



## DEPARTMENT OF VETERANS AFFAIRS

8320-01

### 38 CFR Part 80

### RIN 2900-AR68

## Veteran and Spouse Transitional Assistance Grant Program

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is implementing provisions in the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act to establish the Veteran and Spouse Transitional Assistance Grant Program (VSTAGP). This final rule addresses general grant application procedures and requirements to apply for VSTAGP grant funding and adopts the proposed rule with some corrections and clarifying changes.

**DATES:** This rule is effective [insert date 30 days after date of publication in the FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Lillian Miesemer, Senior Management and Program Analyst, Outreach, Transition and Economic Development, Veterans Benefits Administration, 1800 G Street, SW, Washington, DC 20006; 202-461-9558 (this is not a toll-free telephone number). If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS) toll-free at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** On July 5, 2023, VA published a proposed rule in the Federal Register (88 FR 42891) that would establish the VSTAGP program in 38 CFR 80.1 through 80.17 pursuant to section 4304 of Public Law 116–315, the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*, which was enacted on January 5, 2021.

VA provided a 30-day comment period, which ended on August 4, 2023. VA received

four comments on the proposed rule. One of the four comments was strongly in favor of the rule. We thank the commenter for their support and do not make any changes based on that comment.

The second of the four comments suggested grant recipients must have access to separating Service members and recently separated Service members. More specifically, the commenter advocated in favor of a means by which grant recipients can identify the geographical areas where separating Service members have relocated. Additionally, the commenter suggested that the Department of Defense (DoD) and VA should collaborate to encourage those enrolled in the DoD Transition Assistance Program (TAP) to take advantage of opportunities provided by recipients of grants under VA's VSTAGP program.

As noted in the proposed rule, a Notice of Funding Opportunity (NOFO) will be posted at Grants.gov (<https://www.grants.gov>) in accordance with § 80.4 of the proposed rule. The NOFO will require applicants for grant funding to submit proposals addressing detailed outreach strategies appropriate and tailored to the specific service delivery area served by the applicant. To meet this requirement, VA will recommend in the NOFO that applicants conduct an environmental scan as a component or means of strategic planning to gather information about available supports and services within the proposed geographic area to be served. Furthermore, the NOFO will require applicants for grant funding to demonstrate how their proposed program will promote active outreach to, recruitment of, and engagement with former members of the U.S. Armed Forces who are separated, retired, or discharged, as well as their spouses. Applicants for grant funding must design, develop, and execute program promotion and awareness activities as a part of their outreach. The NOFO will require applicants for grant funding to submit proposals explaining how their program will reach out to potentially eligible individuals, and how they will collaborate with local entities that may serve former members of the U.S. Armed Forces as well as their spouses (e.g., local military bases, VA Regional Offices, Veterans Service Organizations (VSO), faith-based organizations, social

service agencies, community-based clinics, other job-training organizations), within their proposed geographic service delivery area to introduce the program to eligible participants. VA will encourage applicants to reach out to unique sub-groups of veterans and/or spouses who are likely experiencing inequitable access to jobs, job training programs, and/or other employment services in the proposed service area.

Thus, VA will not be providing information regarding the geographical areas where separating Service members have relocated. Grant applicants will have to design, develop, and execute program promotion and awareness activities as part of their proposal, to include strategies for reaching the relevant population within their proposed geographic service delivery area. VA has no specific plans to address opportunities provided by VSTAGP grant recipients as part of the TAP curriculum but, as noted above, intends that grant applicants will be responsible for developing strategies for promotion and awareness of such services. In any event, the comments relating to how applicants are supposed to identify certain areas or populations to serve, as well as the comments relating to encouraging TAP participants to take advantage of opportunities resulting from VSTAGP grants, are beyond the scope of the rulemaking. We do not make any changes based on these comments.

The third and fourth comments were supportive of the proposed rule. The comments advocated for widespread accessibility of applications and establishment of clear evaluation criteria. VA agrees with both comments. To address the comment regarding the accessibility of applications, as required in § 80.4 of the proposed rule, and in accordance with 2 CFR 200.204, VA will publish a NOFO at Grants.gov (<https://www.grants.gov>). The NOFO will provide clear application procedures including detailed guidance and resources to help applicants apply for funding and navigate the application process.

Additionally, to address the comment regarding clear application criteria the NOFO will include detailed scoring criteria as required in § 80.7, with clearly identified point values for each evaluation criterion. VA will establish procedures to assess the technical merit of

applications to ensure an objective review of applications. The NOFO will contain information regarding the evaluative criteria that will be used by the review panel to evaluate submitted applications to help applicants understand the standards against which an application will be scored. VA will execute a merit review process for all responsive applications, with the objective of selecting recipients most likely to be successful in delivering results based on the program objectives. See 2 CFR 200.205. This will ensure that: (1) applicants for grant funding have the opportunity to submit proposals responsive to the solicitation, and (2) the application review process is clear and transparent to applicants. Applicants will be able to view all application requirements in the NOFO once published to Grants.gov (<https://www.grants.gov>). We do not make any changes based on these comments.

VA is clarifying the definition of the term “institution of higher education (IHE),” as that term was defined in § 80.2(f) of the proposed rule as one of the various listed entities that would be eligible to receive a VSTAGP grant. In the proposed rule, VA had defined the term “IHE” in a general manner that referred to certain “public or private educational institution[s].” In the final rule, VA is clarifying that private educational institutions must be nonprofit. Specifically, VA adopts the established definition of IHE specified in 20 U.S.C. 1001 (“General definition of institution of higher education”), which provides that, to qualify, an educational institution must be “a public or other nonprofit institution,” *id.* 1001(a)(4); *see id.* 1001(b)(1). Clarifying that “IHE” refers to only public or other nonprofit educational institutions ensures that the IHE definition is aligned with the definitions of other possible grant recipients, which include government entities, nonprofit organizations, and nonprofit faith-based organizations. VA believes that applying standards to IHEs that are similar to those applied to other possible grant recipients will promote greater consistency in carrying out the purposes of this grant program in different locations nationwide.

In the heading for new part 80 and in § 80.1, we are correcting the erroneous reference to “Veteran Transitional Assistance Grant Program” in the proposed rule to “Veteran and

Spouse Transitional Assistance Grant Program”. In §§ 80.2(h)(3), 80.7(b), 80.9 and 80.14, we are changing the use of “may” to “will” or “must” to be more definitive in those provisions. In § 80.5, we are also clarifying that there will be a limit of one application per submitting organization serving the same participant population and in the same geographic service area. In the third sentence of § 80.7(b), we are correcting the erroneous reference to “each selection” in the proposed rule to “each criterion”.

We also note that the proposed rule included two provisions which we inadvertently did not address in the preamble. In § 80.2(k), we define the term “In-demand industry sector or occupation” because the term is likely to be used in NOFOs. In § 80.3(f), we explain that a grant must be in an amount that does not exceed 50 percent of the amount required by the grantee to provide the required services.

We are making technical changes in § 80.12(c) as proposed to remove material that is precatory, informational, or more appropriate for inclusion in the NOFO. We are thus removing the second sentence of the introductory text, paragraphs (1) and (2), and the second sentence of paragraph (3), and we are moving the first sentence of paragraph (c)(3), requiring grantees to participate in a VA-led evaluation, to the introductory text of paragraph (c).

VA adopts the proposed rule as final, with changes as discussed above.

#### Executive Orders 12866, 13563 and 14094

Executive Order 12866 (Regulatory Planning and Review) directs 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 14094 (Modernizing

Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Orders 12866 13563. The Office of Information and Regulatory Affairs has determined that this rulemaking is a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at [www.regulations.gov](http://www.regulations.gov).

#### Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will 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). Receiving or not receiving a grant is unlikely to have a significant economic impact on small entity applicants. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603–604 do not apply.

#### 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 final rule will have no such effect on State, local and Tribal governments or on the private sector.

#### Paperwork Reduction Act

This final rule contains provisions constituting three new collections of information and revisions to several current/valid collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). Both the new and revised collections of information require approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review and approval.

VA received no comments on the revised collections of information.

OMB has received the revised collections of information. OMB's receipt of the revised collections of information is not an approval to conduct or sponsor an information collection under the Paperwork Reduction Act of 1995. In accordance with 5 CFR 1320, the revised collections of information associated with this rulemaking are not approved by OMB at this time. OMB's approval of the revised collections of information will occur within 30 days after the final rulemaking publishes. If OMB does not approve the new collections of information as requested, VA will immediately remove the provision containing the new collections of information or take such other action as is directed by OMB.

This final rule also includes a provision constituting three new collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521). The new collections of information require approval by the Office of Management and Budget (OMB) and the assignment of a new OMB Control Number. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking to OMB for review and approval. VA received no comments on the new collections of information.

OMB Control Numbers 2900-0928, 2900-0929, and 2900-0930 have been assigned to the new collections of information associated with this final rule. Assignment of these new OMB control numbers is not an approval to conduct or sponsor an information collection under the Paperwork Reduction Act of 1995. In accordance with 5 CFR 1320, the new collections of information associated with this rulemaking are not approved by OMB at this time. OMB's approval of the new collections of information will occur within 30 days after the final rulemaking publishes. If OMB does not approve the new collections of information as requested, VA will immediately remove the provision containing new collections of information or take such other action as is directed by OMB.

The collections of information contained in 38 CFR 80.5, 80.12 and 80.16 are described immediately following this paragraph.

*Title:* SF-424 Application for Federal Assistance.

OMB Control No: 4040-0004

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.5 would require VSTAGP grant applicants to submit the SF-424 as a minimum requirement to qualify for a VSTAGP grant.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary to determine applicant eligibility for a VSTAGP grant. VA would use this information to score completed grant applications.

- *Description of likely respondents:* Eligible recipients, as defined in proposed § 80.2, that are interested in applying for a VSTAGP grant.

- *Estimated number of respondents:* 200 per year.

- *Estimated frequency of responses:* Annually.

- *Estimated average burden per response:* 1 hour.

- *Estimated total annual reporting and recordkeeping burden:* 1 hour.

- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$28.01, making the total cost for respondents an estimated \$5,602.00 (200 respondents x 1 burden hour x \$28.01 per hour). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: [https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000))

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the SF-424, Application for Federal Assistance. OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review their grant applications. Any additional cost for agency system development, maintenance, and enhancements should not

be attributed to the use of SF-424, and therefore its use is not expected to alter annualized Federal costs.

*Title:* SF-424A Budget Information – Non-Construction Programs.

OMB Control No: 4040-0006

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.5 would require VSTAGP grant applicants to submit the SF-424A as a minimum requirement to qualify for a VSTAGP grant.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary to determine applicant eligibility for a VSTAGP grant, to document proposed costs, and to determine allowability of proposed costs. VA would use this information to score completed grant applications and for general management of VSTAGP awards.

- *Description of likely respondents:* Eligible recipients, as defined in proposed § 80.2, that are interested in applying for a VSTAGP grant.

- *Estimated number of respondents:* 200 per year.

- *Estimated frequency of responses:* Annually.

- *Estimated average burden per response:* 3 hours.

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

- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$84.03, making the total cost for respondents an estimated \$16,806.00 (200 respondents x 3 burden hours x \$28.01 per hour). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: [https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000))

- *Estimated cost to the Federal Government:* There is no projected incremental

increase in the cost burden to the Federal Government with the requirement of the SF-424A, Budget Information – Non-Construction Programs. OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review their grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of the SF-424A, and therefore its use is not expected to alter annualized Federal costs.

*Title:* 4040-0010 Project/Performance Site Location(s)

OMB Control No: 4040-0010

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.5 would require VSTAGP grantees to submit the primary location and any other locations where project activity would occur.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary to ensure adequate geographic coverage.

- *Description of likely respondents:* Eligible recipients, as defined in proposed § 80.2, that are interested in applying for a VSTAGP grant.

- *Estimated number of respondents:* 200 per year.

- *Estimated frequency of responses:* Annually.

- *Estimated average burden per response:* 5 minutes.

- *Estimated total annual reporting and recordkeeping burden:* 5 minutes.

- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$2.33, making the total cost for respondents an estimated \$466.83 (200 respondents x ((5 burden minutes x \$28.01 per hour) / 60 minutes)). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: [https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000))

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the 4040-0010 Project/Performance Site Location(s). OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review their grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of form 4040-0010 Project/Performance Site Location(s), and therefore its use is not expected to alter annualized Federal costs.

*Title:* 4040-0013 Certification Regarding Lobbying

OMB Control No: 4040-0013

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.5 would require VSTAGP applicants to submit the Certification Regarding Lobbying form if requesting an award greater than \$100,000.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary for applicants to attest to the certifications regarding lobbying. This collection may not be required of every applicant.

- *Description of likely respondents:* Eligible recipients, as defined in proposed § 80.2, that are interested in applying for a VSTAGP grant.

- *Estimated number of respondents:* 198 per year.

- *Estimated frequency of responses:* Annually.

- *Estimated average burden per response:* 15 minutes.

- *Estimated total annual reporting and recordkeeping burden:* 15 minutes.

- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$7.00, making the total cost for respondents an estimated \$1,386.49 (198 respondents x ((15 burden minutes x \$28.01 per hour) / 60 minutes)). (Source:

May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: [https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000))

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the 4040-0013 Certification Regarding Lobbying. OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of 4040-0013 Certification Regarding Lobbying, and therefore its use is not expected to alter annualized Federal costs.

*Title:* Quarterly Performance Reports (IT instrument)

OMB Control No: 2900-0928

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.12 would require VSTAGP grantees to submit quarterly performance reports.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary to monitor grantee performance and document the success of the program.

- *Description of likely respondents:* Grantees.

- *Estimated number of respondents:* 10 per year.

- *Estimated frequency of responses:* Quarterly.

- *Estimated average burden per response:* 1 hour per quarter.

- *Estimated total annual reporting and recordkeeping burden:* 4 hours.

- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$112.04, making the total cost for respondents an estimated \$1,120.40 (10 respondents x 4 burden hours x \$28.01 per hour). (Source: May 2021 BLS

National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations:

[https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000))

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the Quarterly Performance Reports (IT instrument). OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of Quarterly Performance Reports (IT instrument), and therefore its use is not expected to alter annualized Federal costs.

*Title:* SF-425 Federal Financial Report.

OMB Control No: 4040-0014

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.12 would require VSTAGP grantees to submit quarterly financial reports to assess financial expenditure compliance under this grant program.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary to monitor grantee compliance with financial requirements.

- *Description of likely respondents:* Grantees.

- *Estimated number of respondents:* 10 per year.

- *Estimated frequency of responses:* Quarterly.

- *Estimated average burden per response:* 1 hour per quarter.

- *Estimated total annual reporting and recordkeeping burden:* 4 hours.

- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$112.04, making the total cost for respondents an estimated

\$1,120.40 (10 respondents x 4 burden hours x \$28.01 per hour). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: [https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000))

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the SF-425 Federal Financial Report. OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of SF-425 Federal Financial Report, and therefore its use is not expected to alter annualized Federal costs.

*Title:* Additional Reports (IT instrument).

OMB Control No: 2900-0929

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.12 would require VSTAGP grantees to provide additional performance reports, as needed, to assess the provisions of services under this grant program.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary to assess project accountability and effectiveness.

- *Description of likely respondents:* Grantees.

- *Estimated number of respondents:* 10.

- *Estimated frequency of responses:* Once.

- *Estimated average burden per response:* 1 hour.

- *Estimated total annual reporting and recordkeeping burden:* 1 hour.

- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost

to each respondent would be \$28.01, making the total cost for respondents an estimated \$280.10 (10 respondents x 1 burden hour x \$28.01 per hour). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: [https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000))

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government with the requirement of the Additional Reports (IT instrument). OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to the use of Additional Reports (IT instrument), and therefore its use is not expected to alter annualized Federal costs.

*Title:* Recordkeeping

OMB Control No: 2900-0930

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 80.16 would require VSTAGP records to be maintained. VA officials are entitled access to any documents, papers, or other records which are pertinent to the VSTAGP award for audits, examinations, excerpts, and transcripts. This also includes timely and reasonable access to VSTAGP personnel for interviews and discussions related to such documents.

- *Description of the need for information and proposed use of information:* The collection of information would be necessary to access project records.

- *Description of likely respondents:* Grantees.
- *Estimated number of respondents:* 10.
- *Estimated frequency of responses:* Annually.
- *Estimated average burden per response:* 1 hour.
- *Estimated total annual reporting and recordkeeping burden:* 1 hour.

- *Estimated annual cost to respondents for the hour burdens for collections of information:* According to the U.S. Bureau of Labor Statistics Mean Hourly Earnings, the cost to each respondent would be \$28.01, making the total cost for respondents an estimated \$280.10 (10 respondents x 1 burden hour x \$28.01 per hour). (Source: May 2021 BLS National Occupational Employment and Wage Estimates, Code: 00–0000, All Occupations: [https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000))

- *Estimated cost to the Federal Government:* There is no projected incremental increase in the cost burden to the Federal Government as a result of this requirement. OTED currently has existing personnel, systems, and processes (or other resources) in place to receive and review their grant applications. Any additional cost for agency system development, maintenance, and enhancements should not be attributed to Recordkeeping, and therefore its use is not expected to alter annualized Federal costs.

#### Assistance Listing

The Assistance Listing number and title for the program affected by this document is 64.058, Veteran and Spouse Transitional Assistance Grant Program.

#### Congressional Review Act

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not satisfying the criteria under 5 U.S.C. 804(2).

## List of Subjects in 38 CFR Part 80

Administrative practice and procedure, Armed forces, Employment, Grant programs-veterans, Reporting and recordkeeping requirements, Transition, Veterans.

### Signing Authority:

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on April 30, 2024, 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.

### **Luvenia Potts,**

*Regulation Development Coordinator,  
Office of Regulation Policy & Management,  
Office of General Counsel,  
Department of Veterans Affairs.*

For the reasons stated in the preamble, VA amends 38 CFR chapter I by adding part 80 to read as follows:

## **PART 80—VETERAN AND SPOUSE TRANSITIONAL ASSISTANCE GRANT PROGRAM**

Sec.

- 80.1 Purpose and use of grant funds.
- 80.2 Definitions.
- 80.3 Grants—general.
- 80.4 Notice of Funding Opportunity (NOFO).
- 80.5 Applications.
- 80.6 Additional factors for selecting applications.
- 80.7 Scoring and selection.
- 80.8 Disposition of applications.
- 80.9 Withdrawal of grant application.
- 80.10 Grant agreement.
- 80.11 Payments under the grant.
- 80.12 Grantee reporting requirements.
- 80.13 Termination of grant; recovery of funds.

80.14 Compliance review requirements.

80.15 Financial management.

80.16 Recordkeeping.

80.17 Non-appealability of grant award decisions.

**Authority:** 38 U.S.C. 501, 512; Pub. L. 116-315, sec. 4304.

## **§ 80.1 Purpose and use of grant funds.**

Sections 80.1 through 80.17 establish the Veteran and Spouse Transitional Assistance Grant Program (VSTAGP). Under this program, VA may provide grants to eligible organizations defined in § 80.2 to provide transition services and intensive client centered case management services tailored to the unique employment needs of program participants to include, but not limited to such services, such as resume assistance, interview training, job recruitment training and related services, that will help in a successful transition from military to civilian life.

(Authority: Pub. L. 116-315, sec. 4304)

## **§ 80.2 Definitions.**

For purposes of this part and any Notice of Funding Opportunity (NOFO) issued pursuant to this part:

(a) *Applicant* means an organization that submits an application for a VSTAGP grant as announced in a NOFO.

(b) *Eligible recipient (organization)* means one of the following:

(1) State government;

(2) County government;

(3) Local government;

(4) Institution of Higher Education;

(5) Indian/Native American Tribal government (federally recognized);

(6) Nonprofit organization; or

(7) Faith-based organization;

(c) *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.

(d) *County government* means a county government entity or any corresponding unit of government under any other name in States that do not have county organizations and, in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

(e) *Local government* means a government entity for a county; borough; municipality; city; town; township; parish; local public authority (including any public housing agency under the United States Housing Act of 1937); special district; school district; intrastate district; council of governments, whether or not incorporated as a nonprofit corporation under state law; and any other agency or instrumentality of a multi-regional, intra-State or local government.

(f) *Institution of Higher Education (IHE)* means—

(1) An educational institution in any State that—

(i) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of 20 U.S.C. 1091(d);

(ii) Is legally authorized within such State to provide a program of education beyond secondary education;

(iii) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the [Secretary of Education](#);

(iv) Is a public or other **nonprofit** institution; and

(v) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the **Secretary** of Education for the granting of pre-accreditation status, and such **Secretary** has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time;

(2) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (f)(1)(i), (ii), (iv) and (v) of this section; and

(3) A public or **nonprofit** private educational institution in any State that, in lieu of the requirement in paragraph (f)(1)(i) of this section, admits as regular students individuals—

(i) Who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(ii) Who will be dually or concurrently enrolled in the institution and a **secondary school**.

(g) *Indian/Native American Tribal government (federally recognized)* means a governing body of a tribe, band, pueblo, community, village, or group of native American Indians, or Alaska Natives, that qualifies as an Indian tribal government upon a determination by the Internal Revenue Service that the governing body exercises governmental functions.

(h) *Nonprofit organization* means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

(1) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(2) Is not organized primarily for profit; and

(3) Uses net proceeds to maintain, improve, or expand the operations of the organization. In accordance with section 18 of the Lobbying Disclosure Act of 1995 (Pub. L.

104-65) (codified at 2 U.S.C. 1611), non-profit entities incorporated under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive Federal funds or grants. (Note: After receiving a grant, such organization must not engage in any activities, including awareness-raising or advocacy activities, that include fundraising for, or lobbying of, U.S. Federal, State, or local governments (see 2 CFR 200.450 for more information).)

(i) *Faith-based organization* means a nonprofit organization that is affiliated with, supported by, or based on a religion or religious group.

(j) *Grantee* means an applicant that is awarded a grant under this part.

(k) *In-demand industry sector or occupation* means:

(1) An industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or

(2) An occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy, as appropriate.

(l) *Notice of Funding Opportunity* (NOFO) means a Notice of Funding Opportunity published by VA at Grants.gov (<https://www.grants.gov>) alerting eligible entities of the availability of VSTAGP grants and containing information about the VSTAGP grant application process in accordance with § 80.4.

(m) *Grant agreement* means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that is consistent with 31 U.S.C. 6302 and 6304.

(n) *Participant* means a former member of the U.S. Armed Forces who was separated,

retired, or discharged from the U.S. Armed Forces, or spouse of such former member, who receives services for which a VSTAGP grant is awarded.

(o) *Spouse* means an individual lawfully married to a former member of the U.S. Armed Forces who was separated, retired, or discharged from the U.S. Armed Forces.

(p) *Covered public health emergency* means an emergency with respect to COVID-19 declared by a Federal, State, or local authority in accordance with Public Law 117- 4, sec. 2(e)(3).

(Authority: Pub. L. 116-315, sec. 4304)

### **§ 80.3 Grants—general.**

(a) *Grants*. VA will award VSTAGP grants to eligible applicants selected under § 80.8(a)(1).

(b) *Maximum amounts*. The maximum amount to be awarded to each grantee and the total maximum amount for all grants will be specified in the annually published NOFO.

(c) *Number of grants awarded*. The number of grants VA will award will depend on the total amount of grant funding available at VA's discretion and the funding amount awarded to each grantee, which is based on each grantee's proposal.

(d) *Grant award limitation*. An eligible entity may receive only one VSTAGP grant, and only one VSTAGP grant will be awarded in any one location as specified in the NOFO.

(e) *Period of performance*. VSTAGP grants will be awarded for a maximum period of 5 years, beginning on the date on which the VSTAGP grants are awarded. They will not be extended or renewed.

(f) *Amount of grant*. A grant under this section shall be in an amount that does not exceed 50% of the amount required by the organization to provide the services described in § 80.1.

(g) *No participant charges.* A grantee may not charge any participants a fee for services provided by the grantee or require any participants to participate in other activities sponsored by the grantee as a condition of receiving services for which the VSTAGP grant is made.

(Authority: Pub. L. 116-315, sec. 4304)

#### **§ 80.4 Notice of Funding Opportunity (NOFO).**

When funds are available for VSTAGP grants, VA will publish a NOFO at Grants.gov (<https://www.grants.gov>). The NOFO will identify:

- (a) The location for obtaining VSTAGP grant applications, including the specific forms that will be required;
- (b) The date, time, and place for submitting completed VSTAGP grant applications;
- (c) Priority population categories;
- (d) The estimated total amount of funds available and the maximum funds available to a single grantee;
- (e) Matching funds requirements;
- (f) 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;
- (g) Any timeframes and manner for payments under the VSTAGP grant;
- (h) A description of eligible entities or other eligibility requirements necessary to receive the grant; and
- (i) Other information necessary for the VSTAGP grant application process, as determined by VA, including contact information for the office that will oversee the VSTAGP within VA.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

## **§ 80.5 Applications.**

To apply for a grant, an eligible entity must submit a complete application package to VA, as described in the NOFO. There will be a limit of one application per submitting organization serving the same participant population and in the same geographic service area. Applications will be accepted only through [www.grants.gov](http://www.grants.gov).

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

(Approved by the Office of Management and Budget under control numbers 2900-8080, 4040-0006, 4040-0010, and 4040-0013.)

## **§ 80.6 Additional factors for selecting applications.**

(a) *Applicant's performance on prior award.* VA may consider the applicant's noncompliance with requirements applicable to prior VA or other agency awards as reflected in past written evaluation reports and memoranda on performance and the completeness of required prior submissions.

(b) *Applicant's fiscal integrity.* Applicants must meet and maintain standards of fiscal integrity for participation in Federal grant programs as reflected in 2 CFR 200.205.

(c) *Priority preference.* Priority preference will be given to organizations that either provide multiple forms of services or are located in a State with:

(1) A high rate of unemployment among Veterans;

(2) A high rate of usage of unemployment benefits for recently separated members of the Armed Forces; or

(3) A labor force or economy that has been significantly impacted by a covered public health emergency.

(d) *Risk assessment evaluation.* VA will conduct a formal assessment, prior to award, of the applicant's financial capability, adequacy of accounting system, and internal controls to assess the risk posed by each applicant.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

### **§ 80.7 Scoring and selection.**

(a) *Scoring.* VA will only score complete applications received from eligible applicants by the deadline established in the NOFO. The applications must meet the minimum criteria set forth in the NOFO and will be scored as specified in the NOFO, as set forth in § 80.4.

(b) *Selection of recipients.* All complete applications will be scored using the criteria in paragraph (a) of this section and ranked in order of highest to lowest total score. NOFO announcements may also clarify the selection criteria in paragraph (a) of this section. The relative weight (point value) for each criterion will be specified in the NOFO. VA will award VSTAGP grants on the primary basis of the scores but will also consider additional factors listed in § 80.6.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

### **§ 80.8 Disposition of applications.**

(a) *Disposition of applications.* Upon review of an application and dependent on the availability of funds, VA will:

(1) Approve the application for funding, in whole or in part, for such amount of funds, and subject to such conditions that VA deems necessary or desirable;

(2) Determine that the application is of acceptable quality for funding, in that it meets minimum criteria, but disapprove the application for funding because it does not rank

sufficiently high in relation to other applications to qualify for an award based on the level of funding available, or for another reason as provided in the decision document; or

(3) Defer action on the application for such reasons as lack of funds or a need for further review.

(b) *Notification of disposition.* VA will notify the applicant in writing of the disposition of the application. A signed grant agreement form, as defined in § 80.10, will be issued to the applicant of an approved application.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

### **§ 80.9 Withdrawal of grant application.**

Applicants may withdraw a VSTAGP application submitted through Grants.gov by writing to the specified VA point of contact. An applicant must provide a rationale for the withdrawal request as specified in the NOFO.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

### **§ 80.10 Grant agreement.**

(a) VA will draft a VSTAGP grant agreement to be executed by VA and the grantee.

(b) The VSTAGP grant agreement will provide that the grantee agrees to, and will ensure that each subgrantee (if applicable) agrees to:

(1) Operate the project in accordance with this part and the terms of the agreement.

(2) Abide by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR parts 25, 170, and 200 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 VSTAGP effectively and efficiently and as described in the NOFO; and

(4) Provide any necessary additional information requested by VA in the manner and timeframe specified by VA.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

### **§ 80.11 Payments under the grant.**

(a) *Payments.* Grantees are to be paid in accordance with the timeframes and manner set forth in the NOFO.

(b) *Availability of grant funds.* Federal financial assistance will become available subsequent to the effective date of the grant as set forth in the grant agreement. Recipients will not be reimbursed for costs resulting from obligations incurred before the effective date of the grant.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

### **§ 80.12 Grantee reporting requirements.**

(a) *Quarterly reports.* All grantees must submit to VA quarterly reports, as required in the NOFO, within 30 days after the last day of each quarter based on the Federal fiscal year—with the first report due not later than 30 days after the last day of the quarter for which a grant is paid under this part—which includes 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 VSTAGP grant funds received from VA and used or unused

funds during the quarter; and

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

(b) *Final report.* Per 2 CFR 200.344, all grantees must submit to VA, not later than 120 days after the last day of the grant period (as defined in the NOFO) for which a grant is awarded under this part, a final report that meets the requirement set forth in the NOFO. The last quarterly performance and financial report received will be recorded as the final report. The financial report shall be noted as “Final” on the SF-425 Federal Financial Report.

(c) *Additional reports.* VA may request additional reports to allow VA to assess project accountability and effectiveness. In addition, recipients are required to participate in a VA-led evaluation if selected, which may be carried out by a third-party on behalf of VA.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

(Approved by the Office of Management and Budget under control number 2900-0928 (Quarterly Performance Reports), 4040-0014, and 2900-0929 (Additional Reports).)

### **§ 80.13 Termination of grant; recovery of funds.**

(a) *Termination of grant.* VA may terminate a grant agreement with any VSTAGP grantee that does not comply with the terms of the VSTAGP agreement.

(b) *Recovery of funds.* VA may recover from the grantee any funds paid if the grantee violates the grant agreement or may recover any funds that have not been used in accordance with a VSTAGP grant agreement. If VA decides to recover funds, VA will issue the grantee a notice of intent to recover VSTAGP grant funds. The grantee will then have 30 days from the date of the notice to submit documentation demonstrating why the VSTAGP grant funds should not be recovered. If the VSTAGP 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 to recover the VSTAGP grant funds. If VA determines that the grantee did

not violate the grant agreement, VA will make a final determination not to recover the grant funds.

(c) *Prohibition of further payment of grant funds.* When VA determines that action will be taken to recover grant funds from a grantee, the grantee will be prohibited from receiving any further VSTAGP grant funds under this part until the grant funds are recovered and the condition that led to the recovery of the grant funds is resolved, unless the grant agreement has been terminated. If the grant agreement has been terminated, no future payments would be issued upon recovery.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

#### **§ 80.14 Compliance review requirements.**

(a) *Site visits.* VA will conduct, as needed, site visits to grantee locations to review grantee accomplishments and management control systems.

(b) *Inspections.* VA will conduct, as needed, inspections of grantee records to determine compliance with the provisions of this part. All visits and evaluations will be performed with minimal disruption to the grantee to the extent practicable.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.203)

#### **§ 80.15 Financial management.**

(a) *Compliance.* All recipients will comply with applicable requirements of the Single Audit Act Amendments of 1996, as implemented by 2 CFR part 200.

(b) *Financial Management.* All grantees must use a financial management system that complies with 2 CFR part 200. Grantees must meet the applicable requirements of the Office of Management and Budget's regulations on Cost Principles at 2 CFR 200.400 through

200.475.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.400 through 200.475)

**§ 80.16 Recordkeeping.**

Grantees must ensure that records are maintained in accordance with 2 CFR 200.337.

Grantees must produce such records at VA's request.

(Authority: Pub. L. 116-315, sec. 4304; 2 CFR 200.337)

(Approved by the Office of Management and Budget under control number 2900-0930

(Recordkeeping).)

**§ 80.17 Non-appealability of grant award decisions.**

Grant award decisions are discretionary and are not subject to appeal to any VA official or board.

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