

## Department of Veterans Affairs

## § 61.65

(f) VA may also seek recovery under § 61.67 of this part where a capital grant recipient fails to provide supportive services and/or supportive housing for the minimum period of operation under § 61.67.

(g) Where a recipient has no control over causes for delays in implementing a project, VA may change the due date, as appropriate.

(h) Grant recipients that concurrently receive per diem and special needs payments shall not be paid more than 100 percent of the cost of the bed per day, product, operation, personnel, or service provided.

(i) No funds provided under this part may be used to replace Federal, State or local funds previously used, or designated for use, to assist homeless veterans.

(j) VA may obligate any recovered funds without fiscal year limitation.

(Authority: 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064, 7721 note)

### § 61.62 Program changes.

(a) Except as provided in paragraphs (b) through (d) of this section, a recipient may not make any significant changes to a project for which a grant has been awarded without prior VA approval. Significant changes include, but are not limited to, a change in the recipient, a change in the project site (including relocating, adding an annex, a branch, or other expansion), additions or deletions of activities, shifts of funds from one approved type of activity to another, and a change in the category of participants to be served.

(b) Recipients of grants exceeding \$100,000 for nonconstruction projects must receive prior VA approval for cumulative transfers among direct cost categories which exceed or are expected to exceed 10 percent of the current total approved budget.

(c) Recipients of grants for projects involving both construction and non-construction who are State or local governments must receive prior VA approval for any budget revision which would transfer funds between non-construction and construction categories.

(d) Approval for changes is contingent upon the application ranking remaining high enough after the ap-

proved change to have been competitively selected for funding in the year the application was selected.

(e) Any changes to an approved program must be fully documented in the recipient's records.

(Authority: 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064, 7721 note)

### § 61.63 Procedural error.

If an application would have been selected but for a procedural error committed by VA, VA will select that application for potential funding when sufficient funds become available if there is no material change in the information that resulted in its selection. A new application will not be required for this purpose.

(Authority: 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064, 7721 note)

### § 61.64 Religious organizations.

(a) As a condition for receiving assistance under this part, an organization that is primarily a religious organization must agree to conduct activities for which the assistance is provided in a manner that is free from religious influences and must comply with the following:

(1) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(2) It will not discriminate against any person applying for housing or supportive services on the basis of religion and will not limit such housing or services or give preference to persons on the basis of religion; and

(3) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence as a condition of the provision of housing and supportive services.

(Authority: 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064, 7721 note)

### § 61.65 Inspections.

VA may inspect the facility and any records of an entity applying for or receiving assistance under this part at such times as are deemed necessary to

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determine compliance with the provisions of this part. The authority to inspect carries with it no authority over the management or control of any entity applying for or receiving assistance under this part.

(Authority: 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064, 7721 note)

**§ 61.66 Financial management.**

(a) All recipients shall comply with applicable requirements of the Single Audit Act Amendments of 1996, as implemented by OMB Circular A-133.

(b) All entities receiving assistance under this part must use a financial management system that follows generally accepted accounting principals and provides accounting records, including cost accounting records that are supported by documentation. Such cost accounting must be reflected in the entity's fiscal cycle financial statements to the extent that the actual costs can be determined for the program for which assistance is provided. All entities receiving per diem under this part must monitor the accuracy of the costs used to determine payment amounts per veteran. Entities receiving assistance must meet the applicable requirements of the appropriate OMB Circular for Cost-Principles (A-122 or A-87).

(Authority: 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064, 7721 note)

**§ 61.67 Recovery provisions.**

(a) If after 3 years from the date of award of a capital grant, the grant recipient has withdrawn from the VA Homeless Providers Grant and Per Diem Program (Program); does not establish the project for which the grant was made; or has established the project for which the grant was made but has not had final inspection, VA would be entitled to recover from the grant recipient all of the grant amounts provided for the project.

(b) Where the grant recipient is not subject to recovery under paragraph (a) of this section, VA will seek recovery of the grant amount on a prorated basis where the grant recipient ceases to provide services for which the grant was made or withdraws from the Program prior to the expiration of the ap-

plicable period of operation, which period shall begin on the date of final inspection for which the grant was made. The amount to be recaptured equals the total amount of the grant, multiplied by the fraction resulting from using the number of years the recipient was not operational as the numerator, and using the number of years of operation required under the following chart as the denominator.

Grant amount (dollars in thousands)	Years of operation
0-250 .....	7
251-500 .....	8
501-750 .....	9
751-1,000 .....	10
1,001-1,250 .....	11
1,251-1,500 .....	12
1,501-1,750 .....	13
1,751-2,000 .....	14
2,001-2,250 .....	15
2,251-2,500 .....	16
2,501-2,750 .....	17
2,751-3,000 .....	18
Over 3,000 .....	20

*Example A:* Grantee A is awarded a grant and does not bring the project to operational status within 3 years from the time of award. Grantee A may be subject to full recapture of the grant award.

*Example B:* Grantee B is awarded a grant in the amount of \$300,000 and brings the project to operational status within 3 years from the time of award. Grantee B then provides services to homeless veterans for a period of 6 years from the date the program was operationalized, but now decides to close the program. As the original award was \$300,000 and as a condition of receiving the grant funds Grantee B agreed to provide services for 8 years. Therefore, Grantee B would be subject to the prorated recapture of the grant award for the 2-year period not served or in this case 1/4 of the original grant would be subject to recapture.

*Example C:* Grantee C is awarded a grant in the amount of \$400,000, becomes operational within 1 year of the date of the grant award and ceases operation 1 year later, 2 years after the date of the grant award. After the expiration of the 3-year period beginning on the date of the grant award, Grantee C would be subject to prorated recapture for the 7 years it did not provide service of the required 8 years of operation. The amount subject to recapture would thus be  $7/8 \times \$400,000$  or \$350,000.

(c) VA will seek to recover from the recipient of per diem, a special needs grant, or a technical assistance grant