



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 62

RIN 2900-AP61

Supportive Services for Veteran Families Program

AGENCY: Department of Veterans Affairs.

ACTION: Proposed Rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations that govern the Supportive Services for Veteran Families (SSVF) Program. This rulemaking would clarify VA's procedures for continuing to fund SSVF Program services in communities that have lost grants due to the non-renewal or termination of services of an existing award to a grantee by awarding non-renewed or deobligated funds to other existing SSVF grantees in or near the affected community. This award of non-renewed or deobligated funds would prevent potential access issues associated with grant termination. This rulemaking would also reduce the number of satisfaction surveys grantees are required to provide to participants in order to reduce the burden on grantees and participants.

DATES: Comments must be received on or before [Insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Written comments may be submitted through www.Regulations.gov; by mail or hand-delivery to Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1068, Washington, DC 20420; or by fax to (202) 273-9026.

Comments should indicate that they are submitted in response to "RIN 2900-AP61 – Supportive Services for Veteran Families Program." Copies of comments received will be available for public inspection in the Office of

Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at www.Regulations.gov.

FOR FURTHER INFORMATION CONTACT: John Kuhn, National Center for Homelessness Among Veterans, Supportive Services for Veteran Families Program Office, 4100 Chester Avenue, Suite 200, Philadelphia, PA 19104, (877) 737-0111. (This is a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38, section 2044, United States Code (U.S.C.), requires the Secretary to provide financial assistance to eligible entities to provide and coordinate the provision of supportive services for very low-income veteran families occupying permanent housing. The Secretary's implementing regulations are in 38 CFR Part 62, which established the SSVF Program. Through the SSVF Program, VA awards supportive services grants to private non-profit organizations or consumer cooperatives to provide or coordinate the provision of supportive services to very low-income veteran families who are residing in permanent housing and at risk of becoming homeless; lacking a fixed, regular, and adequate nighttime residence, at risk of remaining so but for grantee assistance, and scheduled to become residents of permanent housing within 90 days pending the location or development of

housing suitable for permanent housing; or, after exiting permanent housing, are seeking other housing that is responsive to their needs and preferences. This proposed rulemaking would clarify existing VA policy regarding award of non-renewed or deobligated funds to other existing SSVF grantees in or near the affected community where the funds were originally used in order to maintain continuity in the services offered to these communities.

62.25 Selecting grantees for renewal or non-renewal of supportive services grants.

Current § 62.25 provides the process to select grantees applying for renewal of supportive services grants. Paragraph (a) of § 62.25 of 38 CFR states that VA will score the grantee using the scoring criteria set forth in §62.24 as long as the grantee continues to meet the threshold requirements in § 62.21. Paragraph (b) provides that VA will rank in order from highest to lowest the grantees who receive at least the minimum amount of total points and points per category in the Notice of Funding Availability (NOFA). Lastly, paragraph (c) states that VA will use the grantee's ranking as the basis for selection for funding and fund the highest-ranked grantees for which funding is available. Although § 62.25 does not expressly address the award of any non-renewed funds, it is VA's policy under this authority to offer to award non-renewed funds to other qualifying existing grantees within the same community applying the same criteria in this section when re-awarding non-renewed funds. Otherwise, the community that was served by the grantee may suffer an interruption in services to those who are homeless or at-risk of becoming homeless. We propose to

amend § 62.25 to expressly codify this current practice in the regulation. We propose to add a new paragraph (d) to state the process by which VA would, in its discretion, offer to award any non-renewed funds to other qualifying existing grantees. This process would be similar to the award of deobligated funds under the proposed revisions to § 62.80(d)(2).

62.36 General operation requirements.

Section 62.36 establishes the operation requirements for grantees that provide supportive services. Paragraph (c) establishes the notifications a grantee must provide to participants before the grantee provides supportive services, which include that the services are paid for in whole or part by VA, the types of services available to the participant, and any restrictions or conditions on the receipt of the services. Paragraph (c) also states that a grantee must provide each participant with a satisfaction survey. This satisfaction survey helps VA evaluate the provision of supportive services by a grantee to a participant. The results of the satisfaction survey also assist VA in determining if future SSVF Program funds should be awarded to a grantee.

Under current paragraph (c)(2), a satisfaction survey must be provided to the participant within 45 to 60 days of the participant's entry into the grantee's program, and also within 30 days prior to the participant's pending exit from the program. However, requesting two satisfaction surveys has resulted in poor response rates by participants and has created an unnecessary burden on the grantees and the participants. Therefore, we propose to reduce the number of satisfaction surveys by eliminating the survey that must be provided to the

participant within 45 to 60 days of the participant's entry to the program. By reducing the number of satisfaction surveys, VA expects to reduce the burden to the grantees and the participants and, in turn, improve the response rate. We propose to amend paragraph (c)(2) to state that a "grantee must provide each participant with a satisfaction survey, which the participant can submit directly to VA, within 30 days of such participant's pending exit from the grantee's program."

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

Current paragraph (a) of § 62.80 states that VA will recover from grantees any SSVF funds that are not used in accordance with the SSVF Program requirements. In addition, paragraph (b) of § 62.80 provides that if a grantee fails to comply with these requirements, VA may withhold further payment, suspend the supportive services grant, or prohibit the grantee from incurring additional obligations of supportive services grant funds, pending corrective action by the grantee or a decision to terminate the grant. Paragraph (c) of § 62.80 provides the circumstances under which VA may terminate a grant in whole or in part, including: when a grantee materially fails to comply with the terms and conditions of a grant award, the grantee consents to termination, or the grantee notifies VA of its intent to terminate the grant. Paragraph (d) of § 62.80 establishes the circumstances under which VA may deobligate amounts approved for use by a grantee. The SSVF Program has a robust monitoring and compliance program to ensure that community agencies awarded VA grant funds

perform in accordance with their grant agreements. As part of these oversight responsibilities, SSVF Program funds may be deobligated for several reasons, including: the activity for which funding was approved is not provided, the approved amounts have not been expended within one year from the date the agreement was signed, or other circumstances as set forth in the agreement, for example, if the grantee goes bankrupt. Under § 62.80(d)(2), VA has discretionary authority to re-advertise in a Notice of Funding Availability (NOFA) the availability of funds that have been deobligated, or to award deobligated funds to applicants who previously submitted applications in response to the most recently published SSVF Program NOFA. Under this authority, it is VA's current policy that VA could award deobligated funds to existing SSVF grantees in or near the impacted community of those grantees so long as those grantees applied to the most recently published NOFA applicable to the geographic area at issue, or in the case of multi-year awards, the most recently published NOFA to which the grantee applied applicable to the geographic area at issue. This policy is designed to prevent potential access issues associated with grant termination. Otherwise, in the case of deobligated funds, it is possible that no SSVF Program services would be available in the affected communities for months before VA is able to publish a NOFA in the Federal Register to make available the funds to qualified grantees. This rulemaking would clarify this policy in the regulation.

We would amend § 62.80(d) by revising paragraph (d)(2). The proposed revision to § 62.80(d)(2) would state that VA may award deobligated or non-

renewed funds to a qualified existing SSVF grantee serving the community where the deobligation or non-renewal occurred. A grantee who is currently serving the affected community would be better able to address the needs of the community because the grantee is already working within that community. VA understands that there may be more than one grantee in a community that is qualified to receive the deobligated funds. We would, therefore, first offer to award the deobligated or non-renewed funds to the grantee with the highest grant score (based on existing grantees most recent scores) that has the capacity to provide immediate services to the affected community. The requirement that the grantee be able to immediately offer services would be made in order to make certain that the grantee who is offered the funds is quickly able to address the needs of the impacted community and reduce added delays in providing services. However, such grantee may not want to take on the added funds or responsibilities. In such case, VA would offer the funds to the next qualified grantee in rank order until all funds are awarded. There may be instances where there are no other grantees serving the community where the deobligation occurred. In such circumstances, VA would offer to award the deobligated funds to qualified grantees in rank order who serve the adjacent community, subject to the grantee's agreement to use the funds to serve the community where the deobligation occurred. We would add the requirement that the funds must be used in the community where the funds were deobligated because the deobligated funds are offered as a means of providing continuous services to the affected community, not to add more funds to a community that is

already funded otherwise.

Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

Although this action contains provisions constituting collections of information at 38 CFR 62.36, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521), no new or proposed revised collections of information are associated with this proposed rule. The information collection requirements for § 62.36 are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900-0757.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601-612). This proposed rule would only impact those entities that choose to participate in the SSVF Program. Small entity applicants will not be affected to a greater extent than large entity

applicants. Small entities must elect to participate, and it is considered a benefit to those who choose to apply. To the extent this proposed rule would have any impact on small entities, it would not have an impact on a substantial number of small entities. Therefore, under 5 U.S.C. 605(b), this rulemaking would be exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” requiring review by OMB, unless OMB waives such review, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.”

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at <http://www.va.gov/orpm/>, by following the link for “VA Regulations Published From FY 2004 Through Fiscal Year to Date.”

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are

64.009, Veterans Medical Care Benefits, and 64.033, VA Supportive Services for Veteran Families Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on July 19, 2016, for publication.

List of Subjects in 38 CFR Part 62

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

Dated: July 20, 2016

Janet J. Coleman
Chief
Office of Regulation Policy & Management,
Office of the Secretary,
Department of Veterans Affairs.

For the reasons set out in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 62 as follows:

PART 62 – SUPPORTIVE SERVICES FOR VETERAN FAMILIES PROGRAM

1. The authority citation for part 62 continues to read as follows:

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

2. Amend § 62.25 by adding paragraph (d) to read as follows:

§ 62.25 Selecting grantees for renewal of supportive services grants.

* * * * *

(d) At its discretion, VA may award any non-renewed funds to an applicant or existing grantee. If VA chooses to award non-renewed funds to an applicant or existing grantee, funds will be awarded as follows:

(1) VA will first offer to award the non-renewed funds to the applicant or grantee with the highest grant score under the relevant Notice of Fund Availability that applies for, or is awarded a renewal grant in, the same community as, or a proximate community to, the affected community. Such applicant or grantee must have the capacity and agree to provide immediate services to the affected community. Under this section 62.25, the relevant Notice of Fund Availability is the most recently published Notice of Fund Availability which covers the geographic area that includes the affected community, or for

multi-year grant awards, the Notice of Fund Availability for which the grantee received the multi-year award.

(2) If the first such applicant or grantee offered the non-renewed funds refuses the funds, VA will offer to award the funds to the next highest-ranked such applicant or grantee, per the criteria in paragraph (d)(1) of this section, and continue on in rank order until the non-renewed funds are awarded.

* * * * *

3. Amend § 62.36 by revising paragraph (c)(2) to read as follows:

§ 62.36 General operation requirements.

* * * * *

(c)* * *

(2) The grantee must provide each participant with a satisfaction survey, which the participant can submit directly to VA, within 30 days of such participant's pending exit from the grantee's program.

* * * * *

4. Amend § 62.80 by revising paragraph (d)(2) to read as follows:

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

* * * * *

(d) * * *

(2) At its discretion, VA may re-advertise in a Notice of Fund Availability the availability of funds that have been deobligated under this section or award deobligated funds to an applicant or existing grantee. If VA chooses to award deobligated funds to an applicant or existing grantee, funds will be awarded as follows:

(i) VA will first offer to award the deobligated funds to the applicant or grantee with the highest grant score under the relevant Notice of Fund Availability that applied for or was awarded funds in the same community as, or proximate community to, the affected community. Such applicant or grantee must have the capacity and agree to provide immediate services to the affected community. Under this section 62.80 the relevant Notice of Fund Availability is the most recently published Notice of Fund Availability which covers the geographic area that includes the affected community, or for multi-year grant awards, the most recently published Notice of Fund Availability which covers the geographic area that includes the affected community for which the grantee received the multi-year award.

(ii) If the first such applicant or grantee offered the deobligated funds refuses the funds, VA will offer to award funds to the next highest-ranked such applicant or grantee, per to the criteria in paragraph (d)(2)(i) of this section, and continue on in rank order until all deobligated funds are awarded.

* * * * *

[FR Doc. 2016-17624 Filed: 7/26/2016 8:45 am; Publication Date: 7/27/2016]