

agreement shall be stated in a written Memorandum of Understanding. The sponsor shall withdraw services if the station's inability to provide monetary or in-kind support to the project under the Memorandum of Understanding diminishes or jeopardizes the project's financial capabilities to fulfill its obligations.

(5) Under no circumstances shall a Foster Grandparent receive a fee for service from service recipients, their legal guardian, members of their family, or friends.

(d) *Labor and anti-labor activity.* The sponsor shall not use grant funds directly or indirectly to finance labor or anti-labor organization or related activity.

(e) *Fair labor standards.* A sponsor that employs laborers and mechanics for construction, alteration, or repair of facilities shall pay wages at prevailing rates as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. 276a.

(f) *Nondiscrimination.* A sponsor or sponsor employee shall not discriminate against a Foster Grandparent on the basis of race, color, national origin, sex, age, religion, or political affiliation, or on the basis of disability, if the Foster Grandparent with a disability is qualified to serve.

(g) *Religious activities.* (1) A Foster Grandparent or a member of the project staff funded by the Corporation shall not give religious instruction, conduct worship services or engage in any form of proselytization as part of his or her duties.

(2) A sponsor or volunteer station may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use Corporation funds to support any inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part.

(h) *Nepotism.* Persons selected for project staff positions shall not be re-

lated by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is written concurrence from the community group established by the sponsor under Subpart B of this part and with notification to the Corporation.

[64 FR 14126, Mar. 24, 1999, as amended at 69 FR 60095, Oct. 7, 2004]

§ 2552.122 What legal coverage does the Corporation make available to Foster Grandparents?

It is within the Corporation's discretion to determine if Counsel is employed and counsel fees, court costs, bail and other expenses incidental to the defense of a Foster Grandparent are paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the Foster Grandparent's activities pursuant to the Act. The circumstances under which the Corporation may pay such expenses are specified in 45 CFR part 1220.

PART 2553—THE RETIRED AND SENIOR VOLUNTEER PROGRAM

Subpart A—General

Sec.

2553.11 What is the Retired and Senior Volunteer Program?

2553.12 Definitions.

Subpart B—Eligibility and Responsibilities of a Sponsor

2553.21 Who is eligible to serve as a sponsor?

2553.22 What are the responsibilities of a sponsor?

2553.23 What are a sponsor's program responsibilities?

2553.24 What are a sponsor's responsibilities for securing community participation?

2553.25 What are a sponsor's administrative responsibilities?

2553.26 May a sponsor administer more than one program grant from the Corporation?

Subpart C—Suspension, Termination and Denial of Refunding

2553.31 What are the rules on suspension, termination and denial of refunding of grants?

§ 2553.11

Subpart D—Eligibility, Cost Reimbursements and Volunteer Assignments

2553.41 Who is eligible to be a RSVP volunteer?

2553.42 Is a RSVP volunteer a federal employee, an employee of the sponsor or of the volunteer station?

2553.43 What cost reimbursements are provided to RSVP volunteers?

2553.44 May cost reimbursements received by a RSVP volunteer be subject to any tax or charge, treated as wages or compensation, or affect eligibility to receive assistance from other programs?

Subpart E—Volunteer Terms of Service

2553.51 What are the terms of service of a RSVP volunteer?

2553.52 Under what circumstances may a RSVP volunteer's service be terminated?

Subpart F—Responsibilities of a Volunteer Station

2553.61 When may a sponsor serve as a volunteer station?

2553.62 What are the responsibilities of a volunteer station?

Subpart G—Application and Fiscal Requirements

2553.71 What is the process for application and award of a grant?

2553.72 What are project funding requirements?

2553.73 What are grants management requirements?

Subpart H—Non-Corporation Funded Projects

2553.81 Under what conditions may an agency or organization sponsor a RSVP project without Corporation funding?

2553.82 What benefits are a non-Corporation funded project entitled to?

2553.83 What financial obligation does the Corporation incur for non-Corporation funded projects?

2553.84 What happens if a non-Corporation funded sponsor does not comply with the Memorandum of Agreement?

Subpart I—Restrictions and Legal Representation

2553.91 What legal limitations apply to the operation of the RSVP Program and to the expenditure of grant funds?

2553.92 What legal coverage does the Corporation make available to RSVP volunteers.

45 CFR Ch. XXV (10-1-14 Edition)

Subpart J—Performance Measures

2553.100 What is the purpose of this subpart?

2553.101 What is the purpose of performance measurement?

2553.102 What performance measurement information must be part of an application for funding under RSVP?

2553.103 Who develops the performance measures?

2553.104 What performance measures must be submitted to the Corporation and how are these submitted?

2553.105 How are performance measures approved and documented?

2553.106 How does a sponsor report performance measures to the Corporation?

2553.107 What must a sponsor do if it cannot meet its performance measures?

2553.108 When may a sponsor change a project's performance measures?

2553.109 What happens if a sponsor fails to meet the performance measures included in the Notice of Grant Award (NGA)?

AUTHORITY: 42 U.S.C. 4950 *et seq.*

SOURCE: 64 FR 14135, Mar. 24, 1999, unless otherwise noted.

Subpart A—General

§ 2553.11 What is the Retired and Senior Volunteer Program?

The Retired and Senior Volunteer Program (RSVP) provides grants to qualified agencies and organizations for the dual purpose of: engaging persons 55 and older in volunteer service to meet critical community needs; and to provide a high quality experience that will enrich the lives of volunteers.

§ 2553.12 Definitions.

(a) *Act.* The Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 396, 42 U.S.C. 4950 *et seq.*

(b) *Adequate staffing level.* The number of project staff or full-time equivalent needed by a sponsor to manage NSSC project operations considering such factors as: number of budgeted volunteers, number of volunteer stations, and the size of the service area.

(c) *Assignment.* The activities, functions or responsibilities to be performed by volunteers identified in a written outline or description.

(d) *Chief Executive Officer.* The Chief Executive Officer of the Corporation

Corporation for National and Community Service**§ 2553.12**

appointed under the National and Community Service Act of 1990, as amended, (NCSA), 42 U.S.C. 12501 *et seq.*

(e) *Corporation.* The Corporation for National and Community Service established under the NCSA. The Corporation is also sometimes referred to as CNCS.

(f) *Cost reimbursements.* Reimbursements budgeted as Volunteer Expenses and provided to volunteers to cover incidental costs, meals, transportation, volunteer insurance, and recognition to enable them to serve without cost to themselves.

(g) *Letter of Agreement.* A written agreement between a volunteer station, the sponsor, and person(s) served or the person legally responsible for that person. It authorizes the assignment of a RSVP volunteer in the home of a client, defines RSVP volunteer activities, and specifies supervision arrangements.

(h) *Memorandum of Understanding.* A written statement prepared and signed by the RSVP project sponsor and the volunteer station that identifies project requirements, working relationships and mutual responsibilities.

(i) *National Senior Service Corps (NSSC).* The collective name for the Foster Grandparent Program (FGP), the Retired and Senior Volunteer Program (RSVP), and the Senior Companion Program (SCP), and Demonstration Programs established under Parts A, B, C, and E, Title II of the Act. NSSC is also referred to as the "Senior Corps".

(j) *Non-Corporation support (required).* The percentage share of non-Federal cash and in-kind contributions required to be raised by the sponsor in support of the grant, including non-Corporation federal, state and local governments and privately raised contributions.

(k) *Non-Corporation support (excess).* The amount of non-Federal cash and in-kind contributions generated by a sponsor in excess of the required percentage.

(l) *Performance measures.* Indicators intended to help determine the impact of an RSVP project on the community, including the volunteers. Performance measures currently include, but are

not limited to, the following performance indicators:

(1) *Output indicator.* The amount or units of service that RSVP volunteers have completed, or the number of people the project has served. An output indicator does not provide information on benefits or other changes in the lives of the volunteers or the people served.

(2) *Outcome indicator.* Specifies a change that has occurred in the lives of the people served or the volunteers. It is an observable and measurable indication of whether or not a project is making progress toward its outcome target.

(m) *Project.* The locally planned and implemented RSVP activity or set of activities in a service area as agreed upon between a sponsor and the Corporation.

(n) *Qualified individual with a disability.* An individual with a disability (as defined in the Rehabilitation Act, 29 U.S.C. 705 (20)) who, with or without reasonable accommodation, can perform the essential functions of a volunteer position that such individual holds or desires. If a sponsor has prepared a written description before advertising or interviewing applicants for the position, the written description may be considered evidence of the essential functions of the volunteer position.

(o) *Service area.* The geographically defined area approved in the grant application, in which RSVP volunteers are recruited, enrolled, and placed on assignments.

(p) *Sponsor.* A public agency or private non-profit organization, either secular or faith-based, that is responsible for the operation of an RSVP project.

(q) *Trust Act.* The National and Community Service Trust Act of 1993, as amended, Public Law 103-82, Sept. 21, 1993, 107 Stat. 785.

(r) *United States and States.* Each of the several States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam and American Samoa, and Trust Territories of the Pacific Islands.

(s) *Volunteer station.* A public agency, secular or faith-based private non-profit organization, or proprietary health

§ 2553.21

care organization that accepts the responsibility for assignment and supervision of RSVP volunteers in health, education, social service or related settings such as multi-purpose centers, home health care agencies, or similar establishments. Each volunteer station must be licensed or otherwise certified, when required, by the appropriate state or local government. Private homes are not volunteer stations.

[64 FR 14135, Mar. 24, 1999, as amended at 69 FR 60095, Oct. 7, 2004; 76 FR 20246, Apr. 12, 2011]

Subpart B—Eligibility and Responsibilities of a Sponsor

§ 2553.21 Who is eligible to serve as a sponsor?

The Corporation awards grants to public agencies, including Indian tribes and non-profit private organizations, both secular and faith-based, in the United States that have authority to accept and the capability to administer an RSVP project.

[69 FR 60095, Oct. 7, 2004]

§ 2553.22 What are the responsibilities of a sponsor?

A sponsor is responsible for fulfilling all project management requirements necessary to accomplish the purposes of the RSVP program as specified in the Act. A sponsor shall not delegate or contract these responsibilities to another entity. A sponsor shall comply with all regulations contained in this part, policies, and grant provisions prescribed by the Corporation.

§ 2553.23 What are a sponsor's program responsibilities?

A sponsor shall:

(a) Focus RSVP resources to have a positive impact on critical human and social needs within the project service area.

(b) Assess in collaboration with other community organizations or utilize existing assessments of the needs of the community or service area and develop strategies to respond to those needs using the resources of RSVP volunteers.

(c) Develop and manage a system of volunteer stations to provide a wide

45 CFR Ch. XXV (10-1-14 Edition)

range of placement opportunities that appeal to persons age 55 and over by:

(1) Ensuring that a volunteer station is a public or non-profit private organization, whether secular or faith-based, or an eligible proprietary health care agency, capable of serving as a volunteer station for the placement of RSVP volunteers to meet locally identified needs;

(2) Ensuring the placement of RSVP volunteers is governed by a Memorandum of Understanding:

(i) That is negotiated prior to placement;

(ii) That specifies the mutual responsibilities of the station and sponsor;

(iii) That is renegotiated at least every three years; and

(iv) That states the station assures it will not discriminate against RSVP volunteers or in the operation of its program on the basis of race; color; national origin, including individuals with limited English proficiency; sex; age; political affiliation; religion; or on the basis of disability, if the participant or member is a qualified individual with a disability; and

(3) Annually assessing the placement of RSVP volunteers to ensure the safety of volunteers and their impact on meeting the needs of the community.

(d) Consider the demographic make-up of the project service area in the enrollment of RSVP volunteers, taking special efforts to recruit eligible individuals from minority groups, persons with disabilities and under represented groups.

(e) Encourage the most efficient and effective use of RSVP volunteers by co-ordinating project services and activities with related national, state and local programs, including other Corporation programs.

(f) Develop, and annually update, a plan for promoting service by older adults within the project service area.

(g) Conduct an annual assessment of the accomplishments and impact of the project and how they meet the identified needs and problems of the community.

(h) Provide RSVP volunteers with cost reimbursements specified in § 2553.43.

Corporation for National and Community Service**§ 2553.26**

(i) Minimize any disruption to RSVP volunteers when one sponsor is replaced by another as a result of relinquishment, denial of refunding, or recompetition of a grant.

(j) Make every effort to meet such performance measures as may be established for the RSVP project by mutual agreement.

[64 FR 14135, Mar. 24, 1999, as amended at 67 FR 6875, Feb. 14, 2002; 69 FR 60095, Oct. 7, 2004; 76 FR 20246, Apr. 12, 2011]

§ 2553.24 What are a sponsor's responsibilities for securing community participation?

(a) A sponsor shall secure community participation in local project operation by establishing an Advisory Council or a similar organizational structure with a membership that includes people:

(1) Knowledgeable about human and social needs of the community;

(2) Competent in the field of community service and volunteerism;

(3) Capable of helping the sponsor meet its administrative and program responsibilities including fund-raising, publicity and programming for impact;

(4) With an interest in and knowledge of the capability of older adults; and

(5) Of a diverse composition that reflects the demographics of the service area.

(b) The sponsor determines how this participation shall be secured, consistent with the provisions of paragraphs (a)(1) through (a)(5) of this section.

§ 2553.25 What are a sponsor's administrative responsibilities?

A sponsor shall:

(a) Assume full responsibility for securing maximum and continuing community financial and in-kind support to operate the project successfully.

(b) Provide levels of staffing and resources appropriate to accomplish the purposes of the project and carry out its project management responsibilities.

(c) Employ a full-time project director to accomplish program objectives and manage the functions and activities delegated to project staff for NSSC program(s) within its control. A full-time project director shall not serve concurrently in another capacity, paid

or unpaid, during established working hours. The project director may participate in activities to coordinate program resources with those of related local agencies, boards or organizations. A sponsor may negotiate the employment of a part-time project director with the Corporation when it can be demonstrated that such an arrangement will not adversely affect the size, scope and quality of project operations.

(d) Consider all project staff as sponsor employees subject to its personnel policies and procedures.

(e) Compensate project staff at a level that is comparable with similar staff positions in the sponsor organization and/or project service area.

(f) Establish risk management policies and procedures covering project and RSVP activities. This includes provision of appropriate insurance coverage for RSVP volunteers, vehicles and other properties used in the project.

(g) Establish record keeping and reporting systems in compliance with Corporation requirements that ensure quality of program and fiscal operations, facilitate timely and accurate submission of required reports and cooperate with Corporation evaluation and data collection efforts.

(h) Comply with and ensure that all volunteer stations comply with all applicable civil rights laws and regulations, including providing reasonable accommodation to qualified individuals with disabilities.

(i) Conduct criminal history checks on all grant-funded staff employed on or after October 1, 2009, in accordance with the requirements in 45 CFR 2540.200-207.

[64 FR 14135, Mar. 24, 1999, as amended at 74 FR 46509, Sept. 10, 2009]

§ 2553.26 May a sponsor administer more than one program grant from the Corporation?

A sponsor may administer more than one Corporation program grant.

§ 2553.31

Subpart C—Suspension, Termination and Denial of Refunding

§ 2553.31 What are the rules on suspension, termination and denial of refunding of grants?

(a) The Chief Executive Officer or designee is authorized to suspend further payments or to terminate payments under any grant providing assistance under the Act whenever he or she determines there is a material failure to comply with applicable terms and conditions of the grant. The Chief Executive Officer shall prescribe procedures to insure that:

(1) Assistance under the Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days;

(2) An application for refunding under the Act may not be denied unless the recipient has been given:

(i) Notice at least 75 days before the denial of such application of the possibility of such denial and the grounds for any such denial; and

(ii) Opportunity to show cause why such action should not be taken;

(3) In any case where an application for refunding is denied for failure to comply with the terms and conditions of the grant, the recipient shall be afforded an opportunity for an informal hearing before an impartial hearing officer, who has been agreed to by the recipient and the Corporation; and

(4) Assistance under the Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) In order to assure equal access to all recipients, such hearings or other meetings as may be necessary to fulfill the requirements of this section shall be held in locations convenient to the recipient agency.

(c) Beginning in FY 2013, the procedures for suspension and termination of RSVP grants, which are specified in 45 CFR part 1206, shall continue to apply, but the procedures in part 1206 applicable to denial of refunding of an RSVP grantee shall not apply to any grant awarded through the competitive

45 CFR Ch. XXV (10-1-14 Edition)

process described in § 2553.71 of this part.

[64 FR 14135, Mar. 24, 1999, as amended at 76 FR 20246, Apr. 12, 2011]

Subpart D—Eligibility, Cost Reimbursements and Volunteer Assignments

§ 2553.41 Who is eligible to be a RSVP volunteer?

(a) To be an RSVP volunteer, an individual must:

- (1) Be 55 years of age or older;
- (2) Agree to serve without compensation;

(3) Reside in or nearby the community served by RSVP;

(4) Agree to abide by all requirements as set forth in this part.

(b) Eligibility to serve as a RSVP volunteer shall not be restricted on the basis of formal education, experience, race, religion, color, national origin, sex, age, handicap or political affiliation.

§ 2553.42 Is a RSVP volunteer a federal employee, an employee of the sponsor or of the volunteer station?

RSVP volunteers are not employees of the sponsor, the volunteer station, the Corporation, or the Federal Government.

§ 2553.43 What cost reimbursements are provided to RSVP volunteers?

RSVP volunteers are provided the following cost reimbursements within the limits of the project's available resources:

(a) *Transportation.* RSVP volunteers shall receive assistance with the cost of transportation to and from volunteer assignments and official project activities, including orientation, training, and recognition events.

(b) *Meals.* RSVP volunteers shall receive assistance with the cost of meals taken while on assignment.

(c) *Recognition.* RSVP volunteers shall be provided recognition for their service.

(d) *Insurance.* A RSVP volunteer is provided with the Corporation-specified minimum levels of insurance as follows:

Corporation for National and Community Service**§ 2553.61**

(1) *Accident insurance.* Accident insurance covers RSVP volunteers for personal injury during travel between their homes and places of assignment, during their volunteer service, during meal periods while serving as a volunteer, and while attending project sponsored activities. Protection shall be provided against claims in excess of any benefits or services for medical care or treatment available to the volunteer from other sources.

(2) *Personal liability insurance.* Protection is provided against claims in excess of protection provided by other insurance. It does not include professional liability coverage.

(3) *Excess automobile liability insurance.* (i) For RSVP volunteers who drive in connection with their service, protection is provided against claims in excess of the greater of either:

(A) Liability insurance the volunteers carry on their own automobiles; or

(B) The limits of applicable state financial responsibility law, or in its absence, levels of protection to be determined by the Corporation for each person, each accident, and for property damage.

(ii) RSVP volunteers who drive their personal vehicles to or on assignments or project-related activities shall maintain personal automobile liability insurance equal to or exceeding the levels established by the Corporation.

(e) *Other volunteer expenses.* RSVP volunteers may be reimbursed for expenses incurred while performing their volunteer assignments, provided these expenses are described in the Memorandum of Understanding negotiated with the volunteer station and there are sufficient funds available to cover these expenses and meet all other requirements identified in the notice of grant award.

[64 FR 14135, Mar. 24, 1999, as amended at 69 FR 20831, Apr. 19, 2004; 69 FR 56718, Sept. 22, 2004]

§ 2553.44 May cost reimbursements received by a RSVP volunteer be subject to any tax or charge, treated as wages or compensation, or affect eligibility to receive assistance from other programs?

No. RSVP volunteers' cost reimbursements are not subject to any tax or charge and are not treated as wages or compensation for the purposes of unemployment insurance, worker's compensation, temporary disability, retirement, public assistance, or similar benefit payments or minimum wage laws. Cost reimbursements are not subject to garnishment, do not reduce or eliminate the level of or eligibility for assistance or services a volunteer may be receiving under any governmental program.

Subpart E—Volunteer Terms of Service**§ 2553.51 What are the terms of service of a RSVP volunteer?**

A RSVP volunteer shall serve weekly on a regular basis, or intensively on short-term assignments consistent with the assignment description.

§ 2553.52 Under what circumstances may a RSVP volunteer's service be terminated?

(a) A sponsor may remove a RSVP volunteer from service for cause. Grounds for removal include but are not limited to: extensive and unauthorized absences; misconduct; inability to perform assignments; and failure to accept supervision.

(b) The sponsor shall establish appropriate policies on service termination as well as procedures for appeal from such adverse action.

Subpart F—Responsibilities of a Volunteer Station**§ 2553.61 When may a sponsor serve as a volunteer station?**

The sponsor may function as a volunteer station, provided that no more than 5% of the total number of volunteers budgeted for the project are assigned to it in administrative or support positions. This limitation does not apply to the assignment of volunteers to other programs administered by the

§ 2553.62

sponsor or special volunteer activities of the project. The RSVP project itself may function as a volunteer station or may initiate special volunteer activities provided the Corporation agrees that these activities are in accord with program objectives and will not hinder overall project operations.

§ 2553.62 What are the responsibilities of a volunteer station?

A volunteer station shall undertake the following responsibilities in support of RSVP volunteers:

- (a) Develop volunteer assignments that impact critical human and social needs, and regularly assess those assignments for continued appropriateness;
- (b) Assign staff member responsible for day to day oversight of the placement of RSVP volunteers within the volunteer station and for assessing the impact of volunteers in addressing community needs;
- (c) Obtain a Letter of Agreement for an RSVP volunteer assigned in-home. The Letter of Agreement shall comply with all Federal, State and local regulations;
- (d) Keep records and prepare reports as required;
- (e) Comply with all applicable civil rights laws and regulations including reasonable accommodation for RSVP volunteers with disabilities; and
- (f) Provide assigned RSVP volunteers the following support:
 - (1) Orientation to station and appropriate in-service training to enhance performance of assignments;
 - (2) Resources required for performance of assignments including reasonable accommodation;
 - (3) Supervision while on assignment;
 - (4) Appropriate recognition; and
 - (5) Provide for the safety of RSVP volunteers assigned to it.
- (g) Undertake such other responsibilities as may be necessary to the successful performance of RSVP volunteers in their assignments or as agreed to in the Memorandum of Understanding.

45 CFR Ch. XXV (10-1-14 Edition)

Subpart G—Application and Fiscal Requirements

§ 2553.71 What is the process for application and award of a grant?

As funds become available, the Corporation solicits applications for RSVP grants from eligible organizations through a competitive process.

(a) *What are the application requirements for an RSVP grant?* An applicant must:

- (1) Submit required information determined by the Corporation.

(2) Demonstrate compliance with any applicable requirements specified in the Notice of Funding Availability or Notice of Funding Opportunity.

(b) *What process does the Corporation use to select new RSVP grantees?* (1) The Corporation reviews and determines the merits of an application by its responsiveness to published guidelines and to the overall purpose and objectives of the program. In conducting its review during the competitive process, the Corporation considers the input and opinions of those serving on a peer review panel, including members with expertise in senior service and aging, and may conduct site inspections, as appropriate.

(2) The selection process includes:

(i) Determining whether an application complies with the application requirements, such as deadlines, eligibility, and programmatic requirements, including performance measurement requirements;

(ii) Applying published selection criteria, as stated in the applicable Notice of Funding Availability or Notice of Funding Opportunity, to assess the quality of the application;

(iii) Applying any applicable priorities or preferences, as stated in the applicable Notice of Funding Availability or Notice of Funding Opportunity;

(iv) Ensuring innovation and geographic, demographic, and programmatic diversity across the Corporation's RSVP grantee portfolio; and

(v) Identifying the applications that most completely respond to the published guidelines and offer the highest probability of successfully carrying out the overall purpose and objectives of the program.

Corporation for National and Community Service**§ 2553.72**

(c) *How is a grant awarded?* (1) Subject to the availability of funds, the award will be documented by a Notice of Grant Award (NGA).

(2) The Corporation and the sponsoring organization are parties to the NGA. The NGA will document the sponsor's commitment to fulfill specific programmatic objectives and financial obligations. It will document the extent of the Corporation's obligation to provide assistance to the sponsor.

(d) *What happens if the Corporation rejects an application?* The Corporation will return to the applicant an application that is not approved for funding, informing the applicant of the Corporation's decision.

(e) *For what period of time does the Corporation award a grant?* The Corporation awards an RSVP grant for a specified period that is 3 years in duration with an option for a grant renewal of 3 years, if the grantee's performance and compliance with grant terms and conditions are satisfactory. The Corporation will use the Denial of Refunding procedures set forth in 45 CFR part 1206 to deny funding to a grantee when the Corporation determines that the grant should not be renewed for an additional 3 years.

(f) *What assistance in preparation for competitive award of all RSVP grants will the Corporation provide to sponsors who have previously received a grant and whose grants are expiring in fiscal year 2011, 2012, or 2013?* (1) For each grant expiring in fiscal years 2011, 2012, or 2013, the Corporation will evaluate the grant, to the maximum extent practicable, in fiscal years 2010, 2011, and 2012, respectively.

(2) The evaluation will give particular attention to the different needs of rural and urban projects, including those serving Native American communities, and will evaluate the extent to which the sponsor meets or exceeds performance measures, outcomes, and other criteria established by the Corporation.

(3) To the maximum extent practicable, the Corporation will ensure that each evaluation is conducted by a review team made up of trained individuals who are knowledgeable about RSVP, including current or former em-

ployees of the Corporation and representatives of communities served by RSVP volunteers, who will provide their input and opinions concerning each grant.

(4) The Corporation will use the evaluation findings as the basis for providing recommendations for program improvement, and for the provision of training and technical assistance.

(5) The evaluation will assess:

(i) The project's strengths and areas in need of improvement;

(ii) Whether the project has adequately addressed population and community-wide needs;

(iii) The efforts of the project to collaborate with other community-based organizations, units of government, and entities providing services to seniors, taking into account barriers to such collaboration that such programs may encounter;

(iv) The project's compliance with the program requirements for the appropriate use of Federal funds as embodied in a protocol for fiscal management;

(v) To what extent the project is in conformity with the eligibility, outreach, enrollment, and other requirements for RSVP projects; and

(vi) The extent to which the project is achieving other measures of performance developed by the Corporation, in consultation with the review team.

[76 FR 20246, Apr. 12, 2011]

§ 2553.72 What are project funding requirements?

(a) *Is non-Corporation support required?* (1) A Corporation grant may be awarded to fund up to 90 percent of the total project cost in the first year, 80 percent in the second year, and 70 percent in the third and succeeding years.

(2) A sponsor is responsible for identifying non-Corporation funds which may include in-kind contributions.

(b) *Under what circumstances does the Corporation allow less than the percentage identified in paragraph (a) of this section?* The Corporation may allow exceptions to the local support requirement identified in paragraph (a) of this section in cases of demonstrated need such as:

§ 2553.73

(1) Initial difficulties in the development of local funding sources during the first three years of operations; or

(2) An economic downturn, the occurrence of a natural disaster, or similar events in the service area that severely restrict or reduce sources of local funding support; or

(3) The unexpected discontinuation of local support from one or more sources that a project has relied on for a period of years.

(c) *May the Corporation restrict how a sponsor uses locally generated contributions in excess of the non-Corporation support required?* Whenever locally generated contributions to RSVP projects are in excess of the non-Corporation funds required (10 percent of the total cost in the first year, 20 percent in the second year and 30 percent in the third and succeeding years), the Corporation may not restrict the manner in which such contributions are expended provided such expenditures are consistent with the provisions of the Act.

(d) *Are program expenditures subject to audit?* All expenditures by the grantee of Federal and Non-Federal funds, including expenditures from excess locally generated contributions, are subject to audit by the Corporation, its Inspector General, or their authorized agents.

[64 FR 14135, Mar. 24, 1999, as amended at 67 FR 6875, Feb. 14, 2002]

§ 2553.73 What are grants management requirements?

What rules govern a sponsor's management of grants?

(a) A sponsor shall manage a grant awarded in accordance with:

(1) The Act;

(2) Regulations in this part;

(3) 45 CFR Part 2541, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments", or 45 CFR Part 2543, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations";

(4) The following OMB Circulars, as appropriate A-21, "Cost Principles for Educational Institutions", A-87, "Cost Principles for State, Local and Indian Tribal Governments", A-122, "Cost Principles for Non-Profit Organiza-

45 CFR Ch. XXV (10-1-14 Edition)

tions", and A-133, "Audits of States, Local Governments, and Other Non-Profit Organizations" (OMB circulars are available electronically at the OMB homepage www.whitehouse.gov/WH/EOP/omb); and

(5) Other applicable Corporation requirements.

(b) Project support provided under a Corporation grant shall be furnished at the lowest possible cost consistent with the effective operation of the project.

(c) Project costs for which Corporation funds are budgeted must be justified as being essential to project operation.

(d) Volunteer expense items, including transportation, meals, recognition activities and items purchased at the volunteers own expense that are not reimbursed, are not allowable as contributions to the non-Federal share of the budget.

(e) Costs of other insurance not required by program policy, but maintained by a sponsor for the general conduct of its activities are allowable with the following limitations:

(1) Types and extent of and cost of coverage are according to sound institutional and business practices;

(2) Costs of insurance or a contribution to any reserve covering the risk of loss of or damage to Government-owned property are unallowable unless the government specifically requires and approves such costs; and

(3) The cost of insurance on the lives of officers, trustees or staff is unallowable except where such insurance is part of an employee plan which is not unduly restricted.

(f) Costs to bring a sponsor into basic compliance with accessibility requirements for individuals with disabilities are not allowable costs.

(g) Payments to settle discrimination allegations, either informally through a settlement agreement or formally as a result of a decision finding discrimination, are not allowable costs.

(h) Written Corporation State Office approval/concurrence is required for a change in the approved service area.

[64 FR 14135, Mar. 24, 1999, as amended at 67 FR 6875, Feb. 14, 2002; 69 FR 20831, Apr. 19, 2004]

Corporation for National and Community Service**§ 2553.91****Subpart H—Non-Corporation Funded Projects****§ 2553.81 Under what conditions may an agency or organization sponsor a RSVP project without Corporation funding?**

An eligible agency or organization who wishes to sponsor a RSVP project without Corporation funding, must sign a Memorandum of Agreement with the Corporation that:

- (a) Certifies its intent to comply with all Corporation requirements for the Retired and Senior Volunteer Program; and
- (b) Identifies responsibilities to be carried out by each party.

§ 2553.82 What benefits are a non-Corporation funded project entitled to?

- (a) All technical assistance and materials provided to Corporation-funded RSVP projects; and
- (b) The application of the provisions of 42 U.S.C. 5044 and 5058.

§ 2553.83 What financial obligation does the Corporation incur for non-Corporation funded projects?

Entry into a Memorandum of Agreement with, or issuance of an NGA to a sponsor of a non-Corporation funded project does not create a financial obligation on the part of the Corporation for any costs associated with the project.

§ 2553.84 What happens if a non-Corporation funded sponsor does not comply with the Memorandum of Agreement?

A non-Corporation funded project sponsor's noncompliance with the Memorandum of Agreement may result in suspension or termination of the Corporation's agreement and all benefits specified in § 2553.82.

Subpart I—Restrictions and Legal Representation**§ 2553.91 What legal limitations apply to the operation of the RSVP Program and to the expenditure of grant funds?**

- (a) *Political activities.* (1) No part of any grant shall be used to finance, directly or indirectly, any activity to in-

fluence the outcome of any election to public office, or any voter registration activity.

(2) No project shall be conducted in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a matter supporting or resulting in the identification of such project with:

- (i) Any partisan or nonpartisan political activity associated with a candidate, or contending faction or group, in an election; or

- (ii) Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

- (iii) Any voter registration activity, except that voter registration applications and nonpartisan voter registration information may be made available to the public at the premises of the sponsor. But in making registration applications and nonpartisan voter registration information available, employees of the sponsor shall not express preferences or seek to influence decisions concerning any candidate, political party, election issue, or voting decision.

(3) The sponsor shall not use grant funds in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except:

- (i) In any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of such a program to draft, review or testify regarding measures or to make representation to such legislative body, committee or member; or

- (ii) In connection with an authorization or appropriations measure directly affecting the operation of the RSVP Program.

(b) *Nondisplacement of employed workers.* A RSVP volunteer shall not perform any service or duty or engage in any activity which would otherwise be performed by an employed worker or which would supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(c) *Compensation for service.* (1) An agency or organization to which NSSC

§ 2553.92

volunteers are assigned, or which operates or supervises any NSSC program, shall not request or receive any compensation from NSSC volunteers or from beneficiaries for services of NSSC volunteers.

(2) This section does not prohibit a sponsor from soliciting and accepting voluntary contributions from the community at large to meet its local support obligations under the grant; or, from entering into agreements with parties other than beneficiaries to support additional volunteers beyond those supported by the Corporation grant.

(3) A RSVP volunteer station may contribute to the financial support of the RSVP Program. However, this support shall not be a required precondition for a potential station to obtain RSVP volunteers.

(4) If a volunteer station agrees to provide funds to support additional volunteers or pay for other volunteer support costs, the agreement shall be stated in a written Memorandum of Understanding. The sponsor shall withdraw services if the station's inability to provide monetary or in-kind support to the project under the Memorandum of Understanding diminishes or jeopardizes the project's financial capabilities to fulfill its obligations.

(5) Under no circumstances shall a RSVP volunteer receive a fee for service from service recipients, their legal guardian, members of their family, or friends.

(d) *Labor and anti-labor activity.* The sponsor shall not use grant funds directly or indirectly to finance labor or anti-labor organization or related activity.

(e) *Fair labor standards.* A sponsor that employs laborers and mechanics for construction, alteration, or repair of facilities shall pay wages at prevailing rates as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. 276a.

(f) *Nondiscrimination.* A sponsor or sponsor employee shall not discriminate against a RSVP volunteer on the basis of race, color, national origin, sex, age, religion, or political affiliation, or on the basis of disability, if

45 CFR Ch. XXV (10-1-14 Edition)

the volunteer with a disability is qualified to serve.

(g) *Religious activities.* (1) A RSVP volunteer or a member of the project staff funded by the Corporation shall not give religious instruction, conduct worship services or engage in any form of proselytization as part of his/her duties.

(2) A sponsor or volunteer station may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use Corporation funds to support any inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part.

(h) *Nepotism.* Persons selected for project staff positions shall not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is written concurrence from the Advisory Council or community group established by the sponsor under subpart B of this part, and with notification to the Corporation.

[64 FR 14135, Mar. 24, 1999, as amended at 69 FR 60095, Oct. 7, 2004]

§ 2553.92 What legal coverage does the Corporation make available to RSVP volunteers?

It is within the Corporation's discretion to determine if Counsel is employed and counsel fees, court costs, bail and other expenses incidental to the defense of a RSVP volunteer are paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the volunteer's activities. The circumstances under which the Corporation may pay such expenses are specified in 45 CFR part 1220.

Subpart J—Performance Measurement

SOURCE: 76 FR 20247, Apr. 12, 2011, unless otherwise noted.

Corporation for National and Community Service**§ 2553.107****§ 2553.100 What is the purpose of this subpart?**

This subpart sets forth the minimum performance measurement requirements for Corporation-funded Retired and Senior Volunteer Program (RSVP) projects.

§ 2553.101 What is the purpose of performance measurement?

The purpose of performance measurement is to strengthen the RSVP project and foster continuous improvement. Reporting on performance measures is used by the Corporation as part of assessing the impact of the project on the community and on the accomplishment of the objectives established in the Corporation's Strategic Plan. In addition, as part of the competitive process, performance measures are used to assess how an applicant for a grant approaches the design of volunteer activities and the measurement of their impact on community needs.

§ 2553.102 What performance measurement information must be part of an application for funding under RSVP?

An application to the Corporation for funding under RSVP must contain:

- (a) Performance measures.
- (b) Estimated performance data for the project years covered by the application.
- (c) Actual performance data, where available, for the preceding completed project year.

§ 2553.103 Who develops the performance measures?

(a) An applicant is responsible for developing its own project-specific performance measures.

(b) In addition, the Corporation may establish performance measures that will apply to all Corporation-sponsored RSVP projects, which sponsors will be responsible for meeting.

§ 2553.104 What performance measures must be submitted to the Corporation and how are these submitted?

(a) An applicant for Corporation funds is required to submit at least one of each of the following types of performance measures as part of their ap-

plication. The Corporation will provide standard forms.

- (1) Output indicators.
- (2) Outcome indicators.
- (b) An applicant must also submit any uniform performance measures the Corporation may establish for all applicants.
- (c) The Corporation may specify additional requirements relating to performance measures on an annual basis in program guidance and related materials.

§ 2553.105 How are performance measures approved and documented?

(a) The Corporation reviews and approves performance measures for all applicants that apply for funding from the Corporation.

(b) An applicant must follow Corporation-provided guidance and formats provided when submitting performance measures.

(c) Final performance measures, as negotiated between the applicant and the Corporation, will be documented in the Notice of Grant Award (NGA).

§ 2553.106 How does a sponsor report performance measures to the Corporation?

The Corporation will set specific reporting requirements, including frequency and deadlines, concerning performance measures established in the grant award. A sponsor is required to report on the actual results that occurred when implementing the grant and to regularly measure the project's performance.

§ 2553.107 What must a sponsor do if it cannot meet its performance measures?

Whenever a sponsor finds it is not on track to meet its performance measures, it must develop a plan to get back on track or submit a request to the Corporation to amend its performance measures. The request must include all of the following:

- (a) Why the project is not on track to meet its performance requirements;
- (b) How the project has been tracking performance measures;
- (c) Evidence of corrective steps taken;
- (d) Any new proposed performance measures; and

§ 2553.108

(e) A plan to ensure that the project will meet the new proposed measure(s).

§ 2553.108 When may a sponsor change a project's performance measures?

Performance measures may be changed only if the Corporation approves the sponsor's request to do so.

§ 2553.109 What happens if a sponsor fails to meet the performance measures included in the Notice of Grant Award (NGA)?

If a sponsor fails to meet a target performance measure established in the NGA, the Corporation will negotiate a period of no more than one year for meeting the performance measure. At that point, if the sponsor still fails to meet the performance measure, the Corporation may take one or more of the following actions:

- (a) Reduce the amount of the grant;
- (b) Suspend, terminate, or deny refunding of the grant, in accordance with the provisions of Section 2553.31 of this part;
- (c) Take this information into account in assessing any application from the organization for a new grant or augmentation of an existing grant under any program administered by the Corporation;
- (d) Amend the terms of any Corporation grant to the organization; or
- (e) Take other actions that the Corporation deems appropriate.

PART 2554—PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

Sec.

OVERVIEW AND DEFINITIONS

- 2554.1 Overview of regulations.
- 2554.2 What kind of conduct will result in program fraud enforcement?
- 2554.3 What is a claim?
- 2554.4 What is a statement?
- 2554.5 What is a false claim or statement?
- 2554.6 What does the phrase "know or have reason to know" mean?

PROCEDURES LEADING TO ISSUANCE OF A COMPLAINT

- 2554.7 Who investigates program fraud?
- 2554.8 What happens if program fraud is suspected?
- 2554.9 Who is the Corporation's authority head?

45 CFR Ch. XXV (10-1-14 Edition)

- 2554.10 When will the Corporation issue a complaint?
- 2554.11 What is contained in a complaint?
- 2554.12 How will the complaint be served?

PROCEDURES FOLLOWING SERVICE OF A COMPLAINT

- 2554.13 How does a defendant respond to the complaint?
- 2554.14 What happens if a defendant fails to file an answer?
- 2554.15 What happens once an answer is filed?

HEARING PROVISIONS

- 2554.16 What kind of hearing is contemplated?
- 2554.17 At the hearing, what rights do the parties have?
- 2554.18 What is the role of the ALJ?
- 2554.19 Can the reviewing official or ALJ be disqualified?
- 2554.20 How are issues brought to the attention of the ALJ?
- 2554.21 How are papers served?
- 2554.22 How is time computed?
- 2554.23 What happens during a prehearing conference?
- 2554.24 What rights are there to review documents?
- 2554.25 What type of discovery is authorized and how is it conducted?
- 2554.26 Are there limits on disclosure of documents or discovery?
- 2554.27 Are witness lists exchanged before the hearing?
- 2554.28 Can witnesses be subpoenaed?
- 2554.29 Who pays the costs for a subpoena?
- 2554.30 Are protective orders available?
- 2554.31 Where is the hearing held?
- 2554.32 How will the hearing be conducted and who has the burden of proof?
- 2554.33 How is evidence presented at the hearing?
- 2554.34 How is witness testimony presented?
- 2554.35 Will the hearing proceedings be recorded?
- 2554.36 Can a party informally discuss the case with the ALJ?
- 2554.37 Are there sanctions for misconduct?
- 2554.38 Are post-hearing briefs required?

DECISIONS AND APPEALS

- 2554.39 How is the case decided?
- 2554.40 How are penalty and assessment amounts determined?
- 2554.41 Can a party request reconsideration of the initial decision?
- 2554.42 When does the initial decision of the ALJ become final?
- 2554.43 What are the procedures for appealing the ALJ decision?
- 2554.44 What happens if an initial decision is appealed?
- 2554.45 Are there any limitations on the right to appeal to the authority head?