

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 Foster Grandparent volunteer station may contribute to the financial support of the Foster Grandparent Program. However, this support shall not be a required precondition for a potential station to obtain or retain Foster Grandparent service. If a volunteer station agrees to provide funds to support additional Foster Grandparents or pay for other Foster Grandparent support costs, the agreement shall be stated in a written memorandum of understanding.

(4) The sponsor shall withdraw services if the station's inability to provide monetary or in-kind support to the project 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.

(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.* 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.

(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 community group established by the sponsor under Subpart B of this part and with notification to the Corporation.

#### **§ 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 is paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the Foster Grandparent's activities. The circumstances under which the Corporation may pay such expenses are specified in 45 CFR part 1220.

Dated: August 25, 1998.

**Thomas L. Bryant,**

*Acting General Counsel.*

[FR Doc. 98-23301 Filed 9-2-98; 8:45 am]

BILLING CODE 6050-28-P

### **CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

#### **45 CFR Parts 1209 and 2553**

**RIN 3045-AA19**

#### **Retired and Senior Volunteer Program**

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the "Corporation") proposes to amend the regulations governing the administration of the Retired and Senior Volunteer Program (RSVP). These amendments will: implement changes in the program's authorizing legislation; establish minimum program requirements with greater clarity; update program operations to make them responsive to changes that have occurred since the regulations were last published; consolidate requirements from outdated sources into one user friendly document; balance increased flexibility with increased responsibility and accountability at the local level; and incorporate new concepts of programming to highlight the accomplishments and impact of senior service.

The format used is designed to make the requirements easy for local sponsors and project managers to understand. It integrates related topics under one heading for easy reference.

Upon adoption, the proposed amendments will supersede the old

ACTION regulations, and RSVP Operations Handbook 4700 dated May 1989.

**DATES:** Comments must be submitted on or before November 2, 1998.

**ADDRESSES:** Comments should be sent to the Corporation for National Service, Director, National Senior Service Corps, 1201 New York Avenue, NW., Washington, DC 20525.

**FOR FURTHER INFORMATION CONTACT:** John Keller, (202) 606-5000 ext 285.

**SUPPLEMENTARY INFORMATION:** The requirements governing the administration of RSVP projects are currently embodied in two documents: 45 CFR Part 1209 which was last published in the **Federal Register** on June 10, 1983, and the RSVP Operations Handbook. The proposed amendments will combine all minimum program requirements in just one document to make it easier for interested parties to secure basic program information.

The proposed amendments include modifications to current program requirements including those applicable to: the responsibilities of a RSVP sponsor, community participation in local project operations, full-time project director, authority to approve grants, waiver of non-federal support, and compensation for service.

The proposed amendments also reflect changes in the program's administrative structure resulting from the merger of the former ACTION agency into the Corporation in April 1994.

#### **Regulatory Flexibility Act and Unfunded Mandate Reform Act**

The General Counsel, in accordance with the Regulatory Flexibility Act (5 U.S.C. 606(b)), has reviewed this regulation and by approving certifies that this proposed rule will not have a significant impact on small business entities.

Under the Unfunded Mandates Reform Act of 1995, the Corporation certifies that this proposed rule does not include any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year.

#### **Paperwork Reduction Act of 1995**

These proposed regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

#### **Intergovernmental Review**

This program is subject to the requirements of Executive Order 12372.

The objective of the Executive order is to foster an intergovernmental partnership and strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Corporation's specific plans and actions for this program.

#### Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866. The Office of Management and Budget has reviewed this rule and has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review.

#### Participation in the Rulemaking

The RSVP Program Council, a group established to provide advice to the Corporation on program related issues, was consulted, reviewed and gave recommendations on initial drafts of the proposed regulations. Council membership is comprised of RSVP project staff and sponsor representatives, as well as selected staff from the Corporation's field offices. A similar opportunity was given to all Corporation field staff, a group that plays an important role in the implementation of program regulations.

DISTRIBUTION TABLE

Old 45 CFR Part 1209	New 45 CFR Part 2553
1209.1-1 .....	2553.11
1209.2-1 .....	2553.22
1209.3-1 .....	2553.31
1209.4-1 .....	2553.41
1209.5-1 .....	2553.51
	2553.61
	2553.71
	2553.81
	2553.91

#### List of Subjects

##### 45 CFR Part 1209

Aged, Government contracts, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

##### 45 CFR Part 2553

Aged, Grant programs—social programs, Volunteers.

Accordingly, and under the authority of 42 U.S.C. 12501 *et seq.*, the Corporation proposes to amend 45 CFR chapters XII and XXV as follows:

#### PART 1209—[REDESIGNATED AS PART 2553]

1. Part 1209 in 45 CFR chapter XII is redesignated as part 2553 in 45 CFR chapter XXV and is revised to read as follows:

#### 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?

##### 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 Application and award process.

2553.72 Project funding requirements.

2553.73 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.

**Authority:** 42 U.S.C. 4950 *et seq.*, 5001.

#### 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 to engage persons 55 and older in volunteer service roles, matching their skills and personal interests to help meet significant community needs.

##### § 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) *Budget Period.* The time interval for which a project grant is awarded, as specified in the Notice of Grant Award (NGA). This is usually for 12 months.

(e) *Chief Executive Officer.* The Chief Executive Officer of the Corporation appointed under the Trust Act.

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

(g) *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.

(h) *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.

(i) *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.

(j) *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, and E, Title II of the Act. NSSC is also referred to as the "Senior Corps".

(k) *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.

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

(m) *Notice of Grant Award (NGA).* The official grant document signed by the Corporation and the sponsor. It documents the Corporation's obligation to provide financial support to the sponsor, and the sponsor's commitment to fulfill specific programmatic objectives and financial obligations.

(n) *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.

(o) *Qualified Individual With a Disability.* An individual with a disability who, with or without reasonable accommodation, can perform the essential functions of a volunteer position that such individual holds or desires. For purposes of the Americans With Disabilities Act, consideration shall be given to a sponsor's or volunteer station's judgment as to what functions of a volunteer position are essential. If a sponsor has prepared a written description before advertising or interviewing applicants for the position, the written description shall be considered evidence of the essential functions of the volunteer position. This definition includes an individual with a physical or mental impairment as

defined in section 101(8) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12111(8)).

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

(q) *Sponsor.* A public agency or private nonprofit organization that is responsible for the operation of a RSVP project.

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

(s) *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.

(t) *Volunteer Station.* A public agency, nonprofit private organization or proprietary health care agency or organization that accepts responsibility for assignment, supervision and training of RSVP volunteers. Each volunteer station must be licensed or otherwise certified, when required, by appropriate state or local government. Private homes are not volunteer stations.

## **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, in the United States that have the authority to accept and the capability to administer a RSVP project.

### **§ 2553.22 What are the responsibilities of a sponsor?**

(a) A sponsor is responsible for fulfilling all project management requirements necessary to accomplish the purposes of the RSVP program as specified in the Act.

(b) A sponsor shall not delegate or contract these responsibilities to another entity.

(c) 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 on an ongoing basis or collaborate with other community organizations in the assessment 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 range of placement opportunities that appeal to persons age 55 and over by:

(1) Insuring that a volunteer station is a public or non-profit private organization 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; and

(iii) That is renegotiated at least every three years; 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, making 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 coordinating project services and activities with related national, state and local programs, including other Corporation programs.

(f) Develop, and regularly update, a strategic plan that includes the sponsor's vision and goals for the project.

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

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

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

### **§ 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 persons:

(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 impact programming;

(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) Develop a written delegation of authority that carefully defines and clearly delineates project roles and responsibilities retained by the sponsor from those delegated to project staff.

(c) Provide levels of staffing and resources appropriate to accomplish the purposes of the project and carry out project management responsibilities outlined in the above mentioned delegation of authority and provide necessary administrative and fiscal support to such staff.

(d) 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 justify that such an arrangement will result in a proportionate cost savings in Federal and Non-federal funds without adversely affecting the size, scope and quality of project operations.

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

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

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

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

(i) 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.

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

A sponsor may administer more than one Corporation program grant.

**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/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) The procedures for suspension, termination, and denial of refunding, that apply to the Retired and Senior Volunteer Program are specified in 45 CFR Part 1206.

**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 may receive assistance with the cost of transportation to and from volunteer assignments and official project activities, including orientation and training, meetings, and recognition events. On-the-job or assignment related transportation costs are the responsibility of the volunteer station or a third party.

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

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

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

(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 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.

**§ 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 multiple hours a week, on a regular basis, or intensively on short-term assignments. An active volunteer must serve at least once a month.

**§ 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?**

In areas where needs have been identified and no volunteer station is available, the RSVP sponsor may assume responsibility to implement new programming initiatives on a temporary basis for up to three years.

**§ 2553.62 What are the responsibilities of a volunteer station?**

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

(1) Develop volunteer assignments that impact critical human and social needs, and regularly assess those assignments for continued appropriateness;

(2) 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;

(3) Obtain a Letter of Agreement for an RSVP volunteer assigned in-home. In cases where client confidentiality needs to be protected, a modified document that does not reveal client identities shall be used;

(4) Keep records and prepare reports as required;

(5) Comply with all applicable civil rights laws and regulations including reasonable accommodation for RSVP volunteers with disabilities; and

(6) Provide assigned RSVP volunteers the following support:

(i) Orientation to station and appropriate in-service training to enhance performance of assignments;

(ii) Resources required for performance of assignments including reasonable accommodation;

(iii) Supervision while on assignment;

(iv) Appropriate recognition; and

(v) Provide for the safety of RSVP volunteers assigned to it.

(b) A volunteer station shall 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.

**Subpart G—Application and Fiscal Requirements**

**§ 2553.71 Application and award process.**

(a) *When may an eligible organization apply for a grant?*

(1) An eligible organization may file an application for a RSVP grant at any time.

(2) Before submitting an application, an applicant shall determine the availability of funds.

(3) The Corporation may also solicit grant applicants. Applicants solicited by the Corporation are not assured of selection or approval and may have to compete with other solicited or unsolicited applicants.

(b) *What must an eligible organization include in a grant application?*

(1) An applicant shall complete standard forms prescribed by the Corporation.

(2) The applicant shall comply with the provisions of Executive Order 12372, the "Intergovernmental Review of Federal Programs," (3 CFR, 1982 Comp., p. 197) in 45 CFR part 1233, and any other applicable requirements.

(c) *Who reviews the merits of a RSVP application?* The Corporation reviews and determines the merit of an application by its responsiveness to published guidelines and to the overall purpose and objectives of the program.

When funds are available, the Corporation awards a grant in writing to each applicant whose grant proposal provides the best potential for serving the purpose of the program.

(d) *How is a RSVP project grant awarded?*

(1) The Corporation awards the grant to a sponsor in writing. The award is 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 financial support to the sponsor.

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

(f) *For what period of time does the Corporation award a grant?* The Corporation awards a RSVP grant for a period specified in the NGA and this is usually a budget period of 12 months duration.

**§ 2553.72 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:

(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 restricts or reduces 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.

(e) *How much of the grant must be budgeted to pay volunteer expenses or cost reimbursements?* The total volunteer expenses and cost reimbursements for RSVP volunteers, including transportation, meals, recognition and insurance shall be an amount equal to at least 25 percent of the Corporation funds in the grant award. Corporation and non-Corporation resources may be used to make up this sum.

#### **§ 2553.73 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 Requirements for Grants and

Cooperative Agreements with 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 Institutions of Higher Education", A-87, "Cost Principles for State and Local Governments", A-122, "Cost Principles for Non-Profit Organizations", and A-133, "Audits of Institutions of Higher Education and Other Non-Profit Organizations" (OMB circulars are available at the following address: Office of Administration, Publication Office, 725 17th Street, NW, Room 2200, Washington, DC 20503); 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) Project funds shall not be used to reimburse volunteers for expenses, including transportation costs, incurred while performing their volunteer assignments. Volunteers on assignment during a normal meal period may be reimbursed for the meal cost. Equipment or supplies for volunteers on assignment are not allowable costs. Assignment related costs of transportation, equipment, supplies, etc. are the responsibility of the volunteer station or a third party.

(e) 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.

(f) 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.
- (g) Costs to bring a sponsor into basic compliance with accessibility

requirements for individuals with disabilities are not allowable costs.

(h) 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.

(i) Written Corporation State Office approval/concurrence is required for the following changes in the approved grant:

(1) Change in the approved service area.

(2) Transfer of budgeted line items from Volunteer Expenses to Support Expenses. This requirement does not apply if the 25 percent cost reimbursement ratio is maintained.

#### **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 Section 404 (f) (1) and Section 418 of the Act.

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

Entry into a Memorandum of Agreement with, or issuance of a NGA to the 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 shall 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 influence 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 such 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 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 or retain RSVP volunteers. 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 agreement.

(4) The sponsor shall withdraw services if the station's inability to provide monetary or in-kind support to the project 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.

(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 the volunteer with a disability is qualified to serve.

(g) *Religious activities.* 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.

(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.

### § 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 is 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.

Dated: August 25, 1998.

**Thomas L. Bryant,**

*Acting General Counsel.*

[FR Doc. 98-23302 Filed 9-2-98; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 98-154; RM-9174]

### Radio Broadcasting Services; Kosciusko and Goodman, MS

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed on behalf of Rainey Broadcasting, Inc., permittee for a new FM broadcast station on Channel 277C3 at Kosciusko, Mississippi (File No. BPH-950525MK), requesting the reallocation of Channel 277C3 to Goodman, Mississippi, and modification of the authorization to specify Goodman as its community of license, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. Coordinates used for Channel 277C3 at Goodman are 32-58-45 and 89-54-22.

**DATES:** Comments must be filed on or before October 19, 1998, and reply comments on or before November 3, 1998.

**ADDRESSES:** Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Mark N. Lipp, Esq., Shook, Hardy and Bacon, 801 Pennsylvania Avenue, NW., Suite 600, Washington, DC 20004.