

(4) If any retract actuator fuse pin having part number 112W1769-1 is found installed and the pin has accumulated fewer than 8,000 total flight cycles as of the effective date of this AD: Before the accumulation of 8,000 total flight cycles on the pin, or within 24 months after the effective date of this AD, whichever occurs later, replace the fuse pin with a new part number 112W1769-3 fuse pin, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777-32-0083, Revision 1, dated February 17, 2011.

#### (h) Parts Installation

As of the effective date of this AD, no person may install a retract actuator fuse pin having P/N 112W1769-1 on any airplane.

#### (i) Credit for Actions Accomplished in Accordance With Previous Service Information

Actions done before the effective date of this AD in accordance with Boeing Special Attention Service Bulletin 777-32-0083, dated February 5, 2009, are acceptable for compliance with the corresponding requirements of this AD.

#### (j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: [9-ANM-Seattle-ACO-AMOC-Requests@faa.gov](mailto:9-ANM-Seattle-ACO-AMOC-Requests@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

#### (k) Related Information

(1) For more information about this AD, contact James Sutherland, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: (425) 917-6533; fax: (425) 917-6590; email: [james.sutherland@faa.gov](mailto:james.sutherland@faa.gov).

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H-65, Seattle, Washington 98124-2207; telephone (206) 544-5000, extension 1; fax (206) 766-5680; email [me.boecom@boeing.com](mailto:me.boecom@boeing.com); Internet <https://www.myboeingfleet.com>. You may review copies of the referenced service

information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call (425) 227-1221.

Issued in Renton, Washington, on December 23, 2011.

**John P. Piccola,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2011-33544 Filed 12-29-11; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

**RIN 2900-AO01**

### Grants for Transportation of Veterans in Highly Rural Areas

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its regulations in part 17 to establish a new program to provide grants to eligible entities to assist veterans in highly rural areas through innovative transportation services to travel to VA medical centers, and to otherwise assist in providing transportation services in connection with the provision of VA medical care to these veterans. This rulemaking is necessary to implement new statutory authority by establishing procedures for evaluating grant applications under the new grant program, and otherwise administering the new grant program. This proposed rule would implement section 307 of title III of the Caregivers and Veterans Omnibus Health Services Act of 2010 (the 2010 Act).

**DATES:** Comments must be received by VA on or before February 28, 2012.

**ADDRESSES:** Written comments may be submitted through <http://www.regulations.gov>; by mail or hand delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. 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-AO01, Grants for Transportation of Veterans in Highly Rural Areas." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 (this is not a toll-free number) for an

appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

David Riley, Director, Veterans Transportation Service, Chief Business Office (10NB), Veterans Health Administration, Department of Veterans Affairs, 2957 Clairmont Road, Atlanta, GA 30329, (404) 828-5601. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Section 307 of the 2010 Act, requires that VA "establish a grant program to provide innovative transportation options to veterans in highly rural areas." To comply with section 307 of the 2010 Act, VA will award grants to eligible entities to assist veterans in highly rural areas to travel to VA medical centers, and to otherwise assist in providing transportation in connection with the provision of VA medical care to these veterans. This proposed rule would establish the grant program in accordance with paragraph (a) of section 307 of the 2010 Act, and establish regulations for evaluating grant applications and otherwise administering the grant program in accordance with paragraph (b) of section 307 of the 2010 Act.

Section 307(d) of the 2010 Act authorizes \$3,000,000 of appropriated funds for each fiscal year beginning 2010 through 2014 to carry out the grant program. We would indicate this funding limitation for each of the fiscal years in a Notice of Fund Availability (NOFA) publication in the **Federal Register**, to adequately provide notice to eligible recipients of the grants. It is not necessary to include the funding limitation or to indicate the specific fiscal years for the program's funding in the proposed rule, however, because the amount of authorized appropriations may change after fiscal year 2014 and Congress could extend the program past fiscal year 2014. Section 307 of the 2010 Act is not designated by Congress to be a pilot program, and the law does not otherwise contain a provision that it will cease to have effect after a specific date unless extended. By not including the funding limitation or the specific fiscal years the program is to be funded in the proposed rule, we would prevent having a regulation in the Code of Federal Regulations that appeared to restrict or stop the grant program beyond a certain date, when VA may still be compelled to administer the grant program. If funding ceases to be provided or the grant program is not extended beyond 2014, we would not

publish a subsequent NOFA in the **Federal Register** for that following fiscal year, and we would amend our regulations to remove the rule from the Code of Federal Regulations.

#### 17.700 Purpose and Scope

Proposed § 17.700 would establish the grant program and explain what the program provides. This section would indicate that VA would provide grants to eligible entities to assist veterans in highly rural areas to travel to VA medical centers and to otherwise assist in providing transportation in connection with the provision of VA medical care to such veterans, in accordance with paragraph (a) of section 307 of the Act.

#### 17.701 Definitions

Proposed § 17.701 would define terms to be used throughout all proposed sections, and in Notices of Fund Availability to be published in the **Federal Register**. “Applicant” would be defined as an eligible entity that submits an application for a grant announced in a Notice of Fund Availability. An “eligible entity” would be defined as either Veterans Service Organizations, or State veterans service agencies, in accordance with paragraphs (a)(2)(A)–(B) of section 307 of the 2010 Act. A “grantee” would be defined as an applicant that is awarded a grant under this proposed rule. A “highly rural area” would be defined as an area consisting of a county or counties having a population of less than seven persons per square mile, consistent with paragraph (c)(1) of section 307 of the 2010 Act. VA currently monitors and maintains a specific listing of such highly rural areas, and grants will only be awarded to applicants whose programs will service one or more of these areas, as identified in the application. VA will provide the listing of specific highly rural areas in the Notice of Fund Availability for the proposed rule. A “Notice of Fund Availability” would be defined as a Notice of Fund Availability published in the **Federal Register** in accordance with § 17.710 of the proposed rule. A “participant” would be defined as a veteran in a highly rural area who receives transportation services from a grantee. A “State veterans service agency” would be defined as the element of a State government that has responsibility for programs and activities of that government relating to veterans benefits, for instance the “Maryland Department of Veterans Affairs.” We do not interpret section 307 of the 2010 Act as permitting VA to consider cities or counties to be “State

veterans service agencies” for purposes of this proposed rule, as we read the plain language of the statute to authorize only a State level entity to be a grantee within the meaning of this definition. By definition, VA would not limit these entities to include only those which are formally recognized by VA under 38 U.S.C. 5902, though VA in practice does recognize under section 5902 veterans service agencies for 46 States. We believe this ensures that there is the same regulatory distinction between the two eligible entity types as Congress intended in section 307 of the 2010 Act. This would also ensure that every State entity which is responsible for programs and activities relating to veterans benefits will be able to apply for grants even if not recognized by VA under section 5902. For instance, Alaska and Wyoming are not among the 46 States recognized under section 5902, but each has a formal State level entity responsible for programs and activities related to veterans benefits, as well as identified highly rural areas that would benefit from grants awarded under the proposed rule.

The “provision of VA medical care” would be defined as the provision of medical services as defined in section 1710 of title 38 United States Code. Though paragraph (a)(3)(B) of section 307 of the 2010 Act only specifies “the provision of medical care” without distinguishing that the care would be VA medical care, it is reasonable to conclude that the intent of section 307 of the 2010 Act is that the transportation services provided would be in connection with medical care provided by VA. We believe this conclusion is supported by reading paragraphs (a)(3)(A) and (B) together: Grant funds must be used to “assist veterans in highly rural areas to travel to Department of Veterans Affairs medical centers” and to “otherwise assist in providing transportation in connection with the provision of medical care to veterans in highly rural areas.” We interpret the use of the term “otherwise” in paragraph (a)(3)(B) to expand travel to VA facilities other than VA medical centers for the provision of medical care, but not to expand the type of medical care provided beyond that provided by VA. Section 307 of the Act clearly seeks to improve access to VA medical care for veterans in highly rural areas through transportation assistance, and it is this assistance that negates the need for a veteran to seek what is perhaps more conveniently located non-VA medical care. “Transportation services” would be defined as the direct provision of transportation, or

assistance with providing transportation, to travel to VA medical centers or in connection with the provision of VA medical care. We believe section 307 of the 2010 Act supports awarding grants for programs that may not directly transport veterans, as section 307(a)(3)(A)–(B) makes clear that an eligible entity may use grant funds to “assist” veterans to travel to care, or to otherwise “assist” in providing transportation in connection with the provision of care to a veteran. For instance, grantees may use funds to initiate ride sharing or car pooling programs, whereby veterans could be matched with and share vehicles with others traveling to the same destinations at the same times. “Veterans Service Organization” would be defined as an organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38 United States Code, in accordance with paragraph (c)(2) of section 307 of the 2010 Act. These organizations have multiple representative groupings which are recognized throughout the United States. Each of these groupings would be individually eligible to apply for a grant, to ensure grant funds are distributed as broadly as needed.

#### 17.702 Grants—General

Proposed § 17.702 would establish the general parameters of the grants themselves. Proposed paragraph (a) would indicate that VA may award one grant per fiscal year to a grantee for each highly rural area in which the grantee provides transportation services, and that transportation services may not be simultaneously provided by more than one grantee in any single highly rural area. We would allow a grantee to receive a grant for each highly rural area in which the grantee provides transportation services, to permit State entities to receive as many grants as they have designated highly rural areas. This would help ensure that each highly rural area receives the maximum amount of assistance contemplated under section 307 of the 2010 Act. Designating that grants are awarded per fiscal year would ensure that grants are awarded only when funding is available, in accordance with paragraph (d) of section 307 of the 2010 Act. The prohibition of simultaneous delivery of transportation services by more than one grantee in one area would ensure that as many geographic areas are serviced as possible each fiscal year, by preventing a concentration of grant awards for any single highly rural area. Proposed paragraph (b) would establish that the grant amounts will be specified

in the Notice of Fund Availability, but that no single grant will exceed \$50,000, to comply with paragraph (a)(4) of section 307 of the 2010 Act. Proposed paragraph (c) would specify that an applicant would not be required to provide matching funds as a condition of receiving a grant, in accordance with paragraph (a)(5) of section 307 of the 2010 Act. Proposed paragraph (d) would specify that a veteran who is provided transportation services via grant funds will not be charged for such services, to ensure that veterans in highly rural areas have the most access to these transportation services as feasible, regardless of their ability to pay.

#### **17.703 Eligibility and Application**

Proposed § 17.703 would address grant eligibility and application procedures. Proposed paragraphs (a)(1)–(2) establish that the only entities eligible to receive grants are either Veterans Service Organizations, or State veterans service agencies, to comply with paragraphs (a)(2)(A)–(B) of section 307 of the Act. Proposed paragraph (b) would require applicants to submit a complete grant application package to be considered for an initial grant, and would specify that the initial grant application procedures to be followed are described in the Notice of Fund Availability. Proposed paragraph (c) would require applicants to submit a complete renewal grant application package to be considered for a renewal grant, if the grantee's program would remain substantially the same, and would specify that the renewal grant application procedures to be followed would be described in the Notice of Fund Availability. By allowing grantees to submit a renewal grant application, additional grant funds could be sought for subsequent fiscal years with little or no interruption in the provision of transportation services.

#### **17.705 Application Scoring Criteria and Selection**

Proposed § 17.705 would establish scoring and selection categories for the award of grants in accordance with the mandate in paragraph (b)(1) of section 307 of the 2010 Act, which requires that VA prescribe regulations to evaluate grant applications. Proposed paragraphs (a)(1)–(4) would specify the scoring criteria for initial grant applications. These proposed criteria are weighted according to their probability of influencing an applicant's development of a successful program, as well as meeting the requirement for innovation in paragraph (a)(1) of section 307 of the 2010 Act.

The most significant criterion is proposed paragraph (a)(1), which would require the application to have a clearly defined plan for successful program implementation demonstrated by scope, budget, staffing, and timeframe. The existence of basic parameters such as these is a reliable indicator that the program is well thought out, and likely to be successfully implemented. Therefore, under this scoring system, VA would award up to 40 points using this criterion.

In contrast, we would limit the scoring significance of the criterion in proposed paragraph (a)(4) related to the innovative nature of transportation services to be provided. VA would award only up to 10 points based upon this criterion. We believe this would ensure that applicants do not focus excessively on using new or potentially undeveloped resources or ideas in their programs, and are instead able to maximize the number of veterans in highly rural areas who would be provided with VA medical care through transportation services.

Proposed paragraph (b) would specify the process VA will use to award initial grants, where VA would score applications using the criteria in proposed paragraph (a) and rank applications that receive at least the minimum amount of total points and points per category set forth in the Notice of Fund Availability. VA would then award grants for the highest ranked applications for which funding is available.

Proposed paragraphs (c)(1)–(3) would specify the scoring criteria for renewal grant applications. These proposed criteria are similarly weighted as those for initial grant applications, but are specific to renewal grant applications to assist VA in evaluating those programs which would already be operating. Accordingly, points would be awarded based on a grantee's program's success, cost effectiveness, and compliance with the grant agreement and other applicable laws and regulations.

Proposed paragraph (d) would specify the process VA would use to award renewal grants, where VA would score applications using the criteria in proposed paragraph (c) and rank applications that receive at least the minimum amount of total points and points per category set forth in the Notice of Fund Availability. VA would then award grants for the highest ranked applications for which funding is available.

#### **17.710 Notice of Fund Availability**

Proposed § 17.710 would establish that VA will publish a Notice of Funds

Availability (NOFA) in the **Federal Register** when funds are available to award grants. Proposed paragraphs (a)–(g) would specify that the NOFA would identify the location for obtaining grant applications; the date, time, and place for submitting completed grant applications; the estimated amount and type of grant funding available; the length of term for the grant award; the minimum number of total points and points per category that an applicant or grantee must receive in order for a grant to be awarded; the timeframes and manner for payments under the grant; and lastly would specify that the NOFA will provide access to the list of “highly rural areas” recognized by VA in which transportation services may be provided, and consequently those areas in which grantees may execute their programs. All of these criteria would ensure that eligible entities have the information required to apply for grants.

#### **17.715 Grant Agreements**

Proposed § 17.715 would establish that upon a grantee being awarded a grant, VA would draft a grant agreement to be executed by VA and the grantee. Upon execution, VA would obligate the grant amount. Proposed paragraph (a)(1) would require that a grantee agree to operate the program in accordance with the provisions of the grant program and in accordance with the grant application. Proposed paragraphs (a)(2)(i)–(iv) would mandate the following criteria for grant agreements where vehicles would be procured and used to provide transportation services: Showing of vesting of title solely with the grantee or with the lender of leased vehicles; showing that adequate insurance coverage exists; showing that all vehicle operators are properly licensed to operate said vehicles; and assurance that vehicles be maintained in safe working order in accordance with the manufacturer's recommendations. We recognize that VA grants awarded to State entities and to non-profit entities are also governed by 38 CFR parts 43 and 49, respectively, and all applicable Office of Management and Budget (OMB) Regulations and Circulars. Particularly, the determination of allowable costs which may be charged to or accounted as a part of a federally funded project is controlled by OMB Circular A–122, Cost Principles for Non-Profit Organizations (codified at 2 CFR part 230), and by OMB Circular A–87, Cost Principles for State, Local, and Indian Tribal Governments. Proposed paragraphs (b)(i)–(ii) would specify these additional requirements for State veterans service agencies and for Veterans Service Organizations.

**17.720 Payments Under the Grant**

Proposed § 17.720 would notify grantees that information regarding the timeframe and manner of payment of grants would be described in the Notice of Fund Availability.

**17.725 Grantee Reporting Requirements**

Proposed § 17.725 would require grantees to report to VA information necessary to analyze the performance of a grantee's program. Proposed paragraphs (a)(1)–(7) would specify that all grantees must submit an annual report with the following information: The time expended assisting with the provision of transportation services; the grant funds expended assisting with the provision of transportation services; the number of trips completed by grantee; the total distance covered by grantee; the number of veterans served by grantee; the locations serviced by grantee; and the results of a veterans satisfaction survey.

Proposed paragraph (b) would require that all grantees also submit quarterly fiscal reports identifying expenditures of the funds which VA authorized and obligated. Proposed paragraph (c) would require that any changes occurring in a grantee's program which deviate from the grant agreement must be reported to VA. Review of the reports detailed in proposed paragraphs (a)–(c) would ensure that grant funds were being consistently used in accordance with the grant agreements. Proposed paragraph (d) would allow VA to request other information or documentation related to a grant, in the event that information is necessary to fully assess the success of the program. This would further assist VA in determining whether grant funds were used appropriately if any part of the required reports as submitted by a grantee is inadequate.

**17.730 Recovery of Funds by VA**

Proposed § 17.730 would establish that VA may recover grant funds from a grantee under certain circumstances. Proposed paragraph (a) would provide that VA may recover grant funds where the funds were not used in accordance with the grant agreement. Proposed paragraph (a) would also explain that VA would issue a notice to the grantee expressing VA's intent to recover funds and that VA would provide the grantee an opportunity to respond prior to VA's final decision that action be taken to recover the funds. Proposed paragraph (b) would specify that, where VA makes a final decision that action be taken to recover grant funds from a grantee, the

grantee would be prohibited from receiving further grant funds from VA. This would help safeguard federal funds and ensure the best use of the grants.

**Effect of Rulemaking**

The Code of Federal Regulations, as proposed to be revised by this 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**

This proposed rule includes a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) that requires approval by the Office of Management and Budget (OMB). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking to OMB for review. OMB assigns a control number for each collection of information it approves. Except for emergency approvals under 44 U.S.C. 3507(j), VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Proposed §§ 17.703 and 17.725 contain collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521). If OMB does not approve the collections of information as requested, VA will immediately remove the provisions containing a collection of information or take such other action as is directed by OMB.

Comments on the collection of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to: Director, Office of Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or through [www.Regulations.gov](http://www.Regulations.gov). Comments should indicate that they are submitted in response to “RIN 2900–AO01, Grants for Transportation of Veterans in Highly Rural Areas.”

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full

effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule.

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed amendments to title 38 CFR part 17 contain collections of information under the Paperwork Reduction Act for which we are requesting approval by OMB. These collections of information are described immediately following this paragraph, under their respective titles.

**Title: Grants for Transportation of Veterans in Highly Rural Areas.**

**Summary of collections of information:** The proposed rule at proposed § 17.703(b) contains application provisions for initial grants, and at proposed § 17.703(c) application provisions for renewal grants. The proposed rule at proposed § 17.725(a)–(b) contains requirements that each grantee submit to VA annual and quarterly reports; the annual reports would include veteran satisfaction survey results. These veteran satisfaction surveys would be collections by grantees from participants.

**Grant Applications**

**Description of the need for information and proposed use of information:** This information is needed to award initial grants and to award renewal grants to eligible entities.

**Description of likely respondents:** Veterans Service Organizations and State veterans service agencies.

**Estimated number of respondents per year:** Initial Grants 100. Renewal Grants 50.

**Estimated frequency of responses per year:** Initial Grants 1. Renewal Grants 1

*Estimated total annual reporting and recordkeeping burden:* 3000 hours.

*Estimated annual burden per response:* Initial Grant 25 hours. Renewal Grants 10 hours.

#### Annual Reports

*Description of the need for information and proposed use of information:* This information is needed to determine compliance with the requirements for a grant.

*Description of likely respondents:* Veterans Service Organizations and State veterans service agencies.

*Estimated number of respondents per year:* 150.

*Estimated frequency of responses per year:* 1.

*Estimated total annual reporting and recordkeeping burden:* 300 hours.

*Estimated annual burden per response:* 2 hours.

#### Quarterly Fiscal Reports

*Description of the need for information and proposed use of information:* This information is needed to determine compliance with the requirements for a grant.

*Description of likely respondents:* Veterans Service Organizations and State Veterans Service Agencies.

*Estimated number of respondents per year:* 150.

*Estimated frequency of responses per year:* 4.

*Estimated total annual reporting and recordkeeping burden:* 300 hours.

*Estimated annual burden per response:* 30 minutes.

#### Participant Satisfaction Surveys

*Description of the need for information and proposed use of information:* This information is needed for VA to evaluate grantees' performance and participants' satisfaction with the transportation services they receive.

*Description of likely respondents:* Veterans living in highly rural areas.

*Estimated number of respondents per year:* 7,500.

*Estimated frequency of responses per year:* 1.

*Estimated total annual reporting and recordkeeping burden:* 1875 hours.

*Estimated annual burden per response:* 15 minutes.

#### 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. We do not believe that many small entities

such as independently owned taxi cab services or other small transportation businesses frequently or routinely access highly rural areas as defined in the rule, or that such access is often for the express purpose of transporting veterans to VA medical centers or transporting veterans in connection with receiving VA medical care. We believe that veterans in these highly rural areas who must pay for transportation services to receive medical care would seek more conveniently located non-VA care, versus VA care that may require traveling greater distances. There would be no economic impact on any of the eligible entities, as they are not required to provide matching funds to obtain the maximum grant allowance as stated in section 307 of the Act. Therefore, pursuant to 5 U.S.C. 605(b), this proposed amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### Executive Orders 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,” which requires review by the Office of Management and Budget (OMB), 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.

#### Unfunded Mandates

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

#### Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers and titles are 64.009 Veterans Medical Care Benefits, and 64.024 VA Homeless Providers Grant and Per Diem 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. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on December 23, 2011, for publication.

#### List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: December 23, 2011.

**Robert C. McFetridge,**

*Director of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.*

For the reasons stated in the preamble, VA proposes to amend 38 CFR part 17 as follows:

#### PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

**Authority:** 38 U.S.C. 501, and as stated in specific sections.

2. Amend part 17 by adding an undesignated center heading “Grants for Transportation of Veterans in Highly

Rural Areas” and §§ 17.700 through 17.730 to read as follows:

### Grants for Transportation of Veterans in Highly Rural Areas

Sec.

- 17.700 Purpose and scope.
- 17.701 Definitions.
- 17.702 Grants—general.
- 17.703 Eligibility and application.
- 17.705 Scoring criteria and selection.
- 17.710 Notice of Fund Availability.
- 17.715 Grant agreements.
- 17.720 Payments under the grant.
- 17.725 Grantee reporting requirements.
- 17.730 Recovery of funds by VA.

**Authority:** Pub. L. 111–163, 38 U.S.C. 501, and as noted in specific sections)

#### § 17.700 Purpose and scope.

This section establishes the Grants for Veterans Service Organizations for Transportation of Veterans in Highly Rural Areas program. Under this program, the Department of Veterans Affairs (VA) provides grants to eligible entities to assist veterans in highly rural areas through innovative transportation services to travel to VA medical centers, and to otherwise assist in providing transportation services in connection with the provision of VA medical care to these veterans.

(Authority: Pub. L. 111–163, 38 U.S.C. 501)

#### § 17.701 Definitions.

For the purposes of this section and any Notice of Fund Availability issued pursuant to this section:

*Applicant* means an eligible entity that submits an application for a grant announced in a Notice of Fund Availability.

*Eligible entity* means:

- (1) Veterans Service Organizations, or
- (2) State veterans service agencies.

*Grantee* means an applicant that is awarded a grant under this section.

*Highly rural area* means an area consisting of a county or counties having a population of less than seven persons per square mile.

*Notice of Fund Availability* means a Notice of Fund Availability published in the **Federal Register** in accordance with § 17.710.

*Participant* means a veteran in a highly rural area who is receiving transportation services from a grantee.

*State veterans service agency* means the element of a State government that has responsibility for programs and activities of that government relating to veterans benefits.

*The provision of VA medical care* means the provision of medical services as defined in section 1710 of title 38 United States Code.

*Transportation services* means the direct provision of transportation, or

assistance with providing transportation, to travel to VA medical centers and otherwise to travel in connection with the provision of VA medical care.

*Veterans Service Organization* means an organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38 United States Code.

(Authority: Pub. L. 111–163, 38 U.S.C. 501)

#### § 17.702 Grants—general.

(a) *One grant per highly rural area.* VA may award one grant per fiscal year to a grantee for each highly rural area in which the grantee provides transportation services. Transportation services may not be simultaneously provided by more than one grantee in any single highly rural area.

(b) *Maximum amount.* Grant amounts will be specified in the Notice of Funding Availability, but no grant will exceed \$50,000.

(c) *No matching requirement.* A grantee will not be required to provide matching funds as a condition of receiving such grant.

(d) *Veterans will not be charged.* Transportation services provided to veterans through utilization of a grant will be free of charge.

(Authority: Pub. L. 111–163, 38 U.S.C. 501)

#### § 17.703 Eligibility and application.

(a) *Eligible entity.* The following may be awarded a grant:

- (1) Veterans Service Organizations.
- (2) State veterans service agencies.

(b) *Initial Application:* To apply for an initial grant, an applicant must submit to VA a complete grant application package, as described in the Notice of Fund Availability.

(c) *Renewal application.* Grantees may apply for one renewal grant per fiscal year, after receiving an initial grant, if the grantee's program will remain substantially the same. The grantee must submit to VA a complete renewal application as described in the Notice of Fund Availability.

(Authority: Pub. L. 111–163, 38 U.S.C. 501)

#### § 17.705 Scoring criteria and selection.

(a) *Initial grant scoring.* Applications will be scored using the following selection criteria:

(1) VA will award up to 40 points based on the program's plan for successful implementation, as demonstrated by the following:

(i) Program scope is defined, and applicant has specifically indicated the mode(s) or method(s) of transportation services to be provided.

(ii) Program budget is defined, and applicant has indicated that grant funds

will be sufficient to completely implement the program.

(iii) Program staffing plan is defined, and applicant has indicated that there will be adequate staffing for delivery of transportation services according to the program's scope.

(iv) Program timeframe for implementation is defined, and applicant has indicated that the delivery of transportation services will be timely.

(2) VA will award up to 30 points based on the program's evaluation plan, as demonstrated by the following:

(i) Measurable goals for determining the success of delivery of transportation services.

(ii) Ongoing assessment of paragraph (a)(2)(i) of this section, with a means of adjusting the program as required.

(3) VA will award up to 20 points based on the applicant's community relationships in the areas to receive transportation services, as demonstrated by the following:

(i) Applicant has existing relationships with state or local agencies or private entities, or will develop such relationships, and has shown these relationships will enhance the program's effectiveness.

(ii) Applicant has established past working relationships with state or local agencies or private entities which have provided transportation services similar to those offered by the program.

(4) VA will award up to 10 points based on the innovative aspects of the program, as demonstrated by the following:

(i) How program will identify and serve veterans who otherwise would be unable to obtain VA medical care through conventional transportation resources.

(ii) How program will use new or alternative transportation resources.

(b) *Initial grant selection.* VA will use the following process to award initial grants:

(1) VA will rank those applications that receive at least the minimum amount of total points and points per category set forth in the Notice of Fund Availability. The applications will be ranked in order from highest to lowest scores.

(2) VA will use the applications' ranking as the basis for awarding grants. VA will award grants for the highest ranked applications for which funding is available.

(c) *Renewal grant scoring.* Renewal applications will be scored using the following selection criteria:

(1) VA will award up to 55 points based on the success of the grantee's program, as demonstrated by the following:

(i) Application shows that the grantee provided transportation services which allowed participants to be provided medical care timely and as scheduled.

(ii) Application shows that participants were satisfied with the transportation services provided by the grantee, as described in the Notice of Fund Availability.

(2) VA will award up to 35 points based on the cost effectiveness of the program, as demonstrated by the following:

(i) The grantee administered the program on budget.

(ii) Grant funds were utilized in a sensible manner, as interpreted by information provided by the grantee to VA under § 17.725(a)(1)–(7).

(3) VA will award up to 15 points based on the extent to which the program complied with:

(i) The grant agreement.

(ii) Applicable laws and regulations.

(d) *Renewal Grant Selection.* VA will use the following process to award renewal grants:

(1) VA will rank those applications that receive at least the minimum amount of total points and points per category set forth in the Notice of Fund Availability. The applications will be ranked in order from highest to lowest scores.

(2) VA will use the applications' ranking as the basis for awarding grants. VA will award grants for the highest ranked applications for which funding is available.

(Authority: Pub. L. 111–163, 38 U.S.C. 501)

#### **§ 17.710 Notice of Fund Availability.**

When funds are available for grants, VA will publish a Notice of Fund Availability in the **Federal Register**. The notice will identify:

(a) The location for obtaining grant applications;

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

(c) The estimated amount and type of grant funding available;

(d) The length of term for the grant award;

(e) The minimum number of total points and points per category that an applicant or grantee must receive in order for a supportive grant to be funded;

(f) The timeframes and manner for payments under the grant; and

(g) Those areas identified by VA to be the “highly rural areas” in which grantees may provide transportation services funded under this rule.

(Authority: Pub. L. 111–163, 38 U.S.C. 501)

#### **§ 17.715 Grant agreements.**

(a) *General.* After a grantee is awarded a grant in accordance with § 17.705(b) or § 17.705(d), VA will draft a grant agreement to be executed by VA and the grantee. Upon execution of the grant agreement, VA will obligate the approved amount to the grantee. The grant agreement will provide that the grantee agrees to:

(1) Operate the program in accordance with the provisions of this section and the grant application.

(2) *Procurement and operation of vehicles.* Where a grant agreement outlines a program where funds will be used to procure or operate vehicles to directly provide transportation services, the grant agreement must detail the following:

(i) Title to the vehicles must vest solely in the grantee, or with leased vehicles in an identified lender.

(ii) The grantee shall, at a minimum, provide motor vehicle liability insurance for the vehicles to the same extent they would insure vehicles procured with their own funds.

(iii) All vehicle operators must be licensed in a U.S. State or Territory to operate such vehicles.

(iv) Vehicles will be safe and maintained in accordance with the manufacturer's recommendations.

(b) *Additional requirements.* Grantees are subject to the following additional requirements:

(i) State veterans service agencies 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.

(ii) Veterans Service 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.

(Authority: Pub. L. 111–163, 38 U.S.C. 501)

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

Grantees are to be paid in accordance with the timeframes and manner set forth in the Notice of Fund Availability.

(Authority: Pub. L. 111–163, 38 U.S.C. 501)

#### **§ 17.725 Grantee reporting requirements.**

(a) *Annual report.* All grantees who receive either an initial or renewed

grant must submit to VA an annual report which indicates the following information:

(1) Record of time expended assisting with the provision of transportation services.

(2) Record of grant funds expended assisting with the provision of transportation services.

(3) Trips completed.

(4) Total distance covered.

(5) Veterans served.

(6) Locations which received transportation services.

(7) Results of veteran satisfaction survey.

(b) *Quarterly fiscal report.* All grantees who receive either an initial or renewal grant must submit to VA a quarterly report which identifies the expenditures of the funds which VA authorized and obligated.

(c) *Program variations.* Any changes in a grantee's program activities which result in deviations from the grant agreement must be reported to VA.

(d) Additional reporting requirements may be requested by VA to allow VA to fully assess program effectiveness.

(Authority: Pub. L. 111–163, 38 U.S.C. 501)

#### **§ 17.730 Recovery of funds by VA.**

(a) *Recovery of funds.* VA may recover from the grantee any funds that are not used in accordance with a grant agreement. If VA decides to recover funds, VA will issue to the grantee a notice of intent to recover grant funds, and grantee will then have 30 days to submit documentation demonstrating why the grant funds should not be recovered. After review of all submitted documentation, VA will determine whether action will be taken to recover the grant funds.

(b) *Prohibition of Further Grants.* When VA determines action will be taken to recover grant funds from the grantee, the grantee is then prohibited from receipt of any further grant funds.

(Authority: Pub. L. 111–163, 38 U.S.C. 501)

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