

Office has adopted various rules with respect to the operation of the Patent Trial and Appeals Board and the Trademark Trial and Appeals Board, as well as for attorneys and entities prosecuting applications before the agency. Those rules address various issues, such as conduct and discipline, duties of candor, fraud prevention, and, if necessary, sanction, suspension, exclusion or censure.<sup>163</sup> Commenters are encouraged to suggest other models (including any adopted by state small claims courts), as well as to offer regulatory language tailored to the CCB specifically.

### *I. Other Subjects*

While this notification outlines a variety of issues relevant to implementation of the CCB, the Office welcomes input on any issues not specifically identified that commenters believe are appropriate and within the Office's regulatory authority. Commenters should be aware that apart from this notification, the Office intends to separately publish a proposed rule regarding a process to expedite a registration decision for an unregistered work at issue before the CCB,<sup>164</sup> as well as a conforming technical edit to the Office's FOIA regulations.<sup>165</sup>

In some cases, the Office may defer exercising its regulatory authority until a later date. For example, the Office has the authority to limit claims regarding particular classes of works (e.g., musical works, audiovisual works, architectural works, etc.) that the CCB can hear.<sup>166</sup> While the Office welcomes any suggestions regarding this authority now, it may delay exercising it until a later date, including potentially after the CCB is operational.

Dated: March 23, 2021.

**Regan A. Smith,**

*General Counsel and Associate Register of Copyrights.*

[FR Doc. 2021-06322 Filed 3-25-21; 8:45 am]

**BILLING CODE 1410-30-P**

## **DEPARTMENT OF VETERANS AFFAIRS**

### **38 CFR Part 38**

#### **RIN 2900-AR00**

### **Veterans Legacy Grants Program**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes regulations to establish the Veterans Legacy Grants Program (VLGP). VA would establish grant application procedures and evaluative criteria for determining whether to issue funding to eligible entities to conduct cemetery research and produce VLGP educational materials. Educational materials would relate the histories of Veterans interred in national, State, or Tribal Veterans' cemeteries and would promote community engagement with those histories.

**DATES:** Comments must be received on or before May 25, 2021.

**ADDRESSES:** Comments may be submitted through [www.Regulations.gov](http://www.Regulations.gov) or mailed to: Director, Legislative and Regulatory Service (42E), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AR00—Veterans Legacy Grants Program." Comments received will be available at [regulations.gov](http://regulations.gov) for public viewing, inspection, or copies.

**FOR FURTHER INFORMATION CONTACT:** Bryce Carpenter, Educational Outreach Programs Officer, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461-5362. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** In Public Law 116-107, sec. 1 (Jan. 17, 2020) (codified at 38 U.S.C. 2400 note), Congress authorized VA to establish a grant program to conduct cemetery research and produce educational materials for the VLGP. VA proposes to add new 38 CFR 38.710 through 38.785 to implement this new grant authority.

The mission of the National Cemetery Administration (NCA) is to honor

Veterans and their eligible family members with final resting places and lasting tributes, thus ensuring that "No Veteran Ever Dies." In 2016, the Veterans Legacy Program (VLP) was established to support NCA's mission to ensure "No Veteran Ever Dies" through contract awards to educational entities to conduct cemetery research and produce educational tools for the public to utilize and learn about the histories of Veterans interred in VA national cemeteries, as well as VA grant-funded State and Tribal Veterans' cemeteries. By engaging educators, students, researchers, and the public, VLP enabled NCA to share the stories of those who served and build an understanding and appreciation of the reasons national cemeteries are considered national shrines. Through contract awards from 2016 to 2020, VLP funded research for 19 projects, which produced more than 573 Veteran biographies, 17 documentary films about Veterans, and 6 Veterans' cemetery walking tours. Additionally, under VLP contracts issued to date, VLP will have engaged almost 9,000 kindergarten through high school students, more than 200 undergraduate students, nearly 40 graduate students, more than 50 scholars, and more than 300 teachers.

As the VLP program grew, VA sought authority to award grants to entities rather than request contract proposals from educational institutions to carry out this mission-critical function. Public Law 116-107, sec. 1 (codified at 38 U.S.C. 2400 note), enacted in early 2020, authorizes VA to make such grants. Under that authority, this proposed rule would establish regulations to govern VA's funding of VLP projects through more effective and efficient grant awards that would be administered by the VLGP. The proposed regulations address the purpose and use of grant funds and set out the general process for awarding a grant, as well as criteria for evaluating grant applications, priorities related to the award of a grant, and other general requirements and guidance for administering the VLGP.

Section 38.710 sets forth the purpose of the VLGP, which is to fund projects for research related to national, State, or Tribal Veterans' cemeteries, to present such research through site hosting and other digital technologies, and to produce educational materials that teach about the history of Veterans interred in those cemeteries. Grants may also fund projects that promote community engagement with the histories of Veterans interred in those locations.

<sup>163</sup> See, e.g., 35 U.S.C. 32 (authorizing the Patent and Trademark Office Director to "suspend or exclude . . . from further practice . . . any person, agent or attorney shown to be in competent or disreputable"); 37 CFR 11.19(b) (grounds for disciplining or disqualifying practitioners); see also 37 CFR 1.56, 1.97 and 1.98, 41.128, 42.11 and 42.12; U.S. Patent and Trademark Office, *Scam Prevention*, <https://www.uspto.gov/patents/basics/using-legal-services/scam-prevention> (including general information to the public and a link to a publically available complaint form).

<sup>164</sup> 17 U.S.C. 1505(d). Before the CCB renders a determination in any infringement dispute, the work at issue must be registered by the Office and the other parties in the proceeding must have an opportunity to address the registration certificate. But the statute allows a party to file a claim with the CCB before the Office has issued a registration, as long as "a completed application, a deposit, and the required fee for registration" have been delivered to the Office. *Id.* at 1505(a)(1).

<sup>165</sup> *Id.* at 1504(t)(4).

<sup>166</sup> *Id.* at 1504(c).

Because this is a new VA authority, we propose to define terms in § 38.715 that would be referenced in §§ 38.710 through 38.785. For the “Notice of Funding Availability (NOFA)” definition, we propose to cite to § 38.725, which would include information such as application requirements and filing deadlines, as well as basic scoring information, timeframes for grant awards and payments, and a provision for other requirements that give VA flexibility to determine and target areas of focus, according to agency need. We also propose to cite to 2 CFR 200.203, which provides guidance for all Federal grants. We define generic administrative terms such as “applicant” and “grantee” to reflect change in status as an entity moves through the grant review process.

Additionally, in § 38.715, we propose to define the term “eligible recipient” as set forth in Public Law 116–107, sec. 1(a)(2); define the term “institution of higher learning” similar to the definition of that term in 38 U.S.C. 3452(f); and define the term “local educational agency” similar to the definition of that term in 20 U.S.C. 7801(30). Because the definition of “local educational agency” in sec. 7801(30) also includes the term “State educational agency,” VA proposes to include it as an eligible recipient for Veterans Legacy grants. The public law specifies that an eligible recipient can be a “non-profit entity” that has a demonstrated history of community engagement but did not define that term. We would limit the definition of “non-profit entity” to mean an organization chartered under 26 U.S.C. 501(c)(3). VA proposes to require each non-profit entity to provide information about its history of community engagement as it pertains to projects described in the NOFA publication for that year. Flexibility is needed for VA’s annual publication of the NOFA’s based on VA’s analysis of grant project needs, emerging trends in Veteran histories, and other significant milestone events related to military service.

The statute also allows VA to determine other recipients that may be eligible to receive a Veterans Legacy grant, so VA proposes to include “educational institutions” as defined in 38 U.S.C. 3452(c). This term is commonly used to capture the full spectrum of school systems that fall outside the scope of institutions of higher learning, such as public or private elementary and secondary schools, as well as vocational schools and other trade, professional, and scientific schools. The inclusion of “educational institutions,” as defined in

38 U.S.C. 3452(c), is necessary given NCA’s previous contracting experience for Veterans Legacy projects with these entities. VA intends to continue the practice of recognizing educational institution recipients, which include elementary and secondary schools, as eligible entities for Veterans Legacy grant purposes.

Further, we propose to define terms such as “educational materials” to clarify one of the purposes of the VLGP, which is to utilize the research conducted by grantees to develop instructional materials, such as lesson plans and other teaching aids. While these teaching aids are contemplated for students from kindergarten through the 12th grade, these materials may also be used for outreach events at VA national cemeteries. Additionally, we propose to define “community engagement” to describe the strategic interaction with certain groups of people to identify and address issues related to the legacy of Veterans.

VA proposes to annually publish in the **Federal Register** a NOFA that would set out the grant application and other requirements. The Office of Management and Budget (OMB) requires the issuance of a NOFA and publication of this information to ensure that eligible entities have the information required to apply for grants. Proposed § 38.725 sets out certain provisions that would be included in a NOFA, including instructions on how interested parties could apply for a grant. At a minimum, we propose the NOFA include application filing requirements, deadlines for submission, estimates of the total available funding, and the maximum funding availability to a single eligible recipient. For example, eligibility for a Veterans Legacy grant may require an entity to be accredited to ensure that an educational institution has the operational capacity to manage a Federal grant. This type of requirement would minimize the risk of default recovery actions posed by awarding grants to non-accredited institutions. These components are consistent with 2 CFR 200.203, which requires the issuance of a NOFA that includes information describing the funding opportunity, eligible entities, application submission, application review, and Federal award administration. Other information we propose to be imparted in a NOFA includes minimum scores that an applicant must receive for VA review, timeframes and manner of grant payments, and other information VA deems necessary for the application process that is commonly utilized in

similar Federal educational and research grant programs.

In § 38.720, we would provide general information about grant requirements that limit VLGP grants to eligible entities to the maximum funding availability specified in the NOFA. We would clarify that like most other educational grants, the VLGP grant is not a course buyout for teachers to use as a substitute for course instruction during an academic year. The expectation for these grants is to provide maximum resources to enable student research on Veterans and to produce that research into publicly-accessible formats. Additionally, we would clarify that the VLGP grant is not a Veterans’ benefit and that decisions on grant applications are not subject to appellate review. In this section, we would inform applicants that if VA requires a grantee to provide matching funds as a condition for receiving a VLGP grant, those criteria will be included in the NOFA published in that year.

In § 38.730, we would provide general information about the minimum requirements for grant applications that applicants must address to be considered for a VLGP grant. To apply for a VLGP grant, applicants would be required to submit a complete grant application package through *Grants.gov* (<http://www.grants.gov>). Use of this portal is a familiar and efficient means for applicants to submit grant applications. Applicants would need to provide a project description that demonstrates the best approach to accomplish the required results set out in the NOFA. The description would have to identify any project team partner entities, provide a detailed plan of projected milestones, and demonstrate the applicant’s ability and capacity to administer the grant project. VA would consider an applicant’s past experience with similar projects as defined by the NOFA or related work in that particular field or subject matter. Applicants would need to propose a budget of costs and proposed expenditures, to include compensation and honoraria. Other budgetary requirements may be included in the NOFA for that year. These disclosures would help VA assess the extent to which an applicant has considered all aspects of planning and the likelihood of successful completion of grant objectives. Further, if matching funds are required by the NOFA, the applicant would have to provide evidence of secured cash matching in a 1-to-1 ratio or an explanation of the applicant’s ability to secure commitments to receive such funding. In this section, VA also proposes a catch-all provision to allow

for flexibility in setting grant application requirements that would be published in the NOFA to tailor projects as needed.

As proposed under § 38.740, VA would review completed grant applications to ensure they meet the minimum criteria proposed in § 38.730 and score them as specified in the NOFA as published under § 38.725. Applications would have to be timely submitted and meet the minimum application and NOFA requirements, which VA would publish annually for grant projects contemplated for that year. The NOFA would include information about the scoring process and clarify the minimum point totals per scoring category that an applicant must receive to be considered for a grant. VA would rate all grant applications against each other to determine the likelihood of successful implementation of the grant projects published in that year's NOFA and would consider other factors to qualify for the grant award, as explained in proposed § 38.735. Factors such as an applicant's past performance on a prior award, an applicant's fiscal integrity, or risk assessments are examples of other considerations that would affect VA's scoring of grant applications.

As proposed under § 38.745, VA may approve VLGP grant applications in whole or in part subject to conditions VA deems necessary to ensure full flexibility in meeting Departmental or programmatic goals. VA may also disapprove an application because it does not rank sufficiently high in relation to other applications. Further, VA may defer action on applications for reasons that require further review or additional time to meet grant requirements, such as lack of funds. In all instances, VA would convey decisions in writing to applicants on all grant submissions.

For grant awards, VA proposes in § 38.755 to memorialize the awards in an agreement, in accordance with the terms set out in §§ 38.755 and 38.760 and in the NOFA published for that year. As a condition of receiving a VLGP grant, grantees and grantee subrecipients (e.g., contractors and other entities utilized by a grantee to execute grant requirements) would have to agree to operate their programs in accordance with VA regulations in proposed §§ 38.710 through 38.785, Federal regulations in 2 CFR part 200, and the information provided in the grant application. Part 200 provides uniform guidance and government-wide terms and conditions for the management of awards and the administration of Federal grants, and this rulemaking

provides additional guidance and conditions for the administration of VLGP grants in particular. Adherence to the government-wide rules would be mandatory, and compliance with the additional rules specific to VLGP grants would ensure program integrity across all VLGP grants VA awards. Included among those terms would be the grantees' compliance with recordkeeping and reporting requirements, provided in proposed §§ 38.765, 38.775, 38.780, and 38.785 and as specified in the Terms and Conditions of the grant agreement. Under proposed § 38.765, within 60 days after the last day of the grant period, grantees would have to submit a final report to VA that meets the requirements set forth in the NOFA.

Additionally, under proposed § 38.755, upon execution of the grant agreement, VA would obligate grant funds and in some cases, as provided in proposed § 38.760, would reimburse grantees for costs incurred before the effective date of the grant, to the extent such costs are authorized by VA in the NOFA or the grant agreement or authorized subsequently by VA in writing should the need arise.

VA also proposes to include withdrawal provisions in § 38.750. Applicants would be able to submit a request in writing to the VA point of contact specified in the NOFA published for that year to withdraw their application from consideration. Applicants would be required to provide a rationale for the withdrawal request. VA recognizes that the potential pool of grant applicants usually operates with limited funding and that schools, non-profit organizations, and institutions of higher learning may be subject to competing interests, especially during times of unforeseen crisis.

As proposed in § 38.770, if VA determines that recovery of funds is necessary for violations of the grant agreement or unauthorized uses of grant funds, VA would notify grantees in writing of the intent to recover grant funds. Grantees would have 30 days to submit documentation refuting the proposed recovery, which VA would review for a final determination. If VA makes a final decision that action would be taken to recover grant funds from the grantee, VA would stop further payments of grant funds under this part until the grant funds are recovered and the condition that led to the decision to recover grant funds has been resolved. We believe these measures would help safeguard Federal funds and ensure appropriate use of the VLGP grant funds awarded.

As part of VA's duty to ensure fiscal responsibility, we propose in § 38.775 to conduct site visits to grantee locations to review grantee accomplishments and management control systems. In addition, VA may conduct as needed inspections of grantee records to determine compliance with the provisions of this part. All visits and evaluations would be performed with minimal disruption to the grantee to the extent practicable. Further, as proposed in § 38.780, VA would enforce 2 CFR part 200 regulations to ensure all VLGP grant recipients comply with requirements of the Single Audit Act of 1996 and use a compliant financial management system based on OMB cost principles. As proposed in § 38.785, grantees would have to produce upon VA's request records maintained in accordance with 2 CFR 200.333.

#### **Executive Orders 12866, 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. The Office of Information and Regulatory Affairs has determined that this proposed rule is not a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its Regulatory Impact Analysis are available on VA's website at <http://www.va.gov/orpm/>, by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date."

#### **Paperwork Reduction Act**

This proposed rule contains provisions constituting collections of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that require approval by OMB. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review.

OMB assigns control numbers to collections of information it approves. 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 38 CFR 38.730 contains collections of information under the Paperwork Reduction Act of 1995. If OMB does not approve the collections of information as requested, VA will immediately remove the provisions containing collections of information or take such other action as is directed by OMB.

Comments on the collections 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. Send your comments and suggestions on this information collection by the date indicated in the **DATES** section to the Desk Officer for the Department of the Veterans Affairs at OMB-OIRA at (202) 395-5806 (fax) or [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) (email). Please indicate "Attention: This is a new OMB Control Number request." Comments should indicate that they are submitted in response to "RIN 2900-AR00."

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. Notice of OMB approval for this information collection will be published in a future **Federal Register** document.

The Department 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 the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department'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 collections of information contained in 38 CFR 38.730 are described immediately following this paragraph.

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

• *Summary of collection of information:* The new collection of information in proposed 38 CFR 38.730 would require VLGP grant applicants to submit the SF-424 as a minimum requirement to qualify for a VLGP grant.

• *Description of the need for information and proposed use of information:* The collection of information is necessary to determine applicant eligibility for a VLGP grant. VA will use this information to score completed grant applications.

• *Description of likely respondents:* Members of the public, institutions, and non-profits that are interested in applying for VA grants.

• *Estimated number of respondents:* 20 per year.

• *Estimated frequency of responses:* Annually.

• *Estimated average burden per response:* 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 is \$25.72, making the total cost for respondents an estimated \$514.40 (20 burden hours × \$25.72 per hour). (Source: May 2019 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 total annual reporting and recordkeeping burden:* There is no anticipated recordkeeping burden.

• *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. NCA 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 use of SF-424, and therefore its use is not expected to alter annualized Federal costs.

#### 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.

Receiving or not receiving a grant is unlikely to have a significant economic impact on small entity applicants, specifically non-profit institutions. 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 1 year. This proposed rule would have no such effect on State, local, and Tribal governments, or on the private sector.

#### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.204, Veterans Legacy Grant Program.

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

Administrative practice and procedure, Cemeteries, Veterans.

#### Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on March 12, 2021 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 the Secretary, Department of Veterans Affairs.

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

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

- 1. The authority citation for part 38 is revised to read as follows:

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

- 2. Add an undesignated center heading, "Veterans Legacy Grants Program," and §§ 38.710 through 38.785 to read as follows:

\* \* \* \* \*

**Veterans Legacy Grants Program**  
Sec.

- 38.710 Purpose and use of grant funds.
- 38.715 Definitions.
- 38.720 Grants—general.
- 38.725 Notice of Funding Availability (NOFA).
- 38.730 Applications.
- 38.735 Additional factors for deciding applications.
- 38.740 Scoring and selection.
- 38.745 Disposition of applications.
- 38.750 Withdrawal of grant application.
- 38.755 Grant agreement.
- 38.760 Payments under the grant.
- 38.765 Grantee reporting requirements.
- 38.770 Recovery of funds by VA.
- 38.775 Compliance review requirements.
- 38.780 Financial management.
- 38.785 Recordkeeping.

## Veterans Legacy Grants Program

### § 38.710 Purpose and use of grant funds.

Sections 38.710 through 38.785 establish the Veterans Legacy Grants Program (VLGP). Under this program, VA may provide grants to eligible entities defined in § 38.715 to:

- (a) Conduct research related to national, State, or Tribal Veterans' cemeteries;
- (b) Produce educational materials that teach about the history of Veterans interred in national, State, or Tribal Veterans' cemeteries;
- (c) Contribute to the extended memorialization of Veterans interred in national, State, or Tribal Veterans' cemeteries by presenting grantee research on national, State, or Tribal Veterans' cemeteries through site hosting and other digital technologies; and,
- (d) Promote community engagement with the histories of Veterans interred in national, State, or Tribal Veterans' cemeteries.

(Authority: 38 U.S.C. 501(d), 2400 note)

### § 38.715 Definitions.

For purposes of this part and any Notice of Funding Availability (NOFA) issued pursuant to this part:

- (a) *Applicant* means an eligible entity that submits a VLGP grant application that is announced in a NOFA.
- (b) *Community engagement* means strategic interaction with identified groups of people, whether they are connected by geographic location, special interest, or affiliation, to identify and address issues related to the legacy of Veterans.
- (c) *Eligible recipient (or entity)* means one of the following:
  - (1) An institution of higher learning;
  - (2) A local educational agency;
  - (3) A non-profit entity that the Secretary determines has a demonstrated history of community engagement that pertains to the projects described in the relevant NOFA;

- (4) An educational institution; or
- (5) Another recipient (or entity) the Secretary deems appropriate.

(d) *Institution of higher learning (IHL)* means a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree.

(e) *Educational institution* means any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or other institution furnishing education for adults.

(f) *Local educational agency (LEA)* means any public agency or authority, including a state educational agency, that has administrative control or direction over public elementary or secondary schools under 20 U.S.C. 7801(30). The term would also include any Bureau of Indian Education school, as covered in 20 U.S.C. 7801(30)(C).

(g) *State educational agency (SEA)* means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

(h) *Non-profit entity* means any organization chartered under 26 U.S.C. 501(c)(3).

(i) *Educational materials* means a framework of digital instructional materials relevant to the grade level of K–12 students involved (e.g., lesson plans) that can be used for outreach and other purposes.

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

(k) *Notice of Funding Availability (NOFA)* means a Notice of Funding Availability published in the OMB-designated government-wide website in accordance with § 38.725 and 2 CFR 200.203 regulations.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

### § 38.720 Grants—general.

(a) *Grants.* VA may award VLGP grants to eligible recipients selected under § 38.730 of this part.

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

(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 is not a course buyout.* The grant funds shall not be used to substitute a class that an instructor is required to teach during an academic year.

(e) *Matching requirement.* VA will determine whether a grantee must provide matching funds as a condition of receiving a VLGP grant as set forth in the NOFA.

(f) *Grant is not Veterans' benefit.* The VLGP grant is not a Veterans' benefit. VA decisions on VLGP applications are final and not subject to the same appeal rights as Veterans' benefits decisions.

(Authority: 38 U.S.C. 501(d), 2400 note)

### § 38.725 Notice of Funding Availability (NOFA).

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

- (a) The location for obtaining VLGP grant applications, including the specific forms that will be required;
- (b) The date, time, and place for submitting completed VLGP grant applications;
- (c) The estimated total amount of funds available and the maximum funds available to a single grantee;
- (d) The minimum number of total points and points per category that an applicant must receive to be considered for a grant and information regarding the scoring process;
- (e) Any timeframes and manner for payments under the VLGP grant;
- (f) A description of eligible entities or other eligibility requirements necessary to receive the grant; and
- (g) Other information necessary for the VLGP grant application process, as determined by VA, including contact information for the office that will oversee the VLGP within VA.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

### § 38.730 Applications.

To apply for a grant, an eligible entity must submit to VA a complete application package, as described in the NOFA. Applications will be accepted only through *Grants.gov* (<http://www.grants.gov>). A complete grant application, as further described in the NOFA, includes standard forms specified in the NOFA and the following:

- (a) *Project Description.* Each project must serve a minimum of one VA national cemetery, State Veterans'

cemetery, or Tribal Veterans' cemetery. The applicant must provide a narrative project description that demonstrates the best approach for attaining required results as set forth in the NOFA;

(b) *Project Team*. If applicable, the applicant must provide a narrative description of anticipated project team and any work partner(s), including the responsibilities of the principal investigator, the co-principal investigators, and any extramural partner entity;

(c) *Project plan*. The applicant must include a detailed timeline for the tasks outlined in the project description and proposed milestones;

(d) *Expertise and capacity*. The applicant must provide a description of the applicant's ability and capacity to administer the project. This may include evidence of past experience with projects similar in scope as defined by the NOFA, to include descriptions of the engagement model, examples of successful leadership and management of a project of similar scale and budget (or greater), or related work in this field;

(e) *Match*. If specified as a requirement in the NOFA, the applicant must provide evidence of secured cash matching (1:1) funds or of its ability to secure commitments to receive such funds;

(f) *Proposed Budget*. The applicant's proposed budget should identify all costs and proposed expenditures, to include additional compensation and honoraria (and to whom); equipment costs; production costs; and travel costs. The applicant must provide a budget that specifies costs and payments, as well as indirect and other relevant costs. The budget will be submitted in a format specified in the NOFA; and

(g) *Additional information*. Any additional information as deemed appropriate by VA and set forth in the NOFA.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

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

(a) *Applicant's performance on prior award*. VA may consider the applicant's noncompliance with requirements applicable to prior VA or other Federal 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.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

#### **§ 38.740 Scoring and selection.**

(a) *Scoring*. VA will only score complete applications received from eligible applicants by the deadline established in the NOFA. The applications must meet the minimum criteria set forth in § 38.730 and will be scored as specified in the NOFA, as set forth in § 38.725.

(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. NOFA announcements may also clarify the selection criteria in paragraph (a). The relative weight (point value) for each selection will be specified in the NOFA. VA will award any VLGP grant on the primary basis of the scores but will also consider a risk assessment evaluation.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

#### **§ 38.745 Disposition of applications.**

(a) *Disposition of applications*. Upon review of an application and dependent on 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 § 38.755, will be issued to the applicant of an approved application.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

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

Applicants may withdraw a VLGP application submitted through *Grants.gov* by writing the specified VA point of contact and including rationale for the withdrawal request within a certain number of days as determined in the NOFA.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

#### **§ 38.755 Grant agreement.**

After a grant is approved for award, VA will draft a grant agreement to be executed by VA and the grantee. Upon execution of the grant agreement, VA will obligate the grant amount. The grant agreement will provide that the recipient agrees, and will ensure that each subrecipient (if applicable) agrees, to:

(a) Operate the program in accordance with the provisions of §§ 38.710 through 38.785, 2 CFR part 200, and the applicant's VLGP application;

(b) Comply with such other terms and conditions, including recordkeeping and reports for program monitoring and evaluation purposes, as VA may establish in the Terms and Conditions of the grant agreement for purposes of carrying out the VLGP project in an effective and efficient manner; and

(c) Provide additional information that VA requests with respect to:

(1) Program effectiveness, as defined in the Terms and Conditions of the grant agreement;

(2) Compliance with the Terms and Conditions of the grant agreement; and

(3) Criteria for evaluation, as defined in the Terms and Conditions of the grant agreement.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

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

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

(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 may be reimbursed for costs resulting from obligations incurred before the effective date of the grant, if such costs are authorized by VA in the NOFA or the grant agreement or authorized subsequently by VA in writing, and otherwise would be allowable as costs of the grant under applicable guidelines, regulations, and terms and conditions of the grant agreement.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

#### **§ 38.765 Grantee reporting requirements.**

(a) *Final report*. All grantees must submit to VA, not later than 60 days after the last day of grant period for which a grant is provided under this part, a final report that meets the requirement set forth in the NOFA.

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

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

### **§ 38.770 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 such funds, VA will issue to the grantee a notice of intent to recover grant funds, and the grantee will then have 30 days to return the grant funds or submit documentation demonstrating why the grant funds should not be returned. After review of all submitted documentation, VA will determine whether action will be taken to recover the grant funds.

(b) *Prohibition of additional VLGP payments.* When VA makes a final decision to recover grant funds from the grantee, VA must stop further payments of grant funds under this part until the grant funds are recovered and the condition that led to the decision to recover grant funds has been resolved.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

### **§ 38.775 Compliance review requirements.**

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

(b) *Inspections.* VA may 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: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

### **§ 38.780 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 200.400–200.475.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.400–200.475)

### **§ 38.785 Recordkeeping.**

Grantees must ensure that records are maintained in accordance with 2 CFR 200.333. Grantees must produce such records at VA's request.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.333)

[FR Doc. 2021–05721 Filed 3–25–21; 8:45 am]

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA–R06–OAR–2021–0177; FRL–10021–16–Region 6]

### **Air Plan Approval; Texas; Clean Air Act Requirements for Emissions Inventories for Nonattainment Areas for the 2015 Ozone National Ambient Air Quality Standards**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the portions of the State Implementation Plan (SIP) submitted by the State of Texas to meet the Emissions Inventory (EI) requirements of the Federal Clean Air Act (CAA or the Act), for the Dallas-Fort Worth (DFW), Houston-Galveston-Brazoria (HGB), and Bexar County ozone nonattainment areas for the 2015 8-hour ozone national ambient air quality standards (NAAQS). EPA is proposing to approve this action pursuant to section 110 and part D of the CAA and EPA's regulations.

**DATES:** Written comments must be received on or before April 26, 2021.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2021–0177, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For 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>.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov). While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.*, CBI).

**FOR FURTHER INFORMATION CONTACT:** Ms. Nevine Salem, EPA Region 6 Office, Infrastructure and Ozone Section, 214–665–7222, [salem.nevine@epa.gov](mailto:salem.nevine@epa.gov). Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via <https://www.regulations.gov>, as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

### **SUPPLEMENTARY INFORMATION:**

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

### **I. Background**

Ozone is a gas that is formed by the reaction of Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO<sub>x</sub>) in the atmosphere in the presence of sunlight. Therefore, an emission inventory for ozone focuses on the emissions of VOC and NO<sub>x</sub> referred to as ozone precursors. These precursors (VOC and NO<sub>x</sub>) are emitted by many types of pollution sources, including point sources such as power plants and industrial emissions sources; on-road and off-road mobile sources (motor vehicles and engines); and smaller residential and commercial sources, such as dry cleaners, auto body shops, and household paints, collectively referred to as nonpoint sources (also called area sources).

#### **1. The 2015 Ozone NAAQS**

On October 1, 2015 the EPA revised both the primary and secondary NAAQS<sup>1</sup> for ozone from concentration

<sup>1</sup> The primary ozone standards provide protection for children, older adults, and people with asthma or other lung diseases, and other at-risk populations against an array of adverse health effects that include reduced lung function, increased respiratory symptoms and pulmonary inflammation; effects that contribute to emergency department visits or hospital admissions; and mortality. The secondary ozone standards protect

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