

§ 836.602-1 [Amended]

55. In § 836.602-1, paragraph (c) is removed and paragraph (d) is redesignated as new paragraph (c).

§ 836.602-3 [Removed]

56. Section 836.602-3 is removed.

§ 836.606-70 [Amended]

57. In § 836.606-70, the first 5 sentences are removed.

§ 836.606-71 [Amended]

58. In § 836.606-71, the second and fourth sentences are removed.

§ 836.606-73 [Amended]

59. In § 836.606-73, paragraph (a) is amended by removing "fee limitation on architect or engineer services set forth in section 304(b) of the Federal Property and Administration Services Act of 1949, as amended, and referred to in FAR 15.903(d)(1)(ii), applies to those services generally required in preparing working drawings and specifications which form the basis for bidding and for the award of construction contract. The fixed".

PART 837—SERVICE CONTRACTING**§ 837.104 [Amended]**

60. In § 837.104, paragraph (a) is amended by removing ", except to the extent indicated in 815.204 and subpart 837.2,".

§ 837.200 [Removed]

61. Section 837.200 is removed.

§ 837.204 [Removed]

62. Section 837.204 is removed.

§ 837.205 [Removed]

63. Section 837.205 is removed.

§ 837.271-5 [Amended]

64. Section 837.271-5 and Appendices A and B to subpart 837.2 are removed.

§ 837.7002-7002 [Amended]

65. In § 837.7002, the last sentence is removed.

PART 846—QUALITY ASSURANCE**§ 846.302 [Removed]**

66. Section 846.302 is removed.

§ 846.403 [Removed]

67. Section 846.403 is removed.

§ 846.408-72 [Removed]

68. Section 846.408-72 is removed.

[FR Doc. 96-11276 Filed 5-6-96; 8:45 am]

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48 CFR Part 871**RIN 2900-AG65****VA Acquisition Regulations: Loan Guaranty and Vocational Rehabilitation and Counseling Programs**

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule without substantive change the provisions of a proposed rule to amend the Department of Veterans Affairs (VA) acquisition regulations (VAAR). This final rule increases to \$500 the blanket advance authority of management brokers to incur routine charges in connection with the management of properties acquired by VA under VA's housing and small business loan programs (38 U.S.C. Chapter 37). It also increases to \$500 the property holders' emergency repair threshold. In addition, Regional Office Directors, Loan Guaranty Officers, and Assistant Loan Guaranty Officers are authorized to approve repair programs where the estimated cost (i.e., the aggregate amount of the proposed contracts to purchase supplies and services as contemplated in a property analysis by the Loan Guaranty activity) does not exceed \$25,000. Further, nonsubstantive changes are made for purposes of clarity and to reflect organizational changes. These changes are intended to promote the efficient management of VA's acquired property inventory.

EFFECTIVE DATE: May 7, 1996.

FOR FURTHER INFORMATION CONTACT:

Wanza E. Lewis, Acquisition Policy Division (95A), Office of Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565-4424.

SUPPLEMENTARY INFORMATION: On February 14, 1994, we published in the Federal Register (59 FR 6942) a proposal to amend provisions of the VAAR captioned "LOAN GUARANTY AND VOCATIONAL REHABILITATION AND COUNSELING PROGRAMS". We solicited comments concerning the proposal for 60 days ending April 15, 1994. We did not receive any comments. The information presented in the proposal still provides a basis for this final rule. We are making several nonsubstantive changes, but otherwise, based on the rationale set forth in the proposal, we are adopting the provisions of the proposed rule as a final rule without change.

The Secretary hereby certifies that this final rule will 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. This final rule would not cause a significant effect on any entities. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

This document is made effective on the date of publication. It restates statutory provisions and relieves restrictions.

List of Subjects in 48 CFR Part 871

Government procurement, Loan programs-social programs, Loan programs-veterans, Reporting and recordkeeping requirements, Vocational rehabilitation.

Approved: March 18, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 48 CFR part 871 is amended as set forth below:

PART 871—LOAN GUARANTY AND VOCATIONAL REHABILITATION AND COUNSELING PROGRAMS

1. The authority citation for part 871 is revised to read as follows:

Authority: 10 U.S.C. ch. 106, 107, 1606; 38 U.S.C. 501, ch. 30, 31, 32, 35, 36, 37; 40 U.S.C. 486(c).

Subpart 871.1—Loan Guaranty Program

2. Section 871.101 is revised to read as follows:

871.101 Policy.

All acquisitions for the repair and maintenance of VA property acquired under 38 U.S.C. Chapter 37 shall be made in accordance with FAR Parts 14, 15, and 16; (VAAR) 48 CFR Parts 814, 815, and 816; and (VAAR) 48 CFR subpart 871.1.

(Authority: 10 U.S.C. ch. 106, 107, 1606; 38 U.S.C. 501, ch. 37; 40 U.S.C. 486(c))

871.102 [Amended]

3. In § 871.102, paragraph (a) is amended by adding ", Loan Guaranty Officers, and Assistant Loan Guaranty Officers" after "Directors"; by removing "purchase supplies and services for the repair to" and adding, in its place, "approve a repair program for"; and by removing "\$5,000 on any single transaction" and adding in its place "\$25,000. A repair program means the aggregate amount of the proposed contracts which are contemplated in a property analysis by the Loan Guaranty activity".

4. In § 871.102, paragraph (b) is amended by removing "\$5,000" and adding in its place "\$25,000" and by removing "Chief Benefits Director" and adding in its place "Under Secretary for Benefits".

5. In § 871.102, in paragraph (c) the second sentence is amended by removing "Chief Benefits Director" and adding in its place "Under Secretary for Benefits".

6. In § 871.102, paragraph (d) is amended by removing "\$200" and adding in its place "\$500".

7. In § 871.102, in paragraph (e) the first sentence is amended by removing "listed with him/her" and adding in its place "assigned"; the second sentence is amended by removing "\$200" and adding in its place "\$500" and by removing "his/her" and adding in its place "the"; and the third sentence is amended by removing "\$200" and adding in its place "\$500".

871.103 [Removed]

8. Section 871.103 is removed.

871.105 [Removed]

9. Section 871.105 is removed.

871.106 [Amended]

10. In § 871.106, in paragraph (b) the second sentence is amended by removing "or material men" and is amended by removing "his/her" and adding in its place "the subcontractor's".

Subpart 871.2—Vocational Rehabilitation and Counseling Program

11. Section 871.200 is revised to read as follows:

871.200 Scope of subpart.

This subpart establishes policy and procedures for the vocational rehabilitation and counseling program as it pertains to contracts for training and rehabilitation services, approval of institutions (including rehabilitation facilities), training establishments, and employers under 38 U.S.C. Chapter 31, and contracts for counseling services under 38 U.S.C. Chapters 30, 31, 32, 35, and 36 and 10 U.S.C. Chapters 106, 107, and 1606.

(Authority: 10 U.S.C. ch. 106, 107, 1606; 38 U.S.C. 501, ch. 30, 31, 32, 35, 36; 40 U.S.C. 486(c))

871.201-3 [Amended]

12. Section 871.201-3 is amended by removing "Veterans Health Services and Research Administration" and adding in its place "Veterans Health Administration".

871.207 [Amended]

13. In § 871.207, paragraph (b)(2) is amended by removing "Veterans Administration" and adding in its place "Department of Veterans Affairs".

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 228

Decision of the United States Supreme Court Concerning an Agency Interpretation of the Federal Hours of Service Laws; Change in Agency Interpretation; Enforcement Policy Regarding Violations of Laws as Previously Interpreted

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Statement of agency policy and interpretation.

SUMMARY: Notice is hereby given that, in accordance with the decision of the United States Supreme Court in *Brotherhood of Locomotive Engineers v. Atchison, Topeka and Santa Fe R.R.*, all time spent awaiting the arrival of a deadhead vehicle for transportation to the point of final release, when no additional services are required of railroad carrier employees, shall be treated by FRA as time neither on nor off duty for purposes of the Federal hours of service laws ("HSL"), throughout the entire nation. FRA is amending its current interpretive statement to reflect this Supreme Court decision.

EFFECTIVE DATE: January 8, 1996.

FOR FURTHER INFORMATION CONTACT: Edward R. English, Director, Office of Safety Assurance and Compliance, Office of Safety, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: 202-366-9252); or David H. Kasminoff, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: 202-366-0628).

SUPPLEMENTARY INFORMATION:

Public Participation

In this notice FRA is announcing that it has changed its interpretation of the HSL (49 U.S.C. 20102, 21101-21108, 21303, and 21304), consistent with a unanimous decision of the United States Supreme Court, concerning the treatment of time spent awaiting the arrival of deadhead transportation to the

point of final release. Notice and comment procedures are unnecessary with regard to the general statement of policy and interpretation issued by this notice because such a statement is excepted from notice and comment procedure by virtue of 5 U.S.C. 553(b)(3)(A). Statements of policy are also an exception to the general requirement of publication at least 30 days prior to the effective date. See 5 U.S.C. 553(d)(2).

Effect of this Notice

On January 8, 1996, the United States Supreme Court issued its decision in the case of *Brotherhood of Locomotive Engineers v. Atchison, Topeka and Santa Fe R.R.*, ___ U.S. ___, 116 S.Ct. 595, affirming the decision of the United States Court of Appeals for the Seventh Circuit in the case of *Atchison, Topeka, and Santa Fe Railway Co. v. Peña*, 44 F.3d 437 (1994). Both cases concern FRA's interpretation of the HSL as they pertain to the status of train crewmembers waiting for the arrival of deadhead transportation to their point of final release. The Supreme Court unanimously held that such time, when no additional services are required of railroad carrier employees, should be classified as limbo time (*i.e.*, neither on- nor off-duty time) for HSL purposes.

The Supreme Court's holding coincided with the position that FRA had traditionally taken until the agency changed its interpretation of the HSL in late 1992. Prior to that change, FRA had considered an employee to be on duty during the time spent waiting for the arrival of deadhead transportation to the employee's point of final release *only* if the employee actually had duties to perform. If the railroad carrier had relieved the employee of all responsibility, FRA had considered such time spent merely waiting for the deadhead vehicle to arrive as limbo time.

However, on September 22, 1992, in response to lawsuits filed by the United Transportation Union and the Brotherhood of Locomotive Engineers, a three-judge panel of the United States Court of Appeals for the Ninth Circuit held that such time spent waiting for transportation was to be considered on-duty time. *United Transportation Union v. Skinner*, 975 F.2d 1421 (9th Cir. 1992). The Ninth Circuit includes Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington. Although FRA disagreed with the Ninth Circuit's legal rationale, FRA recognized both the ambiguity of the HSL's pertinent provisions and the reasonableness of the court's ultimate conclusion as to the