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Issued on August 6, 2024.

**Victor Wicklund,**

Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 38

RIN 2900-AS13

#### Veterans Legacy Grants Program Improvements

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its Veterans Legacy Grants Program (VLGP) regulations to align them with regulatory updates to the uniform administrative requirements and other requirements for Federal awards and makes additional revisions to improve the process for administration of the grant program. This rulemaking proposes housekeeping amendments to key terms, legal citations, and definitions and extends timelines for reporting and other grant recipient requirements.

**DATES:** Comments must be received on or before October 11, 2024.

**ADDRESSES:** Comments must be submitted through [www.regulations.gov](http://www.regulations.gov). Except as provided below, comments received before the close of the comment period will be available at [www.regulations.gov](http://www.regulations.gov) for public viewing, inspection, or copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on [www.regulations.gov](http://www.regulations.gov) as soon as possible after they have been received. VA will not post on [Regulations.gov](http://www.regulations.gov) public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm an individual. VA encourages individuals not to submit duplicative comments; however, we will post comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date is considered late and will

not be considered in the final rulemaking. In accordance with the Providing Accountability Through Transparency Act of 2023, a 100 word Plain-Language Summary of this proposed rule is available at [Regulations.gov](http://Regulations.gov), under RIN 2900-AS13. **FOR FURTHER INFORMATION CONTACT:** John Williams, Senior Grants Management Specialist, Veterans Legacy Grants Program, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. Telephone: (314) 348-4073 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** VA proposes changes to the regulations governing Veterans Legacy grants to make housekeeping and clarifying edits, described below. These revisions would implement various programmatic improvements for applicants. Additionally, in April 2024, the Office of Management and Budget (OMB) published revisions to Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (also known as the Uniform Guidance at 2 CFR part 200). Current VLGP regulations reference outdated 2 CFR part 200 throughout and in this rulemaking we propose changes to reflect revised sections, where appropriate.

#### Replacing the Term “Notice of Funding Availability” With “Notice of Funding Opportunity”

VA proposes to replace the terms “Notice of Funding Availability” and “NOFA” with “Notice of Funding Opportunity” and “NOFO”, respectively, in 38 CFR 38.715(k) and throughout the VLGP regulations to align them with OMB’s use and definition of the term “Notice of funding opportunity” in 2 CFR 200.1 and 200.204. Under the revised definition, the term “NOFO” would be defined as “a formal announcement of the availability of a Federal funding opportunity published in the OMB-designated government-wide website [Grants.gov](http://www.grants.gov) (<http://www.grants.gov>) in accordance with § 38.725 and 2 CFR 200.1 and 200.204.” Consistent with the definition in 2 CFR 200.1, a NOFO would provide information on the award, who is eligible to apply, the evaluation criteria for selection of an awardee, required components of an application, and how to submit the application. This change is intended to reduce the potential for grant recipient confusion due to discrepancies between terminology used in the VLGP regulations and the [Grants.gov](http://www.grants.gov) website.

#### Replacing the Term “Grantee” With “Recipient”

VA proposes to replace the term “Grantee” with “Recipient” in 38 CFR 38.715(j) and to make similar changes throughout the VLGP regulations where applicable. This change would be consistent with OMB’s use of the term “Recipient” as the entity that receives a Federal award directly from a Federal awarding agency. The alignment of these terms is intended to reduce any confusion for the public regarding the VLGP. The definition would clarify that “recipient” does not include a subrecipient or individual that is a beneficiary of the award.

#### Consolidating the Publication Location of the NOFO

OMB uniform grant guidance requires a funding agency to provide public notice of Federal financial assistance programs. Current 38 CFR 38.725 requires VA to publish funding opportunity announcements in both the **Federal Register** and in [Grants.gov](http://www.grants.gov). VA proposes to discontinue the requirement in its current regulation to post NOFOs in the **Federal Register**. Because [Grants.gov](http://www.grants.gov) is an OMB-designated government-wide website and is recognized as the primary Federal system used for publication of notices concerning Federal funding opportunities and financial assistance, see 89 FR 30072 (Apr. 22, 2024), VA proposes to use [Grants.gov](http://www.grants.gov) as the primary source of publication for its funding opportunity announcements. VA believes this change would make the VLGP award procedures more efficient and would eliminate the duplicative publication requirement in the **Federal Register**, which may often result in additional processing time.

#### Updating the Terminology of Additional Factors for Deciding Applications

VA proposes to amend 38 CFR 38.735 (Additional factors for deciding applications) by updating the terminology in the regulation to align it with the terminology and process framework established in 2 CFR part 200. Specifically, VA would amend the heading in 38 CFR 38.735(a) from “Applicant’s performance on prior award” to “Applicant’s history of performance”. History of performance is a principal factor considered when evaluating an applicant’s application. 2 CFR 200.206(b)(2)(iii). VA would revise the description for additional clarity and consistency on this deciding factor. The revised language would state that VA may consider the applicant’s record

in managing Federal awards, if it is a prior recipient of a Federal award, including timeliness of compliance with applicable reporting requirements and conformance to the terms and conditions of any previous Federal award. The current language is specific to the applicant's noncompliance with requirements and limits the scope of evaluation to past written evaluation reports, memoranda on performance, and completion of prior submissions. The proposed language would expand VA's ability to review and consider a broader scope of relevant conduct that may impact an applicant's evaluative rating under the merit review process.

VA proposes to also amend the heading in 38 CFR 38.735(b) from "Applicant's fiscal integrity" to "Applicant's financial stability" to align it with 2 CFR 200.206(b)(2)(i), which includes an applicant's "financial stability" among the principal evaluative factors to consider. In addition, VA proposes to remove the reference to 2 CFR 200.205 within the description, which would provide flexibility for the VLGP regulation if future edits are made to 2 CFR part 200.

#### **Extending the Timeframe for Recipients To Fulfill Reporting Requirements**

VA proposes to amend 38 CFR 38.765 (Recipient reporting requirements) to allow 120 calendar days after the end date of the period of performance for a grant recipient to submit a final report. Currently, the regulation only allows for a grant recipient to submit this information no later than 60 days after the last day of the grant period. The amended language would align with the closeout requirements under 2 CFR 200.344 (Closeout) and provide the grant recipient with the standard time period to submit required financial, performance, and other reports after the period of performance has concluded.

#### **Changes to Authority Citations**

VA proposes to revise authority citations for the VLGP regulations. VA proposes to revise the authority citation for § 38.715 by removing the reference to 2 CFR 200.203, which governs the requirement to provide public notice of Federal financial assistance programs, and adding in its place a reference to 2 CFR 200.1, which defines the term "notice of funding opportunity," and 2 CFR 200.204, which sets forth requirements of notices of funding opportunities. VA proposes to revise the authority citation for § 38.725 by removing the reference to 2 CFR 200.203 and adding in its place a reference to 2 CFR 200.204.

VA also proposes to revise the authority citation for § 38.730 by removing the reference to 2 CFR 200.203 and adding a reference to 2 CFR 200.208, which sets forth specific conditions for federal grant awards. VA proposes to revise the authority citation for § 38.735 by removing the reference to 2 CFR 200.203 and adding a reference to 2 CFR 200.206, which provides that the Federal awarding agency will review risk posed by applicants. VA proposes to revise the authority citation for § 38.740 by removing the reference to 2 CFR 200.203 and adding a reference to 2 CFR 200.205, which provides that the Federal awarding agency will have a merit review process for proposals. VA also proposes to revise the authority citation for § 38.745 by removing the reference to 2 CFR 200.203 and adding a reference to 2 CFR 200.211, which sets forth information contained in a Federal award. VA proposes to revise the authority citation for § 38.750 by removing the reference to 2 CFR 200.203 and adding a reference to 2 CFR 200.204, which governs notices of funding opportunities generally. VA proposes to revise the authority citation for § 38.755 by removing the reference to 2 CFR 200.203 and adding a reference to 2 CFR 200.211, which sets forth information contained in a Federal award.

VA also proposes to revise the authority citation for § 38.760 by removing the reference to 2 CFR 200.203 and adding a reference to 2 CFR 200.305, which governs Federal payments. VA proposes to revise the authority citation for § 38.765 by removing the reference to 2 CFR 200.203 and adding a reference to 2 CFR 200.344, which governs closeout of federal awards. VA proposes to revise the authority citation for § 38.770 by removing the reference to 2 CFR 200.203 and adding a reference to 2 CFR 200.339 and 200.410, which sets forth remedies for noncompliance and addresses collection of unallowable costs, respectively. VA proposes to revise the authority citation for § 38.775 by removing the reference to 2 CFR 200.203 and adding a reference to 2 CFR 200.329, which governs monitoring and reporting program performance. VA also proposes to revise the authority citation for § 38.780 by including a reference to 2 CFR 200.476, which is included as part of the regulations governing general cost principles. VA proposes to revise the authority citation for § 38.785 by removing the reference to 2 CFR 200.333, which governs fixed amount subawards, and adding a reference to 2

CFR 200.334–200.338, which govern record retention and access.

#### **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 (Executive Order on Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review) and Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review). The Office of Information and Regulatory Affairs has determined that this rulemaking is not 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 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. The amendments proposed in this rule would likely not be determinative of whether small entities receive or do not receive a grant because they would have limited impact on small entities complying with grant application and reporting requirements. In addition to some technical revisions to the VLGP regulations, this rule would merely align those regulations to updates to the uniform administrative requirements and other requirements for Federal awards (2 CFR part 200). Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 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 proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

**Paperwork Reduction Act**

Although this proposed rule contains collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), there are no provisions associated with this rulemaking constituting any new collection of information or any revisions to the existing collection of information. The collections of information for 38 CFR 38.730 are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control numbers 4040–0004, 4040–0006, 4040–0007, and 4040–0013.

**Assistance Listing**

The Assistance Listing number and title for the program affected by this document are 64.204, Veterans Legacy Grants Program.

**List of Subjects in 38 CFR Part 38**

Administrative practice and procedure, Cemeteries, Claims, Crime, Grants programs—veterans, Veterans.

**Signing Authority**

Denis McDonough, Secretary of Veterans Affairs, approved this document on July 31, 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,**

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

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 38 as set forth below:

**PART 38—NATIONAL CEMETERIES OF THE DEPARTMENT OF VETERANS AFFAIRS**

■ 1. The authority citation for part 38 continues to read as follows:

**Authority:** 38 U.S.C. 107, 501, 512, 531, 2306, 2400, 2402, 2403, 2404, 2407, 2408, 2411, 7105.

■ 2. Amend § 38.715 by:

- a. In paragraph (a) introductory text, removing “Notice of Funding Availability” and adding in its place “Notice of Funding Opportunity”.
- b. Removing “NOFA” each place it appears and adding in each place “NOFO”.
- c. Revising paragraphs (j) and (k) and the authority citation.

The revisions read as follows:

**§ 38.715 Definitions.**

\* \* \* \* \*

(j) *Recipient* means an eligible recipient (or entity) that is awarded a VLGP grant under this part. It does not include a subrecipient or individual that is a beneficiary of the award.

(k) *Notice of Funding Opportunity (NOFO)* means a formal announcement of the availability of a Federal funding opportunity published in the OMB-designated government-wide website *Grants.gov* (<http://www.grants.gov>) in accordance with § 38.725 and 2 CFR 200.1 and 200.204.

(Authority: 38 U.S.C. 501(d), 2400 note, 2 CFR 200.1 and 200.204))

**§ 38.720 [Amended]**

- 3. Amend § 38.720 by:
  - a. Removing “grantee” and “grantee’s” each place they appear and adding in each place “recipient” and “recipient’s”, respectively.
  - b. Removing “NOFA” each place it appears and adding in each place “NOFO”.

- 4. Amend § 38.725 by:
  - a. Revising the section heading and introductory text.
  - b. In the authority citation, removing “2 CFR 200.203” and adding in its place “2 CFR 200.204”.

The revisions read as follows:

**§ 38.725 Notice of Funding Opportunity (NOFO).**

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

\* \* \* \* \*

- 5. Amend § 38.730 by:
  - a. Removing “NOFA” each place it appears and adding in each place “NOFO”.
  - b. In the authority citation, removing “2 CFR 200.203” and adding in its place “2 CFR 200.208”.
  - c. Adding a parenthetical reference at the end of the section.

The revision reads as follows:

**§ 38.730 Applications.**

\* \* \* \* \*

(The Office of Management and Budget has approved the information collection provisions in this section under control

numbers 4040–0004, 4040–0006, 4040–0007, and 4040–0013”.

- 6. Amend § 38.735 by:
  - a. Revising paragraphs (a) and (b).
  - b. In the authority citation, removing “2 CFR 200.203” and adding in its place “2 CFR 200.206”.

The revisions read as follows:

**§ 38.735 Additional factors for deciding applications.**

(a) *Applicant’s history of performance.* VA may consider the applicant’s record in managing Federal awards, if a prior recipient of a Federal award, including timeliness of compliance with applicable reporting requirements and conformance to the terms and conditions of any previous Federal award.

(b) *Applicant’s financial stability.* Applicants must meet and have maintained standards of financial stability for participation in Federal grant programs.

(Authority: 38 U.S.C. 501(d), 2400 note, and 2 CFR 200.206)

**§ 38.740 [Amended]**

- 7. Amend § 38.740 by:
  - a. Removing “NOFA” each place it appears and adding in each place “NOFO”.
  - b. In the authority citation, removing “2 CFR 200.203” and adding in its place “2 CFR 200.205”.

**§ 38.745 [Amended]**

- 8. Amend § 38.745 by, in the authority citation, removing “2 CFR 200.203” and adding in its place “2 CFR 200.211”.

**§ 38.750 [Amended]**

- 9. Amend § 38.750 by, in the authority citation, removing “2 CFR 200.203” and adding in its place “2 CFR 200.204”.

**§ 38.755 [Amended]**

- 10. Amend § 38.755 by:
  - a. In the introductory text, removing “grantee” and adding in its place “recipient”.
  - b. In the authority citation, removing “2 CFR 200.203” and adding in its place “2 CFR 200.211”.
- 11. Amend § 38.760 by:
  - a. Revising paragraph (a).
  - b. In paragraph (b), removing “NOFA” and adding in its place “NOFO”.
  - c. In the authority citation, removing “2 CFR 200.203” and adding in its place “2 CFR 200.305”.

The revision reads as follows:

**§ 38.760 Payments under the grant.**

(a) Recipients are to be paid in accordance with 2 CFR 200.305.

\* \* \* \* \*

- 12. Amend § 38.765 by:

- a. Revising the section heading and paragraph (a).
- b. In the authority citation, removing “2 CFR 200.203” and adding in its place “2 CFR 200.344”.

#### § 38.765 Recipient reporting requirements.

(a) *Final report.* The recipient must submit to VA, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award.

\* \* \* \* \*

#### ■ 13. Amend § 38.770 by:

- a. Removing “grantee” each place it appears and adding in each place “recipient”.
- b. Revising the authority citation.

The revision reads as follows:

#### § 38.770 Recovery of funds by VA.

\* \* \* \* \*

(Authority: 38 U.S.C. 501(d), 2400 note, 2 CFR 200.339 and 200.410)

#### § 38.775 [Amended]

#### ■ 14. Amend § 38.775 by:

- a. Removing “grantee” each place it appears and adding in each place “recipient”.
- b. In the authority citation, removing “2 CFR 200.203” and adding in its place “2 CFR 200.329”.

#### § 38.780 [Amended]

#### ■ 15. Amend § 38.780 by:

- a. In paragraph (b), removing “grantees” and “Grantees” each place they appear and adding in each place “recipients” and “Recipients”, respectively.
- b. Removing “2 CFR 200.400–200.475” each place it appears and adding in each place “2 CFR 200.400–200.476”.

#### ■ 16. Revise § 38.785 to read as follows:

#### § 38.785 Record retention and access.

Recipients must ensure that records are maintained and accessible in accordance with 2 CFR 200.334–200.338. Recipients must produce such records at VA’s request.

(Authority: 38 U.S.C. 501(d), 2400 note, and 2 CFR 200.334–200.338)

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 84

[EPA–HQ–OAR–2021–0643; FRL–11739–03–OAR]

#### Phasedown of Hydrofluorocarbons: Restrictions on the Use of HFCs Under the AIM Act in Variable Refrigerant Flow Air Conditioning Subsector; Reopening the Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; reopening the comment period.

**SUMMARY:** On June 26, 2024, EPA published a proposed rule titled, Phasedown of Hydrofluorocarbons: Restrictions on the Use of Hydrofluorocarbons under the American Innovation and Manufacturing Act in Variable Refrigerant Flow Air Conditioning Subsector, to allow one additional year for the installation of certain residential and light commercial air conditioning and heat pump variable refrigerant flow systems. The proposed rule did not include notice that the Agency would hold a public hearing if one were requested. This notice reopens the comment period specifically to provide an opportunity to request a public hearing on this rulemaking if one is desired.

**DATES:** The comment period for the proposed rule published on June 26, 2024, at 89 FR 53373, is reopened to allow for the opportunity to request a public hearing. To request a public hearing, please submit a comment per the instructions in the **ADDRESSES** section. If requested, EPA will hold a virtual public hearing on August 19, 2024. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

If no public hearing is requested, the comment period will close on August 27, 2024. If a public hearing is requested, the comment period will close on September 26, 2024.

**ADDRESSES:** You may send comments, identified by docket identification number EPA–HQ–OAR–2021–0643, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments.
- *Email:* [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov). Include Docket ID No. EPA–HQ–OAR–2021–0643 in the subject line of the message.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center,

Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center’s hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

*Instructions:* All submissions received must include the Docket ID number for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided.

Do not submit any information you consider to be Confidential Business Information (CBI) through <https://www.regulations.gov>. For submission of confidential comments, please work with the person listed in the **FOR FURTHER INFORMATION CONTACT** section. For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice, contact Joshua Silver, Stratospheric Protection Division, Office of Atmospheric Protection (Mail Code 6205A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–2473; email address: [silver.joshua@epa.gov](mailto:silver.joshua@epa.gov). You may also visit EPA’s website at <https://www.epa.gov/climate-hfcs-reduction> for further information.

**SUPPLEMENTARY INFORMATION:** The EPA is reopening the public comment period established in the **Federal Register** document of June 26, 2024 (89 FR 53373), in order to provide an opportunity for the public to request a public hearing. The original public comment period for the proposed rule closed on July 26, 2024. The EPA did not receive a request for a public hearing or to reopen the comment period but, per the notice requirements of AIM Act subsection (k)(1)(C) and CAA section 307(d)(5), EPA is offering this opportunity to request a public hearing. The comments the EPA has received were supportive of extending the compliance date for installations of VRF systems and previously provided comments do not need to be resubmitted. Oral comments will be weighed equally to written comments.

If a public hearing is requested and held, the comment period will remain open, as required by CAA section 307(d)(5), until September 26, 2024. If a