically mentally ill*. Applications must show how the program design will:

(1) Help participants join in and engage with the community;

(2) Facilitate reintegration with the community and provide services that may optimize reintegration such as life-skills education, recreational activities, and follow up case management;

(3) Ensure that participants have opportunities and services for re-establishing relationships with family;

(4) Ensure adequate supervision, including supervision of medication and monitoring of medication compliance; and

(5) Provide opportunities for participants, either directly or through referral, to obtain other services particularly relevant for a chronically mentally ill population, such as vocational development, benefits management, fiduciary or money management services, medication compliance, and medication education.

(Authority: 38 U.S.C. 501, 2061) (The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0554).

[78 FR 12611, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

Next Section is §61.44

§61.44 Awarding special need grants and payment of special need per diem.

(a) For those applicants selected for a special need grant, VA will execute an agreement and make payments to the grantee under § 61.61.

(b) Capital grantee selectees who successfully complete the capital portion of their grant, or non-capital grantee selectees who successfully pass VA inspection, will be eligible for a special need per diem payment to defray the operational cost of the project. Special need per diem payment will be the lesser of:

(1) 100 percent of the daily cost of care estimated by the special need recipient for furnishing services to homeless veterans with special need that the special need recipient certifies to be correct, minus any other sources of income; or

(2) Two times the current VA State Home Program per diem rate for domiciliary care.

(c) Special need awards are subject to funds availability, the recipient meeting the performance goals as stated in the grant application, statutory and regulatory requirements, and annual inspections.

(d) Special need capital grantees are not eligible for per diem payment under § 61.33, as the special need per diem payment covers the cost of care.

(Authority: 38 U.S.C. 501, 2061)

[78 FR 12611, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

Next Section is §61.50

Subpart E—Technical Assistance Grants

§61.50 Technical assistance grants—general.

(a) *General.* VA provides technical assistance grants to entities or organizations with expertise in preparing grant applications relating to the provision of assistance for homeless veterans. The recipients must use the grants to provide technical assistance to nonprofit organizations with experience in providing assistance to homeless veterans in order to help such groups apply for grants under this part, or from any other source, for addressing the needs of homeless veterans. Current recipients of any grant under this part (other than a technical assistance grant), or their sub-recipients, are ineligible for technical assistance grants.

(b) *Allowable activities.* Technical assistance grant recipients may use grant funds for the following activities:

(1) Group or individual “how-to” grant writing seminars, providing instructions on applying for a grant. Topics must include:

- (i) Determining eligibility;
- (ii) Matching the awarding agency's grant mission to the applicant agency's strengths;
- (iii) Meeting the specific grant outcome requirements;
- (iv) Creating measurable goals and objectives for grants;
- (v) Relating clear and concise grant project planning;
- (vi) Ensuring appropriate grant project staffing; and
- (vii) Demonstrating the applicant's abilities.

(2) Creation and dissemination of “how-to” grant writing materials, i.e., compact disks, booklets, web pages or other media specifically designed to facilitate and instruct applicants in the completion of grant applications.

(3) Group or individual seminars, providing instructions on the legal obligations associated with grant applications. Topics must include:

(i) Office of Management and Budget (OMB) grant management circulars and forms, 2 CFR parts 215, 225, 230;

(ii) Federal funding match and fund separation requirements; and

(iii) Property and equipment disposition.

(4) Telephone, video conferencing or email with potential grant applicants that specifically address grant application questions.

(c) *Unallowable activities.* Technical assistance grant recipients may not use grant funds for the following activities:

(1) Meetings, consortia, or any similar activity that does not assist community agencies in seeking grants to aid homeless veterans.

(2) Referral of individual veterans to agencies for benefits, housing, medical assistance, or social services.

(3) Lobbying.

(Authority: 38 U.S.C. 501 and 2064)

[78 FR 12611, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.51 Technical assistance grants—application packages.

(a) To apply for a technical assistance grant, an applicant must obtain from VA, complete, and submit to VA a technical assistance grant application package within the time period established in the Notice of Fund Availability.

(b) The technical assistance grant application package will require the following:

(1) Documentation on eligibility to receive a technical assistance grant under this part;

(2) A description of technical assistance that would be provided (see § 61.50);

(3) Documentation concerning the estimated operating costs and operating budget for the technical assistance program for which the grant is sought;

(4) Documentation concerning expertise in preparing grant applications;

(5) Documentation of resources committed to the provision of technical expertise;

(6) Comments or recommendations by appropriate state (and area wide) clearinghouses pursuant to E.O. 12372 (3 CFR, 1982 Comp., p. 197), if the applicant is a state; and

(7) Reasonable assurances that:

(i) The recipient will provide adequate financial and administrative support for providing the services set forth in the technical assistance grant application, and will actually provide such services; and

(ii) The recipient will keep records and timely submit reports as required by VA, and will give VA, on demand, access to the records upon which such reports are based.

(Authority: 38 U.S.C. 501, 2064) (The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0554)

[78 FR 12612, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.52 Technical assistance grant application packages—threshold requirements.

The following threshold requirements for a technical assistance grant must be met, or the application will be rejected before being rated under §61.53:

- (a) The application must be complete and submitted on the correct form and in the time period established in the Notice of Fund Availability;
- (b) The applicant must establish expertise in preparing grant applications;
- (c) The activities for which assistance is requested must be eligible for funding under this part;
- (d) The applicant must demonstrate that adequate financial support will be available to carry out the project for which the grant is sought, consistent with the plans, specifications and schedule submitted by the applicant;
- (e) The applicant must not have an outstanding obligation to VA that is in arrears, or have an overdue or unsatisfactory response to an audit; and
- (f) The applicant must not have been notified by VA as being in default.

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

[78 FR 12612, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.53 Technical assistance grant application packages—rating criteria.

(a) *General.* Applicants that meet the threshold requirements in § 61.52 will then be rated using the selection criteria listed in paragraphs (b) and (c) of this section. To be eligible for a technical assistance grant, an applicant must receive at least 600 points (out of a possible 800).

(b) *Quality of the technical assistance.* VA will award up to 400 points based on the following:

(1) How the recipients of technical training will increase their skill level regarding the completion of applications;

(2) How the recipients of technical training will learn to find grant opportunities in a timely manner;

(3) How the technical assistance provided will be monitored and evaluated and changes made, if needed; and

(4) How the proposed technical assistance programs will be implemented in a timely fashion.

(c) *Ability of applicant to demonstrate expertise in preparing grant applications and to develop and operate a technical assistance program.* VA will award up to 400 points based on the extent to which the application demonstrates all of the following:

(1) Ability to find grants available for addressing the needs of homeless veterans.

(2) Ability to find and offer technical assistance to entities eligible for such assistance.

(3) Ability to administer a technical assistance program.

(4) Ability to provide grant technical assistance.

(5) Ability to evaluate the overall effectiveness of the technical assistance program and to make adjustments, if necessary, based on those evaluations.

(6) Past performance. VA may use historical documents of past performance from both VA and non-VA, including those from other Federal, state and local agencies and audits by private or public entities in scoring technical assistance applications.

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

[78 FR 12612, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.54 Awarding technical assistance grants.

(a) Applicants will first be grouped in categories according to the funding priorities set forth in the NOFA, if any. Applicants will then be ranked within their respective funding category, if applicable. The highest-ranked applications for which funding is available, within highest priority funding category if applicable, will be selected to receive a technical assistance grant in accordance with their ranked order, as determined under §61.53. If funding priorities have been established and funds are still available after selection of those applicants in the highest priority group, VA will continue to conditionally select applicants in lower priority categories in accordance with the selection method set forth in this paragraph subject to available funding.

(b) In the event of a tie between applicants, VA will use the score from §61.53(c) to determine the ranking.

(c) For those applicants selected to receive a technical assistance grant, VA will execute an agreement and make payments to the grant recipient in accordance with §61.61.

(d) The amount of the technical assistance grant will be the estimated total operational cost of the technical assistance over the life of the technical assistance grant award as specified in the technical assistance grant agreement. Payments may be made for no more than the period specified in the Notice of Fund Availability.

(e) VA will not pay for sustenance or lodging for the nonprofit community participants or attendees at training conferences offered by technical assistance grant recipients; however, the grantee may use grant funds to recover such expenses.

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

[78 FR 12612, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.55 Technical assistance reports.

Each technical assistance grantee must submit to VA a quarterly report describing the activities for which the technical assistance grant funds were used, including the type and amount of technical assistance provided and the number of nonprofit community-based groups served.

(Authority: 38 U.S.C. 501, 2064) (The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0554)

[78 FR 12613Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

Next Section is §61.61

Subpart F—Awards, Monitoring, and Enforcement of Agreements**§61.61 Agreement and funding actions.**

(a) *Agreement.* When VA selects an applicant for grant or per diem award under this part, VA will incorporate the requirements of this part into an agreement to be executed by VA and the applicant. VA will enforce the agreement through such action as may be appropriate, including temporarily withholding cash payments pending correction of a deficiency. Appropriate actions include actions in accordance with the VA common grant rules at 38 CFR parts 43 and 49 and the OMB Circulars, including those cited in § 61.66.

(b) *Obligating funds.* Upon execution of the agreement, VA will obligate funds to cover the amount of the approved grant/per diem, subject to the availability of funding. Payments will be for services rendered, contingent on submission of documentation in the form of invoices or purchase agreements and inspections, as VA deems necessary. VA will make payments on its own schedule to reimburse for amounts expended. Except for increases in the rate of per diem, VA will not increase the amount obligated for assistance under this part after the initial obligation of funds.

(c) *Deobligating funds.* VA may deobligate all or parts of funds obligated under this part:

(1) If the actual total cost for assistance is less than the total cost stated in the application; or

(2) If the recipient fails to comply with the requirements of this part.

(d) *Deobligation procedure.* Before deobligating funds under this section, VA will issue a notice of intent to terminate payments. The recipient will have 30 days to submit documentation demonstrating why payments should not be terminated. After review of any such documentation, VA will issue a final decision concerning termination of payment.

(e) *Other government funds.* No funds provided under this part may be used to replace Federal, state or local funds previously used, or designated for use, to assist homeless veterans.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061, 2064)

[78 FR 12613, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.62 Program changes.

(a) Except as provided in paragraphs (b) through (d) of this section, a recipient may not make any significant changes to a project for which a grant has been awarded without prior written approval from the VA National Grant and Per Diem Program Office. Significant changes include, but are not limited to, a change in the recipient, a change in the project site (including relocating, adding an annex, a branch, or other expansion), additions or deletions of activities, shifts of funds from one approved type of activity to another, and a change in the category of participants to be served.

(b) Recipients of grants involving both construction and non-construction projects must receive prior written approval from the VA National Grant and Per Diem Program Office for cumulative transfers among direct cost categories which exceed or are expected to exceed 10 percent of the current total approved budget.

(c) Recipients of grants for projects involving both construction and non-construction who are state or local governments must receive prior written approval from the VA National Grant and Per Diem Program Office for any budget revision which would transfer funds between non-construction and construction categories.

(d) Approval for changes is contingent upon the application ranking remaining high enough after the approved change to have been competitively selected for funding in the year the application was selected.

(e) Any changes to an approved program must be fully documented in the recipient's records.

(f) Recipients must inform the VA National Grant and Per Diem Program Office in writing of any key position and address changes in/of their organization within 30 days of the change, i.e., new executive director or chief financial officer, permanent change of address for corporate communications.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061, 2064) (The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0554).

[78 FR 12613, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.63 Procedural error.

If an application would have been selected but for a procedural error committed by VA, VA may reconsider that application in the next funding round. A new application will not be required for this purpose so long as there is no material change in the information.

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

[78 FR 12613, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.64 Religious organizations.

(a) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in VA programs under this part. In the selection of service providers, neither the Federal Government nor a state or local government receiving funds under this part shall 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, 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.

(d) A religious organization that participates in VA programs 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 governance, 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 statements and other governing documents.

(e) An organization that participates in a VA program under this part shall not, in providing direct program assistance, discriminate against a program beneficiary or prospective program beneficiary regarding housing, supportive services, 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)

[78 FR 12613, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.65 Inspections.

VA may inspect the facility and records of any applicant or recipient when necessary to determine compliance with this part or an agreement under §61.61. The authority to inspect does not authorize VA to manage or control the applicant or recipient.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061, 2064)

[78 FR 12614, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.66 Financial management.

(a) All recipients must comply with applicable requirements of the Single Audit Act Amendments of 1996, as implemented by OMB Circular A-133 and codified at 38 CFR part 41.

(b) All entities receiving assistance under this part must use a financial management system that follows generally accepted accounting principles and meets the requirements set forth under OMB Circular A-102, Subpart C, section 20, codified at 38 CFR 43.20, for state and local government recipients, or under OMB Circular A-110, Subpart C, section 21, codified at 38 CFR 49.21 for nonprofit recipients. All recipients must implement the requirements of the appropriate OMB Circular for Cost-Principles (A-87 or A-122 codified at 2 CFR parts 225 and 230, respectively) for determining costs reimbursable under all awards issued under this part.

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

[78 FR 12614, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.67 Recovery provisions.

(a) *Full recovery of capital grants.* VA may recover from the grant recipient all of the grant amounts provided for the project if, after 3 years after the date of an award of a capital grant, the grant recipient has withdrawn from the VA Homeless Providers Grant and Per Diem Program (Program), does not establish the project for which the grant was made, or has established the project for which the grant was made but has not passed final inspection. Where a recipient has no control over causes for delays in implementing a project, VA may extend the 3-year period, as appropriate. VA may obligate any recovered funds without fiscal year limitation.

(b) *Prorated (partial) recovery of capital grants.* If a capital grant recipient is not subject to recovery under paragraph (a) of this section, VA will seek recovery of the grant amount on a prorated basis where the grant recipient ceases to provide services for which the grant was made or withdraws from the Program prior to the expiration of the applicable period of operation, which period shall begin on the date shown on the activation document produced by the VA National GPD Program. In cases where capital grant recipients have chosen not to receive per diem payments, the applicable period of operation shall begin on the date the VA Medical Center Director approved placement at the project site as shown on the inspection documents. The amount to be recaptured equals the total amount of the grant, multiplied by the fraction resulting from using the number of years the recipient was not operational as the numerator, and using the number of years of operation required under the following chart as the denominator.

Grant Amount (dollars in thousands)	Years of Operation
0 – 250	7
251 – 500	8
501 – 750	9
751 – 1,000	10
1,001 – 1,250	11
1,251 – 1,500	12
1,501 – 1,750	13
1,751 – 2,000	14
2,000 – 2,250	15
2,251 – 2,500	16
2,501 – 2,750	17
2,751 – 3,000	18
Over 3,000	20

(c) *Disposition of real property for capital grantees.* In addition to being subject to recovery under paragraphs (a) and (b) of this section, capital grantees are subject to real property disposition as required by 38 CFR 49.32 when the grantee no longer is providing services through a grant awarded under this part.

(d) *Recovery of per diem and non-capital grants.* VA will seek to recover from the recipient of per diem, a special need non-capital grant, or a technical assistance grant any funds that are not used in accordance with the requirements of this part.

(e) *Notice.* Before VA takes action to recover funds, VA will issue to the recipient a notice of intent to recover funds. The recipient will then have 30 days to submit documentation demonstrating why funds should not be recovered. After review of any such documentation, VA will issue a decision regarding whether action will be taken to recover funds.

(f) *Vans.* All recovery provisions will apply to vans with the exception of the period of time for recovery. The period of time for recovery will be 7 years. Disposition provisions of 38 CFR 49.34 apply to vans. Grantees are required to notify the VA National Grant and Per Diem Program Office for disposition of any van funded under this part.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061, 2064)

[78 FR 12614, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

Next Section is §61.80

§61.80 General operation requirements for supportive housing and service centers.

(a) Supportive housing and service centers for which assistance is provided under this part must comply with the requirements of the current edition of the Life Safety Code of the National Fire Protection Association and all applicable state and local housing codes, licensing requirements, fire and safety requirements, and any other requirements in the jurisdiction in which the project is located regarding the condition of the structure and the operation of the supportive housing or service centers. Note: All facilities are to be protected throughout by an approved automatic sprinkler system unless a facility is specifically exempted under the Life Safety Code.

(b) Except for such variations as are proposed by the recipient that would not affect compliance with paragraph (a) of this section and are approved by VA, supportive housing must meet the following requirements:

(1) The structures must be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the residents from the elements;

(2) Entry and exit locations to the structure must be capable of being utilized without unauthorized use of other private properties, and must provide alternate means of egress in case of fire;

(3) Buildings constructed or altered with Federal assistance must also be accessible to the disabled, as required by §502 of the Americans with Disabilities Act, referred to as the Architectural Barriers Act;

(4) Each resident must be afforded appropriate space and security for themselves and their belongings, including an acceptable place to sleep that is in compliance with all applicable local, state, and federal requirements;

(5) Every room or space must be provided with natural or mechanical ventilation and the structures must be free of pollutants in the air at levels that threaten the health of residents;

(6) The water supply must be free from contamination;

(7) Residents must have access to sufficient sanitary facilities that are in proper operating condition, that may be used in privacy, and that are adequate for personal cleanliness and the disposal of human waste;

(8) The housing must have adequate heating and/or cooling facilities in proper operating condition;

(9) The housing must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of residents and sufficient electrical sources must be provided to permit use of essential electrical appliances while assuring safety from fire;

(10) All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner;

(11) The housing and any equipment must be maintained in a sanitary manner;

(12) The residents with disabilities must be provided meals or meal preparation facilities must be available;

(13) Residential supervision from a paid staff member, volunteer, or senior resident participant must be provided 24 hours per day, 7 days per week and for those times that a volunteer or senior resident participant is providing residential supervision a paid staff member must be on call for emergencies 24 hours a day 7 days a week (all supervision must be provided by individuals with sufficient knowledge for the position); and

(14) Residents must be provided a clean and sober environment that is free from illicit drug use or from alcohol use that: could threaten the health and/or safety of the residents or staff; hinders the peaceful enjoyment of the premises; or jeopardizes completion of the grantee's project goals and objectives. Those supportive housing or service centers that provide medical or social detox at the same site as the supportive housing or service must ensure that those residents in detox are clearly separated from the general residential population.

(c) Each recipient of assistance under this part must conduct an ongoing assessment of the supportive services needed by the residents of the project and the availability of such services, and make adjustments as appropriate. The recipient will provide evidence of this ongoing assessment to VA regarding the plan described in their grant application to include meeting their performance goals. This information will be incorporated into the annual inspection. Grantees must submit during the grant agreement period to VA, a quarterly technical performance report. A quarterly report must be filed once during each quarter and no later than January 30, April 30, July 30, and October 30. The report may be in any acceptable business format and must include the following information:

(1) A comparison of actual accomplishments to established goals for the reporting period and response to any findings related to monitoring efforts. This comparison will be on the same level of detail as specified in the program approved in the grant document. It will address quantifiable as well as non-quantifiable goals.

(2) If established goals have not been met, provide a detailed narrative explanation and an explanation of the corrective action(s) which will be taken, as well as a timetable for accomplishment of the corrective action(s).

(3) Other pertinent information, including a description of grant-related activities occurring during the report period. This may include personnel activity (hiring-training), community orientation/awareness activity, programmatic activity (job development). Also identify administrative and programmatic problems, which may affect performance and proposed solutions.

(4) The quarterly technical performance report will be submitted to the VA National GPD Program Liaison assigned to the project, with each quarterly report being a cumulative report for the entire calendar year. All pages of the reporting documents should have the appropriate grant number and signature, where appropriate. VA National GPD Program Liaisons will file the report and corrective actions in the administrative file for the grant.

(5) Between scheduled reporting dates, the recipient will also immediately inform the VA National GPD Program Liaison of any significant developments affecting the recipient's ability to accomplish the work. VA National GPD Program Liaisons will provide grantees with necessary technical assistance, when and where appropriate as problems arise.

(6) For each goal or objective listed in the grant application, grantees will be allowed a 15 percent deviation of each goal or objective. If the deviation is greater than 15 percent in any one goal or objective, a corrective action plan must be submitted to the VA National GPD Program Liaison. Failure to meet goals and objectives may result in withholding of placement, withholding of payment, suspension of payment and termination as outlined in this part or other applicable Federal statutes if the goal or objective would impact the program's ability to provide a successful outcome for veterans.

(7) Corrective Action(s): When necessary, the grantee will automatically initiate a Corrective Action Plan (CAP). A CAP will be required if, on a quarterly basis, actual grant accomplishments vary by a margin of +/-15 percent or more from the planned goals and objectives. Please note that this is a general rule of thumb, and in some cases +/-15 percent deviations are beneficial to the program such as more placements into employment or training than planned, less cost per placement than planned, higher average wage at placement than planned, etc.

(8) All +/-15 percent deviations from the planned goals that have a negative impact on the grantee's ability to accomplish planned goals must be fully explained in the grantee's quarterly technical report and a CAP is to be initiated, developed, and submitted by the grantee to the VA Liaison for approval.

(9) The CAP must identify the activity or expenditure source which has the +/-15 percent deviation, describe the reason(s) for the variance, provide specific proposed corrective action(s), and a timetable for accomplishment of the corrective action. The plan may include an intent to modify the grant when appropriate.

(10) The CAP will be submitted as an addendum to the quarterly technical report. After receipt of the CAP, the VA National GPD Program Liaison will send a letter to the grantee indicating that the CAP is approved or disapproved. If disapproved, VA Liaison will make beneficial suggestions to improve the proposed CAP and request resubmission until CAP is satisfactory to both parties.

(d) A homeless veteran may remain in supportive housing for which assistance is provided under this part for a period no longer than 24 months, except that a veteran may stay longer, if permanent housing for the veteran has not been located or if the veteran requires additional time to prepare for independent living. However, at any given time, no more than one-half of the veterans at such supportive housing facility may have resided at the facility for periods longer than 24 months.

(e) Each recipient of assistance under this part must provide for the consultation and participation of not less than one homeless veteran or formerly homeless veteran on the board of directors or an equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project provided under this part. This requirement may be waived if an applicant, despite a good faith effort to comply, is unable to meet it and presents a plan, subject to VA approval, to otherwise consult with homeless or formerly homeless veterans in considering and making such policies and decisions.

(f) Each recipient of assistance under this part must, to the maximum extent practicable, involve homeless veterans and families, through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project and in providing supportive services for the project.

(g) Each recipient of assistance under this part shall establish procedures for fiscal control and fund accounting to ensure proper disbursement and accounting of assistance received under this part.

(h) The recipient of assistance under this part that provides family violence prevention or treatment services must establish and implement procedures to ensure:

(1) The confidentiality of records pertaining to any individual provided services,
and

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

(i) Each recipient of assistance under this part must maintain the confidentiality of records kept on homeless veterans receiving services.

(j) VA may disapprove use of outpatient health services provided through the recipient if VA determines that such services are of unacceptable quality. Further, VA will not pay per diem where the Department concludes that services furnished by the recipient are unacceptable.

(k) A service center for homeless veterans shall provide services to homeless veterans for a minimum of 40 hours per week over a minimum of 5 days per week, as well as provide services on an as-needed, unscheduled basis. The calculation of average hours shall include travel time for mobile service centers. In addition:

(1) Space in a service center shall be made available as mutually agreeable for use by VA staff and other appropriate agencies and organizations to assist homeless veterans;

(2) A service center shall be equipped to provide, or assist in providing, health care, mental health services, hygiene facilities, benefits and employment counseling, meals, and transportation assistance;

(3) A service center shall provide other services as VA determines necessary based on the need for services otherwise not available in the geographic area; and

(4) A service center may be equipped and staffed to provide, or to assist in providing, job training and job placement services (including job readiness, job counseling, and literacy and skills training), as well as any outreach and case management services that may be necessary to meet the requirements of this paragraph.

(l) Fixed site service centers will prominently post at or near the entrance to the service center their hours of operation and contacts in case of emergencies. Mobile service centers must take some action reasonably calculated to provide in advance a tentative schedule of visits (e.g., newspapers, fliers, public service announcements on television or radio). The schedule should include but is not limited to:

(1) The region of operation;

(2) Times of operation;

(3) Expected services to be provided; and

(4) Contacts for specific information and changes.

(m) Each recipient that provides housing and services must have a written disaster plan that has been coordinated with the emergency management entity responsible for the locality in which the project exists. The plan must encompass natural and man-made disasters.

(n) The recipient will inform within 24 hours its VA liaison of any sentinel events occurring within the program (i.e., drug overdose, death, injury).

(o) The grantee, or sub-grantee, will provide appropriate orientation and training to staff to enable them to provide quality services that are appropriate to homeless veteran or homeless special need veteran population.

(p) The grantee will maintain systematic participant enrollment information and participant tracking records designed to facilitate the uniform compilation and analysis of programmatic data necessary for verification of veteran status and case management, reporting, monitoring, and evaluation purposes.

(q) The grantee will also document in each participant record at a minimum:

(1) Family status.

(2) Verification of veteran status (DD214, Department of Veterans Affairs confirmation report and/or identification card).

(3) Education, employment history, and marketable skills/licenses/credentials.

(4) An Individual Service Plan (ISP) for each individual participant will be maintained in the participant case management record which contains the following:

(i) An assessment of barriers, service needs, as well as strengths; and

(ii) Specific services and referrals planned and benefits to be achieved as a result of program participation.

(5) Duration and outcome of supportive service.

(6) The grantee must verify service outcomes each calendar year quarter through the participant and provide documentation of this verification in the participant case management files.

(r) The grantee will ensure that no more than 25 percent of the grant awarded beds are occupied by non-veterans, or VA may take actions as appropriate to decrease the beds, grant amounts, or terminate the grant and seek recapture in the case of capital funding. To calculate the occupancy rate, divide the actual number of bed days of care for veterans eligible to reside in the project, by the total number of possible bed days of care (the previous 180 days from the most current 6 month period).

(Authority: 38 U.S.C. 501, 2011, 2012, 2061) (The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0554).

[78 FR 12615, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

Reserved

§61.81 Outreach activities.

Recipients of capital grants and per diem relating to supportive housing or service centers must use their best efforts to ensure that eligible hard-to-reach veterans are found, engaged, and provided assistance. To achieve this goal, recipients may search for homeless veterans at places such as shelters, soup kitchens, parks, bus or train stations, and the streets. Outreach particularly should be directed toward veterans who have a nighttime residence that is an emergency shelter or a public or private place not ordinarily used as a regular sleeping accommodation for human beings (e.g., cars, streets, or parks).

(Authority: 38 U.S.C. 501, 2011, 2012, 2061)

[78 FR 12617, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

§61.82 Participant fees for supportive housing.

(a) Each participant of supportive housing may be required to pay a participant fee in an amount determined by the recipient, except that such participant fee may not exceed 30 percent of the participant's monthly income after deducting medical expenses, child care expenses, court ordered child support payments, or other court ordered payments; nor may it exceed the program's set maximum rate or the HUD Fair Market Rent for that type of housing and its location, whichever is less. The participant fee determination and collection process/procedures should be documented in the grant recipient's operating procedures to ensure consistency, fairness, and accuracy of fees collected. The participant's monthly income includes all income earned by or paid to the participant.

(b) Retroactive benefit payments from any source to program participants, for the purpose of this part, may be considered income in the month received and therefore may be used in calculating the participant fee for that month.

(c) Participant fees may be used for costs of operating the supportive housing or to assist supportive housing residents' move to permanent housing, and must have a therapeutic benefit.

(d) In addition to a participant fee, recipients may charge residents reasonable fees for extracurricular services and activities (extracurricular fee) that participants are not required to receive under the terms of the grant award, are not paid for by VA per diem, or provided by VA. Extracurricular fees must be voluntary on the part of the participant.

(e) In projects funded under this part where participants sign agreements, VA treats the costs associated with participant eviction to be as unallowable.

(f) Use of participant agreements.

(1) Participant agreements must be between the grant recipient of record and the program participant.

(2) Participant agreements must be part of a therapeutic plan to increase self-determination and responsibility.

(3) Participant agreements must include a clause that allows program participants the ability to break the lease or program agreement without penalty for medical or clinical necessity.

(4) Participant agreements may not be used to exclude homeless veterans with little or no income from the program.

(5) Participant agreements and conditions must be fully disclosed to potential participants and acknowledged in writing by both parties.

(Authority: 38 U.S.C. 501, 2011, 2012, 2061)

[78 FR 12617, Feb. 25, 2013]

Supplement *Highlights* reference: 75(1)

End of Part 61

Part 64

Grants for the Rural Veterans Coordination Pilot (RVCP)

Reserved

Part 64

Grants for the Rural Veterans Coordination Pilot (RVCP)

Authority: Authority: 38 U.S.C. 501, 523 *note*, and as noted in specific sections.

Source: 78 Fed. Reg. 12619, February 25, 2013, unless otherwise indicated.

— Index —

Application..... 64.10-1

Definitions..... 64.2-1

Notice of Funds Availability (NOFA) 64.8-1

Permissible uses of RVCP grants 64.6-1

Purpose and scope..... 64.0-1

Recovery of funds 64.18-1

Reporting..... 64.16-1

RVCP grants—general..... 64.4-1

RVCP grant agreement 64.14-1

Scoring and selection 64.12-1



Reserved

§64.0 Purpose and scope.

(a) *Purpose.* The Rural Veterans Coordination Pilot (RVCP) program implements the requirements of section 506 of the Caregivers and Veterans Omnibus Health Services Act of 2010 to provide grants to community-based organizations and local and State government entities to assist veterans who are transitioning from military service to civilian life in rural or underserved communities and families of such veterans.

(b) *Scope.* This part applies only to the administration of the RVCP, unless specifically provided otherwise.

(Authority: 38 U.S.C. 501, 523 note)

[78 FR 12619, Feb. 25, 2013]

Supplement *Highlights* reference: 75(2)

Next Section is §64.2

§64.2 Definitions

For the purpose of this part and any Notice of Funds Availability issued under this part:

Applicant means an eligible entity that submits an application for an RVCP grant as announced in a Notice of Funds Availability.

Community-based organization means a group that represents a community or a significant segment of a community and is engaged in meeting community needs.

Eligible entity means a community-based organization or local or State government entity. An eligible entity will be identified as the legal entity whose employer identification number is on the Application for Federal Assistance (SF 424), even if only a particular component of the broader entity is applying for the RVCP grant.

Grantee means recipient of an RVCP grant.

Limited access to health care means residing in an area identified by the Health Resources and Services Administration of the U.S. Department of Health and Human Services as “medically underserved” or having a “medically underserved population.”

Local government means a county, municipality, city, town, township, or regional government or its components.

Minority group member means an individual who is Asian American; Black; Hispanic; Native American (including American Indian, Alaskan Native, and Native Hawaiian); or Pacific-Islander American.

Notice of Funds Availability (NOFA) means a Notice published by VA in the **Federal Register** alerting eligible entities of the availability of RVCP grants and containing important information about the RVCP grant application process in accordance with § 64.8.

Participant means a veteran or a member of a veteran's family who receives services for which an RVCP grant is awarded.

Rural means an area classified as “rural” by the U.S. Census Bureau.

Rural Veterans Coordination Pilot (RVCP) refers to the pilot grant program authorized by section 506 of the Caregivers and Veterans Omnibus Health Services Act of 2010.

State government means any of the fifty 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 government.

Underserved communities are areas that meet one or more of the following criteria:

(1) Have a high proportion of minority group representation;

(2) Have a high proportion of individuals who have limited access to health care;

or

(3) Have no active duty military installation that is reasonably accessible to the community.

VA means the U.S. Department of Veterans Affairs.

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

Veteran who is transitioning from military service to civilian life means a veteran who is separating from active military, naval, or air service in the Armed Forces to return to life as a civilian and such veteran's date of discharge or release from active military, naval, or air service was not more than 2 years prior to the date on which the RVCP grant was awarded.

Veteran's family means those individuals who reside with the veteran in the veteran's primary residence. These individuals include a parent, a spouse, a child, a step-family member, an extended family member, and individuals who reside in the home with the veteran but are not a member of the family of the veteran. (Authority: 38 U.S.C. 501, 523 note)

[78 FR 12619, Feb. 25, 2013]

Supplement *Highlights* reference: 75(2)

Next Section is §64.4

§64.4 RVCP grants—general.

- (a) VA will award five RVCP grants to eligible entities as defined in § 64.2.
- (b) An eligible entity may receive only one RVCP grant, and only one RVCP grant will be awarded in any one pilot project location (see § 64.12(a)(6)).
- (c) RVCP grants will be awarded for a maximum period of 2 years, beginning on the date on which the RVCP grants are awarded. They will not be extended or renewable.
- (d) A grantee will not be required to provide matching funds as a condition of receiving an RVCP grant.
- (e) No participant will be charged a fee for services provided by the grantee or be required to participate in other activities sponsored by the grantee as a condition of receiving services for which the RVCP grant is made. (Authority: 38 U.S.C. 501, 523 note)

[78 FR 12619, Feb. 25, 2013]

Supplement *Highlights* reference: 75(2)

Next Section is §64.6

§64.6 Permissible uses of RVCP grants.

(a) Grantees must maximize the use of RVCP grants by ensuring that at least 90 percent of funds awarded are used to provide services designed to aid in the adjustment to civilian life in one or more of the following areas:

(1) *Increasing coordination of health care and benefits for veterans.* Examples include, but are not limited to, identifying sources of community, local, State, and Federal health care and benefits; obtaining necessary applications and assisting veterans in the preparation of applications for such care and benefits; and identifying and eliminating barriers to receiving identified benefits.

(2) *Increasing availability of high quality medical and mental health services.* Examples include, but are not limited to, increasing availability of or access to insurance or low- or no-cost public or private health care, including out-patient care, preventive care, hospital care, nursing home care, rehabilitative care, case management, respite care, and home care; providing assistance in accessing or using telehealth services; transporting veterans to medical facilities or transporting medical or mental health providers to veterans; and providing assistance in obtaining necessary pharmaceuticals, supplies, equipment, devices, appliances, and assistive technology.

(3) *Providing assistance to families of transitioning veterans.* Examples include, but are not limited to, helping obtain medical insurance for family members; helping the family obtain suitable housing; providing job-search assistance or removing barriers for family members seeking employment; assisting the family in identifying and applying to appropriate schools and/or child care programs; securing learning aids such as textbooks, computers and laboratory supplies; and obtaining personal financial and legal services.

(4) *Outreach to veterans and families.* Examples include, but are not limited to, the provision, development or deployment of various media tools (e.g., Internet, television, radio, flyers, posters, etc.), activity days, program booths, or other strategies to reach transitioning veterans and their families in the target community and assist them with their transition from military service to civilian life. Outreach services may be provided directly by the RVCP grantee or the grantee may engage the outreach services of another entity using RVCP funds.

(b) Grantees may use up to 10 percent of the RVCP grant for indirect costs, i.e., the expenses of doing business that are not readily identified with a particular grant but are necessary for the general operation of the grantee organization and the conduct of activities it performs. (Authority: 38 U.S.C. 501, 523 note)

[78 FR 12619, Feb. 25, 2013]

Supplement *Highlights* reference: 75(2)

Next Section is §64.8

§64.8 Notice of Funds Availability (NOFA).

When funds are available for RVCP grants, VA will publish a NOFA in the **Federal Register** and in Grants.gov (<http://www.grants.gov>). The NOFA will identify:

(a) The location for obtaining RVCP grant applications, including the specific forms that will be required;

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

(c) The estimated total amount of funds available and the maximum funds available to a single grantee;

(d) The minimum number of total points and points per category that an applicant must receive to be considered for a grant and information regarding the scoring process;

(e) Any timeframes and manner for payments under the RVCP grant; and

(f) Other information necessary for the RVCP grant application process, as determined by VA, including contact information for the office that will oversee the RVCP within VA. (Authority: 38 U.S.C. 501, 523 note)

[78 FR 12619, Feb. 25, 2013]

Supplement *Highlights* reference: 75(2)

Next Section is §64.10

§64.10 Application.

(a) To apply for an RVCP grant, eligible entities must submit to VA a complete application package. Applications will be accepted only through Grants.gov (<http://www.grants.gov>).

(b) A complete RVCP grant application package includes the following:

(1) A description of the services to be provided and which of the permissible uses for RVCP grants outlined in § 64.6(a) the services are intended to fulfill.

(2) A description, with supporting documentation, of the need for the proposed project in the proposed location, including an estimate, with supporting documentation, of the number of veterans and families that will be provided services by the applicant.

(3) A description, with supporting documentation, of how the proposed project location qualifies as a rural or an underserved community, as defined in this part.

(4) Documentation evidencing the applicant's experience in providing the proposed services, particularly to veterans and their families.

(5) Evidence of a clear, realistic, and measurable program of self-evaluation and monitoring, including a documented commitment to remediate any identified noncompliance.

(6) Documentation of the ability of the applicant to administer the project, including plans to:

(i) Continuously assess and adapt to the needs of participants for services under the RVCP grant;

(ii) Coordinate and customize the provision of services to the identified needs of the participants;

(iii) Comply with and implement the requirements of this part throughout the term of the RVCP grant; and

(iv) Complete and submit timely reports of RVCP grant activities.

(7) A description of any assistance received from or any consultations with VA or Veterans Service Organizations in the development of the proposal being submitted.

(8) Any additional information deemed appropriate by VA and set forth in the NOFA.

(Authority: 38 U.S.C. 501, 523 note) (The Office of Management and Budget has approved the information collection provisions in this section under control numbers 4040-0003, 4040-0004, 4040-0006, 4040-0007, 4040-0008, 4040-0009, and 4040-0010.)

[78 FR 12619, Feb. 25, 2013]

Supplement *Highlights* reference: 75(2)

Next Section is §64.12

§64.12 Scoring and selection.

(a) *Scoring.* VA will score only complete applications received from eligible entities by the established deadline. Applications will be scored using the following criteria:

(1) *Background, organizational history, qualifications, and past performance (maximum 10 points).* Applicant documents a relevant history of successfully providing the type of services proposed in the RVCP grant application, particularly in the location it plans to serve and/or to veterans and their families.

(2) *Need for pilot project (maximum 10 points).* Applicant demonstrates the need for the pilot project among veterans and their families in the proposed project location, and provides evidence of the applicant's understanding of the unique needs of veterans and their families in the location to be served.

(3) *Pilot project concept, innovation, and ability to meet VA's objectives (maximum 40 points).* Application shows appropriate concept, size, and scope of the project; provides realistic estimates of time, staffing, and material needs to implement the project; and details the project's ability to enhance the overall services provided, while presenting realistic plans to reduce duplication of benefits and services already in place. Application must describe a comprehensive and well-developed plan to meet one or more of the permissible uses set out in § 64.6.

(4) *Pilot project evaluation and monitoring (maximum 10 points).* Self-evaluation and monitoring strategy provided in application is reasonable and expected to meet requirements of § 64.10(b)(5).

(5) *Organizational finances (maximum 10 points).* Applicant provides documentation that it is financially stable, has not defaulted on financial obligations, has adequate financial and operational controls in place to assure the proper use of RVCP grants, and presents a plan for using RVCP grants that is cost effective and efficient.

(6) *Pilot project location (maximum 20 points).* Applicant documents how the proposed project location meets the definition of rural or underserved communities in this part.

(b) *Selection of grantees.* All complete applications will be scored using the criteria in paragraph (a) and ranked in order from highest to lowest total score. VA will rank all applications that receive at least the minimum number of points indicated in the NOFA. VA will award one RVCP grant to the highest scoring application. VA will award RVCP grants to each successive application, ranked by total score, provided the applicant has not been awarded an RVCP grant for a higher scoring application and the proposed project is not in the same project location as any previously awarded RVCP grant. (Authority: 38 U.S.C. 501, 523 note)

[78 FR 12619, Feb. 25, 2013]

Supplement *Highlights* reference: 75(2)

Next Section is §64.14

§64.14 RVCP grant agreement.

- (a) VA will draft an RVCP grant agreement to be executed by VA and the grantee.
- (b) The RVCP grant agreement will provide that the grantee agrees to:
- (1) Operate the project in accordance with this part and the terms of the agreement;
 - (2) Abide by the following additional requirements:
 - (i) Community-based organizations are subject to the Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations under 38 CFR part 49, as well as to OMB Circular A-122, Cost Principles for Non-Profit Organizations, codified at 2 CFR part 230, and 2 CFR parts 25 and 170, if applicable.
 - (ii) Local and State government entities are subject to the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments under 38 CFR part 43, as well as to OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, and 2 CFR parts 25 and 170, if applicable.
 - (3) Comply with such other terms and conditions, including recordkeeping and reports for project monitoring and evaluation purposes, as VA may establish for purposes of carrying out the RVCP in an effective and efficient manner and as described in the NOFA; and
 - (4) Provide any necessary additional information that is requested by VA in the manner and timeframe specified by VA. (Authority: 38 U.S.C. 501, 523 note)

[78 FR 12619, Feb. 25, 2013]

Supplement *Highlights* reference: 75(2)

Next Section is §64.16

§64.16 Reporting.

(a) *Quarterly reports.* All grantees must submit to VA quarterly reports based on the Federal fiscal year, which include the following information:

(1) Record of time and resources expended in outreach activities, and the methods used;

(2) The number of participants served, including demographics of this population;

(3) Types of assistance provided;

(4) A full accounting of RVCP grant funds received from VA and used or unused during the quarter; and

(5) Results of routine monitoring and any project variations.

(b) *Submission of reports.* Reports must be submitted to VA no later than 15 calendar days after the close of each Federal fiscal quarter.

(c) *Additional reports.* VA may request additional reports to allow VA to fully assess project accountability and effectiveness. (Authority: 38 U.S.C. 501, 523 note)

[78 FR 12619, Feb. 25, 2013]

Supplement *Highlights* reference: 75(2)

Next Section is §64.18

§64.18 Recovery of funds.

(a) *Recovery of funds.* VA may terminate a grant agreement with any RVCP grantee that does not comply with the terms of the RVCP agreement. VA may recover from the grantee any funds that are not used in accordance with a RVCP grant agreement. If VA decides to recover funds, VA will issue to the grantee a notice of intent to recover RVCP grant funds, and the grantee will then have 30 days beginning from the date of the notice to submit documentation demonstrating why the RVCP grant funds should not be recovered. If the RVCP grantee does not respond or if the grantee responds but VA determines the documentation is insufficient to establish compliance, VA will make a final determination as to whether action to recover the RVCP grant funds will be taken.

(b) *Prohibition of further grants.* When VA determines action will be taken to recover grant funds from a grantee, the grantee will be prohibited from receiving any further RVCP grant funds for the duration of the pilot program. (Authority: 38 U.S.C. 501, 523*note*)

[78 FR 12619, Feb. 25, 2013]

Supplement *Highlights* reference: 75(2)

End of Part 64