

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, including increases in required payments to Foster Grandparents that may result from changes in the Act or in program regulations.

**§ 2552.114 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 § 2552.112.

**Subpart L—Restrictions and Legal Representation**

**§ 2552.121 What legal limitations apply to the operation of the Foster Grandparent 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 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 FGP.

(b) *Non-displacement of employed workers.* A Foster Grandparent 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 Foster Grandparent volunteer station may contribute to the financial support of the FGP. However, this support shall not be a required precondition for a potential station to obtain Foster Grandparent service.

(4) 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. 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.* 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 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.

Dated: March 15, 1999.

**Thomas L. Bryant,**

*Acting General Counsel.*

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**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

**45 CFR Parts 1209 and 2553**

**RIN 3045-AA19**

**Retired and Senior Volunteer Program**

**ACTION:** Final regulations.

**SUMMARY:** The Corporation for National and Community Service, (hereinafter the "Corporation"), amends the regulations governing the administration of the Retired and Senior Volunteer Program (RSVP). This final rule implements changes to the Domestic Volunteer Service Act of 1973

as amended, and establishes minimum program requirements with greater clarity. It updates program operations, consolidates requirements from outdated sources into one user friendly document; and incorporates new concepts of programming to highlight the accomplishments and impact of senior service. This amendment supersedes the old ACTION regulations and RSVP Operations Handbook 4700 dated May 1989.

**DATES:** These regulations take effect April 23, 1999.

**FOR FURTHER INFORMATION CONTACT:** Rey Tejada at 202-606-5000 ext.197.

**SUPPLEMENTARY INFORMATION:** The Corporation published a notice of proposed rulemaking (NPRM) for the Retired and Senior Volunteer Program 45 CFR Parts 1209 and 2553 in the **Federal Register** at 63 FR 46972, September 3, 1998.

### **Summary of Main Comments and Changes**

In response to the Corporation's invitation in the NPRM, the Corporation received 79 letters. A significant number (44 percent) of the letters came from one state. A summary of the main comments received and the Corporation's responses are provided in this final rule. Comments that are general or editorial in nature, or those requesting clarification of program requirements are not addressed in this final rule. The significant comments and the Corporation's responses are summarized by section as follows:

#### *Section 2553.11 What is the Retired and Senior Volunteer Program?*

**Comments:** Expressed concern that the language proposed for § 2553.11 puts too much emphasis on service and less on the volunteers.

**Response:** The Corporation understands the concerns expressed and has modified the section to emphasize the dual purpose of the program. The first sentence of § 2553.11 was revised by adding "for the dual purpose of engaging" after "organizations", "to meet critical community needs" after "service" and "and to provide a high quality experience that will enrich the lives of the volunteers." after "needs".

#### *Section 2553.12(j) National Senior Service Corps*

**Comments:** Objected to the use of the name National Senior Service Corps (NSSC) because it is not the name used in the DVSA.

**Response:** This name has been in use for the last several years and the Corporation has used significant

resources for the development and design of a number of promotional program materials that are now in wide use by projects across the country.

#### *Section 2553.23(a) Focusing Resources on Critical Needs*

**Comments:** Objected to this requirement for being labor intensive and reducing the emphasis on assignments that are not outcome based.

**Response:** The Corporation appreciates the concerns expressed. However, the program's resources need to be focused on critical needs and this provision is essential to meet our obligation under the Government Performance and Results Act.

#### *Section 2553.23(b) Assessment of Needs*

**Comments:** The requirement may duplicate the work of other local organizations.

**Response:** The Corporation amended the provision to clarify that needs assessment may be conducted by the project or other community organizations.

#### *Section 2553.23(d) Special Efforts to Recruit Minorities*

**Comments:** Objected to the requirement that special efforts be made to recruit members of under represented groups.

**Response:** This provision restates a requirement from the old regulations and is based on a specific mandate from the DVSA.

#### *Section 2553.23(f) Strategic Plan*

**Comments:** Expressed concern that to require the development of a strategic plan would be a significant paperwork burden on projects.

**Response:** The Corporation understands the concerns expressed regarding the requirement and the potential burden it may produce. For this reason, the provision has been withdrawn from the final rule.

#### *Section 2553.23(g) Plan for Promoting Service*

**Comments:** Objected to the requirement and view it as a burden.

**Response:** The Corporation provides funding to each sponsor to cover the cost of program operations and considers promotion of service by older adults an essential part of operating the program.

#### *Section 2553.23(h) Assessment of Accomplishments and Impact*

**Comments:** Expressed concern about administrative demands the requirement for assessing impact would entail.

**Response:** The Corporation appreciates the concern expressed. However, the provision is essential for the Corporation to meet its obligations under the Government Performance and Results Act.

#### *Section 2553.24 Securing Community Participation*

**Comments:** The comments were mixed. Some oppose any changes in the structure, role and operation of the Advisory Council as they were specified in previous regulations. Others support the flexibility provided by the new rule.

**Response:** The new provision gives local program sponsors maximum flexibility for securing community participation. It gives them discretion to use an Advisory Council or another organizational structure to meet the requirement. The Corporation believes that the new rule gives local sponsors the ability to choose whatever method works best for them to involve the community in program operations.

#### *Section 2553.25(b) Delegation of Authority*

**Comments:** Expressed about the potential increase in work load for project directors to meet this requirement. Some were also confused as to what the delegation of authority means.

**Response:** After considering the concerns expressed, the Corporation has withdrawn the provision from the final rule.

#### *Section 2553.25(d) Full-time Project Director*

**Comments:** Objected to the policy provision on full-time project director.

**Response:** After considering the comments, the Corporation modified this section by deleting from the last sentence any reference to cost savings and leaving the basis for negotiating a part-time director position to the size, scope and quality of project operations. The new rule replaces the more rigid and cumbersome waiver process required under the old regulations to employ a part-time director.

#### *Section 2553.43(a) Transportation*

**Comments:** Expressed concern that the use of the word "may" in this section takes away the guarantee that volunteers will receive the transportation assistance they need to get to their assignments.

**Response:** After considering the comments, the Corporation modified this section by deleting the word "may" and using "shall" instead after "RSVP volunteers."

**Section 2553.51 Terms of Service**

*Comments:* The comments were mixed. Most believed there should be more flexibility to allow the project to count seasonal volunteers.

*Response:* After considering the comments, the Corporation modified this section by deleting the second sentence that required monthly service. This revision would allow weekly or short term assignments consistent with the volunteer's assignment description.

**Section § 2553.61 Sponsor As Volunteer Station**

*Comments:* Many expressed concern that the rule would prohibit volunteers from serving in programs administered by the sponsor. Others objected to the three year limit placed on projects to implement program initiatives in areas where there are no volunteer stations.

*Response:* After considering the comments, the Corporation replaced this section with a provision in the old regulation which allowed the assignment of volunteers in programs run by the sponsor, and for the project to serve as a volunteer station under certain conditions.

**Section § 2553.62 Station Responsibilities**

*Comments:* Objected generally to the responsibilities specified as being burdensome and may cause some volunteer stations to drop from the program.

*Response:* The Corporation reexamined the provision and finds that the responsibilities specified are needed to protect the welfare of volunteers while on assignment and enhance the impact of their services.

**Section 2553.62(a)(2) Station Staff to Oversee Volunteers**

*Comments:* Claimed that the requirement is unrealistic and not consistent with the intent of RSVP.

*Response:* This provision is a restatement of a requirement prescribed under the old regulations. The Corporation believes the requirement is necessary to provide adequate support for volunteers while they are on assignment.

**Section 2553.91(c) Compensation for Service**

*Comments:* Requested clarifying language for subsection (3) which states that station support shall not be a precondition to the assignment of volunteers, and subsection (4) which states that the sponsor shall withdraw services if the station is unable to provide monetary and in-kind support.

*Response:* The Corporation modified both subsections by moving the last sentence in subsection (3) and inserted it as the first sentence in subsection (4). This adjustment clarifies the Corporation's position that a volunteer station's ability to provide cash or in-kind support is not a precondition to the assignment of volunteers to that station. However, if a station agrees to provide support under a Memorandum of Understanding, but later decides to withdraw that support in a manner that reduces or diminishes the ability of the project to fulfill its obligations under the grant, then the sponsor can withdraw volunteer services from that station.

**Regulatory Flexibility Act and Unfunded Mandates 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 final rule will not have a significant impact on small business entities.

Under the Unfunded Mandates Reform Act of 1995, the Corporation certifies that this final 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 final 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.

**DISTRIBUTION TABLE**

Old 45 CFR part 1209	New 45 CFR part 2553
1209.1-1 .....	2553.11
1209.1-2 .....	2553.12
1209.1-3 .....	2553.23
1209.2-1 .....	None
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1209.3-6 .....	2553.23
1209.3-7 .....	None
1209.4-1 .....	2553.81
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**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.

For the reasons set out in the preamble, and under the authority of 42 U.S.C. 12501 *et seq.*, 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 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.

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

**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 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) *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.

(m) *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.

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

(o) *Sponsor.* A public agency or private non-profit organization that is responsible for the operation of a RSVP project.

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

(q) *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.

(r) *Volunteer station.* A public agency, private non-profit 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 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 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 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, 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

coordinating 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.

**§ 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.

**§ 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 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) 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 shall receive assistance with the cost of transportation to and from volunteer assignments and official project activities, including orientation, training, 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 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:

(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.

##### **§ 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 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.

### Subpart G—Application and Fiscal Requirements

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

(a) *How and 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 and how is a grant awarded?*

(1) 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. 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 financial support 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, with an explanation of the Corporation's decision.

(e) *For what period of time does the Corporation award a grant?* The Corporation awards a RSVP grant for a specified period that is usually 12 months in duration.

#### § 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:

(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.

(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 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 Organizations", 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/](http://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) 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 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 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 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 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 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 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.

Dated: March 15, 1999.

**Thomas L. Bryant,**  
*Acting General Counsel.*

[FR Doc. 99-6632 Filed 3-23-99; 8:45 am]

BILLING CODE 6050-28-P

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 51 and 64

[CC Docket No. 95-20; FCC 99-36]

#### Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Report and Order released March 10, 1999 streamlines the

Commission's Comparably Efficient Interconnection (CEI) and network information disclosure rules. The Report and Order frees the Bell Operating Companies (BOCs) from the requirement that they obtain pre-approval of their CEI plans and plan amendments from the Commission before initiating or altering an intraLATA information service. This change to the CEI rules will result in new information services being available to the public sooner. The Report and Order clarifies the network information disclosure rules, and relieves the interexchange carriers (IXCs) and competitive local exchange carriers (Competitive LECs) from these reporting requirements. As a result, these carriers will no longer perform a task the Commission has found to be unnecessary.

**DATES:** Effective April 23, 1999, except for §§ 51.325, 64.702, and Subpart G of Part 64, which contain information collection requirements which have not been approved by the Office of Management and Budget (OMB) and which will be effective June 2, 1999. Written comments by the public on the modified information collections are due April 23, 1999. Written comments must be submitted by OMB on the modified information collections on or before May 24, 1999.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Reel, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418-1580 or via the Internet at [jreel@fcc.gov](mailto:jreel@fcc.gov). Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202-418-0484. For additional information concerning the information collections contained in this Order contact Judy Boley at (202) 418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order adopted February 24, 1999, and released March 3, 1999. This Report and Order contains new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other federal agencies are invited to comment on the proposed information collections contained in this proceeding. The full text of this Report and Order is available for inspection and copying during normal business hours in the FCC

Reference Center, 445 12th Street, N.W., Washington, D.C. The complete text also may be obtained through the World Wide Web, at <http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc9936.wp>, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th St., N.W., Washington, D.C. 20036.

*Regulatory Flexibility Certification:* As required by the Regulatory Flexibility Act, the Report and Order contains a Final Regulatory Flexibility Analysis which is set forth in the Report and Order. A brief description of the analysis follows. The Report and Order removes the network information disclosure requirements from interexchange carriers and competitive local exchange carriers. These carriers are thus relieved of the burden associated with the requirements, and for that reason the Commission continues to foresee no significant economic impact on a substantial number of small entities.

*Paperwork Reduction Act:* This Report and Order contains either a new or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Public Law No. 104-12. Written comments by the public on the information collections are due 30 days after date of publication in the **Federal Register**. OMB notification of action is due May 24, 1999. Comments should address: (a) whether the new or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents including the use of automated collection techniques or other forms of information technology.

*OMB Approval Number:* 3060-0817.

*Title:* Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, CC Docket No. 95-20.

*Form No.:* N/A.

*Type of Review:* Revised collection.