

Chapter 5. Getting to Final Approval

Overview

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1. Ownership

Change Date January , 2019, Change 5

- Subsections f, g, and h have been updated to reflect the current policy of determining ownership interest (Circular 26-16-2), and new policy regarding property tax record documentation to establish ownership.

a. Overall Requirement In order for a Veteran to obtain final grant approval, the Secretary of Veterans Affairs must determine that there is a satisfactory ownership interest in the housing unit.

b. Legal Requirement for 2101(a) Grants For Specially Adapted Housing (SAH) grants, the Veteran must have, or provide satisfactory evidence that he or she will acquire an ownership interest in the housing unit.

c. Legal Requirement for 2101(b) Grants For Special Housing Adaptation (SHA) grants, the Veteran, or a member of the Veteran's family, must have, or provide satisfactory evidence that he or she will acquire an ownership interest in the housing unit.

d. Legal Requirement for 2102A Grants For Temporary Residence Assistance (TRA) grants:

- a member of the Veteran's family must have, or provide satisfactory evidence that he or she will acquire an ownership interest in the housing unit, and
- the Veteran and the member of the Veteran's family who has, or will acquire, an ownership interest in the housing unit must sign a certification as to the likelihood of the Veteran's temporary occupancy of such residence.

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1. Ownership, continued

e. Definition of Ownership Interest

Ownership interest is defined as an undivided property interest that the Secretary determines is satisfactory. The following may be satisfactory types of property interest:

- fee simple estate;
 - life estate;
 - functional equivalent of a life estate, such as that created by a valid trust, a long-term lease, or a land installment contract that will convert to a fee-simple estate upon satisfaction of the contract's terms and conditions;
 - ownership of stock or membership in a cooperative housing corporation entitling the eligible individual to occupy, for dwelling purposes, a single family residential unit in a development, project, or structure owned or leased by such corporation;
 - lease, under the terms of a valid and enforceable Memorandum of Understanding between a tribal organization and the Secretary; or
 - beneficial property interest in a housing unit located outside the United States.
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f. Required Documentation

All grants require some form of documentation uploaded to the system to verify a satisfactory ownership interest, as outlined above. The documentation required to verify ownership will depend upon the type of property interest and is the same for first use and subsequent use grants.

It is critical to inform the Veteran about ownership requirements for his or her grant type and to begin the process of verification as early as possible to avoid unnecessary delays.

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1. Ownership, continued

g. Required Documentation when the Veteran or Family Member has a Fee Simple Ownership Interest

For all SAH, SHA, and TRA grants, in which the Veteran (or family member for SHA and TRA grants) has, or will acquire, a fee simple ownership interest in the housing unit:

- The RLC must obtain a current property tax record, tax bill, or tax statement for the housing unit to be adapted. The tax record **must** indicate the recorded *owner of the property, property address*, and if *property taxes are current*. It is acceptable if this information is conveyed from an electronic format or tax bill, as long as the three required elements are confirmed. If the documentation obtained indicates that these three elements are satisfied, the RLC may determine that a satisfactory ownership interest exists. In this scenario, an opinion from the Office of General Counsel (OGC) LGY National Practice Group is not required. However, the RLC should contact OGC with any legal questions.
- A tax record is considered current if it is the most recent available from the completion date of the initial interview. If the grant is approved more than 12 months after the date of the initial interview, an updated tax record indicating the property taxes are current must be obtained.

If the property tax record does not indicate that the Veteran (or family member for SHA and TRA grants) as the recorded owner, then the most recent recorded deed (such as a warranty deed, special warranty deed, grant deed, or quit claim deed) must be obtained indicating that the Veteran (or family member for SHA and TRA grants) as the recorded owner. If the deed indicates that the Veteran (or family member for SHA and TRA grants) as the recorded owner, the RLC may determine that a satisfactory ownership interest exists and that an opinion from OGC is not required. However, the RLC should contact OGC with any legal questions.

If neither the tax record or deed are available indicating that the Veteran (or family member for SHA and TRA grants) as the recorded owner, follow the guidance in subtopic h.

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1. Ownership, continued

h. Required Documentation when the Veteran or Family Member will Acquire a Fee Simple Ownership Interest

If the Veteran (or family member for SHA and TRA grants) has not yet acquired an ownership interest in the property, but will do so, the RLC must submit one of the following to OGC for review:

- an attorney's opinion of title, or
- a title insurance commitment in the Veteran's name

Note: The opinion of title or title insurance commitment must be dated not more than 6 months prior to the date of submission to OGC. This scenario requires submission of only one of the two items listed above. If the documentation provided raises a legal concern, OGC may ask for additional information.

For all TRA grants, in addition to the requirements above, the Veteran and the member of the Veteran's family who has, or will acquire an ownership interest in the housing unit must sign a certification as to the likelihood of the Veteran's temporary occupancy of such residence. Review of this document by OGC is not required.

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1. Ownership, continued

i. Required Documentation when the Property Interest is not Fee Simple

For all SAH and SHA grants in which the Veteran is relying on a type of property interest other than fee simple interest to establish ownership, the RLC must obtain a current deed and property tax record (or statement) for the housing unit the Veteran intends to adapt. If, upon review, the deed and/or property tax records indicate ownership by a third party (i.e. the Veteran is not listed as an owner), the RLC must determine whether the Veteran has, or will acquire, one of the following satisfactory types of property interests:

- life estate;
- functional equivalent of a life estate, such as that created by a valid trust, a long-term lease, or a land installment contract that will convert to a fee-simple estate upon satisfaction of the contract's terms and conditions;
- ownership of stock or membership in a cooperative housing corporation entitling the eligible individual to occupy, for dwelling purposes, a single family residential unit in a development, project, or structure owned or leased by such corporation; or
- lease, under the terms of a valid and enforceable Memorandum of Understanding between a tribal organization and the Secretary.

If the RLC determines that the Veteran has one of the aforementioned satisfactory types of property interest, it must then submit the following to OGC for review:

- The vesting deed in the current owner(s) name; and
- The document that provides the Veteran the requisite interest; and
- One of the following items, dated 6 months or less from the time of submission to OGC:
 - a title report, title abstract, lot report, or
 - an attorney's opinion of title, or
 - a title insurance commitment, or
 - a title policy.

Note: This scenario requires submission of three documents to OGC for review: the deed, the document granting interest to the Veteran, and one of the four items listed above. If the documentation provided raises a legal concern, OGC may ask for additional information.

2. Veterans' Mortgage Life Insurance (VMLI)

Change Date January , 2019, Change 5

- Subtopic b was updated for time sensitive VMLI processing guidance.
- Subtopic h and i were added to provide information on how agents may assist VMLI operations and future considerations if VMLI coverage is chosen.

a. General Program Information The VMLI program provides mortgage life insurance to severely-disabled Veterans who otherwise, may not qualify for this type of insurance due to their disabilities. It is designed to pay off, or reduce the principal balance of, the home mortgages of disabled Veterans in the event of their death.

b. Eligibility VMLI is available for Veterans that have a mortgage in their name and an approved SAH or SHA grant prior to their 70th birthday. If a Veteran is rated entitled and becomes eligible for either the SAH or SHA grant shortly before their 70th birthday, and is interested in VMLI coverage, the RLC must contact Central Office (CO) for expedited assistance in reaching grant approval.

c. Benefits VMLI is decreasing term insurance which adjusts as the amount of the mortgage is reduced. VMLI has no loan, or cash value and pays no dividends. As set by law, it currently provides up to \$200,000 of mortgage life insurance, and is payable only to the mortgage holder (i.e. a bank or mortgage lender), not to a beneficiary. The amount of coverage will equal the amount of the remaining mortgage balance, but the amount of coverage can never exceed the maximum amount set by law.

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2. Veterans' Mortgage Life Insurance (VMLI), continued

d. Application It is the SAH Agent's responsibility to inform the Veteran of the VMLI program during the initial interview and provide [VA Form 29-8636](#), *Application for Veterans' Mortgage Life Insurance*. At this time, the Agent should be able to ascertain initial eligibility based on the Veteran's age and the existence of a mortgage. If the Veteran satisfies the age and mortgage requirement, he or she may elect to:

- Accept VMLI coverage. To apply for the insurance, the Veteran must complete [VA Form 29-8636](#), and provide proof of an existing mortgage, such as a current mortgage statement. By completing [VA Form 29-8636](#), the Veteran has not committed to purchasing the insurance. The VA Insurance Center will then contact the Veteran after the grant has been approved for additional information and final confirmation.
- Decline VMLI coverage. The Veteran must complete [VA Form 29-8636](#), specifically, *Part B – Declination of Insurance*, indicating the appropriate reason for declination. The Veteran may elect to purchase coverage at a later date, assuming he or she is still eligible.

If the Veteran is ineligible due to age or the absence of a mortgage, he or she must complete [VA Form 29-8636](#), specifically *Part B – Declination of Insurance*, indicating the appropriate reason for declination.

e. Application Deadline There is no application deadline for VMLI coverage, unless the Veteran is in danger of losing eligibility due to age. The Veteran may apply for the insurance at any time during the grant approval process, after the grant is approved, or even after the SAH project is complete.

f. Effective Date of Coverage VMLI coverage is not in effect until the VA Insurance Center provides confirmation to the Veteran. This will occur after final grant approval.

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2. Veterans' Mortgage Life Insurance (VMLI), continued

g. Cost of the Insurance

It is important for the SAH Agent to inform the Veteran that there is a premium for the insurance. The monthly premium varies based on the Veteran's age, the existing loan duration, the current mortgage balance, and the amount of coverage requested. The Veteran may choose to have this amount deducted from his or her monthly VA compensation. To obtain an estimate of the monthly insurance premium, the Veteran may visit the following website: <https://insurance.va.gov/VMLICalc/VMLICalc.asp>.

Important: The SAH Agent must not provide the Veteran with an estimate of the insurance premium. Please direct the Veteran to the website provided above, or the VA Insurance Center at 1-800-669-8477.

h. VMLI Required Data Elements

In an effort to assist VMLI operations, insurance center staff has access to LGY systems to access uploaded documents.

To assist VMLI operations and allow for Veterans to obtain immediate VMLI coverage, SAH agents should upload to the system a current mortgage statement that contains the following loan data points required for VMLI coverage:

- Mortgage company and their address
 - Property Address
 - Original loan balance
 - Interest rate
 - Current unpaid principal balance
 - Mortgage terms or duration of payments
 - Current principal and interest payment amount
-

i. Follow up Considerations for Veterans that Elect to Choose VMLI Coverage

If a Veteran elects to obtain VMLI coverage, it is important that they are made aware that any changes to the mortgage covered by VMLI are reported immediately to the insurance center. For example, if a Veteran obtains VMLI and refinances at a later date to increase the loan balance, but fails to inform VMLI of the increase in the loan balance, the additional loan amount from the refinance will not be covered by VMLI.

3. Proposed Adaptations and Waivers

Change Date January , 2019, Change 5

- Subsection b was updated to acknowledge the limitations of the TRA grant for SAH-eligible Veterans.
- Subtopic e was updated to address Minimum Property Requirements (MPR) waiver guidance for Veterans with Amyotrophic Lateral Sclerosis (ALS) or other terminal illness.
- Subtopic f was updated to clarify MPR purpose for agents.

a. Overall Requirement In order for a Veteran to obtain final grant approval, the Secretary must determine that the plans and specifications of the proposed adaptations demonstrate compliance with the minimum property and design requirements of the SAH program.

b. 2101(a) Grant Requirements SAH Agents must ensure that final grant approval documents, demonstrate compliance with all MPRs through project inclusion, or an approved waiver request.

MPRs and recommended adaptations (RAs) for SAH grants can be found in Appendix A of this manual.

MPRs for TRA grants, in which the Veteran's original program eligibility is due to 2101(a), must be addressed. However, it is not likely that all MPRs will be satisfied because the TRA grant amount is smaller. The SAH Agent should consider the Veteran's disabilities and preferences when determining which MPRs are most critical. The RLC should exercise greater flexibility when considering MPR waiver requests for TRA grants.

c. 2101(b) Grant Requirements There are no MPRs for SHA grants. RAs for SHA grants can be found in Appendix B of this manual.

RAs for SHA grants must be consulted in TRA cases in which the Veteran's original program eligibility is due to 2101(b).

d. General Information About MPR Waivers An MPR waiver is a written request from a Veteran to waive an MPR. *Note:* Waiver requests are not required for RAs, unless they have been elevated to MPR status by the SAH Agent, Assistant Valuation Officer (AVO), or Valuation Officer (VO), based on the initial interview and feasibility study. Please refer to Appendix A for more information.

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3. Proposed Adaptations and Waivers, continued

**e. MPR
Waivers for
Veterans with
a Terminal
Disability**

The qualifying disability criteria for 2101(a) grants have grown to include drastic variances in disabilities and conditions. MPR inclusion for all 2101(a) eligible Veterans is the desire of the program, but utmost flexibility is needed in providing the grant benefit to Veterans with a terminal disability. Veterans with a terminal illness may only need to ensure safe ingress/egress out of their home, and possibly waive all other MPRs. An RLC may approve waivers for most or all MPRs on a case-by-case basis for terminally ill Veterans, as documented by an approved waiver. Any waiver received from a terminally ill Veteran must be reviewed and a decision reached within 3-business days of receipt.

Note: This policy applies to Veterans with ALS, or other disabilities defined as terminal.

**f. Format and
Content of
MPR Waivers**

An MPR waiver request must be in writing and in the Veteran's own words. The request can be typed or handwritten, but it must be legible. The request must be signed by the Veteran or his or her legal representative. The request must provide justification and support as to why the MPR should be waived. SAH Agents must clearly emphasize that MPR waivers are based solely on a Veteran's disability need, rather than what features the Veteran may want in their home.

Note: While SAH Agents are encouraged to assist Veterans with the preparation of grant approval documents, in no circumstance is it acceptable for an SAH Agent to draft a waiver request for a Veteran.

**g. Approval of
MPR Waivers**

AVOs and VOs are responsible for reviewing and either approving or disapproving each MPR waiver request. AVO or VO approval, or disapproval must be recorded in the system.

Note: At no time is a waiver request considered automatically approved. Each waiver request must be considered on a case-by-case basis.

4. Bids and Waivers

- Change Date** January , 2019, Change 5
- Subsection a was updated to include new language to assist the bidding process.
 - Subsection b was updated to include builder list Circular 26-17-15 language.
 - Subsection e was corrected to reference cost breakdown.
 - Subsection f was updated to indicate RLCs cannot force Veterans to obtain 3 bids.
 - Subsection h was updated to include required builder licensing documentation and additional language on builder selections.
-

**a. General
Information
About Bids**

In order for a Veteran to choose a builder with whom he or she feels confident and comfortable, he or she must solicit bids. The bid process allows the Veteran freedom of choice in selecting a builder based on the proposed adaptation plans and associated costs. Also, it is important to emphasize that typical construction projects may last several weeks or months, and a Veteran may want to utilize the bidding process to ensure compatibility with the builder and employees.

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4. Bids and Waivers, continued

b. Builder Lists

RLCs must maintain a list of all builders who have completed a project in the SAH program after October 1, 2013. This list or lists should be made available based on state, city, or metropolitan area to easily allow Veterans to locate a builder within their desired location. Each RLC should ensure that its respective list(s) only contain SAH builders and their respective contact phone number per geographic area. Builder name and contact information as input in the system of record, is how the builder's information should be displayed on the list.

Veterans continue to have freedom of choice in selecting a builder, and do not have to choose a builder from the list. The list is not required to be provided to Veterans, but can be used as a tool to assist Veterans in locating builders. If the list is provided to a Veteran at any stage of the grant process, a copy of the list **must** be uploaded to the Veteran's grant record in the system of record within 5 business days of being provided to a Veteran.

Each RLC builder list provided must include the following disclaimer at the top of each page, in at least 14 point bold font: *"The Department of Veterans Affairs (VA) provides this list of builders who have completed a Specially Adapted Housing (SAH) project since October 1, 2013. The appearance of a builder name on this list does not constitute a VA endorsement of the builder or an indication that VA has any relationship with the builder. The list is provided for informational purposes only. The Veteran is under no obligation to choose a builder from this list. Builders' names provided on this list appear in no particular order. VA makes no representation as to the quality of a builder's work. VA encourages Veterans to research any builder thoroughly before selecting from this list or any other source."*

c. Number of Bids Required

This affords the Veteran the opportunity to view various options, and compare the services and prices of multiple builders. The Veteran may obtain more than three bids for his or her SAH project; however, the minimum is three. If the Veteran lives in a rural location, or cannot obtain three bids, a waiver of this requirement may be requested. Waivers of this requirement are discussed later in this section

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4. Bids and Waivers, continued

d. Components of a Bid

It is not necessary for a builder to provide full construction documents as part of a bid. Rather, a bid should contain enough information for the Veteran and the SAH Agent to understand the builder's proposal (e.g., the builder's vision for how to utilize the available space and how to incorporate the MPRs and desired RAs), and to get a sense for the approximate cost. The bid should contain a sketch of the proposed construction, but does not need to include full architectural drawings. The bid should also contain a detailed estimate, but does not need to include an itemized cost breakdown.

Note: While it is unlikely that experienced SAH builders are unaware of the maximum grant amounts, SAH Agents and Veterans are encouraged not to discuss specific grant amounts with potential builders, so that honest and accurate estimates can be obtained.

e. Selecting a Bid

The SAH Agent should maintain contact with the Veteran as he or she is going through the bidding process. When the Veteran has selected a bid, the Veteran should inform the SAH Agent and the selected builder so full construction documents (i.e. contract, plans, specifications, and cost breakdown) can be drafted and reviewed. The Veteran should also be encouraged to contact the non-selected builders as a courtesy.

f. Three-Bid Waiver

There will be situations in which a Veteran is unable or unwilling to obtain three bids. While VA strongly recommends a minimum of three bids to ensure adequate competition and to eliminate conflict of interest, there is also a need to avoid delays and allow for freedom of choice. Therefore, VA will entertain requests for waivers of the three-bid requirement. If the Veteran is unwilling to obtain three bids, the RLC cannot force the Veteran to do so.

A bid waiver request must be in writing and in the Veteran's own words. The request can be typed or handwritten, but it must be legible. The request must be signed by the Veteran or his/her legal representative. The request must provide justification and support as to why the three-bid requirement should be waived. For example, the Veteran should be able to explain why he or she was unable to obtain three bids or the rationale for why the Veteran chose the builder without entertaining multiple bids.

Note: While SAH Agents are encouraged to assist Veterans with the preparation of grant approval documents, in no circumstance is it acceptable for a SAH Agent to draft a waiver request for a Veteran.

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4. Bids and Waivers, continued

g. Approval of Bid Waivers AVOs/VOs are responsible for reviewing and approving or disapproving each bid waiver request.

Note: At no time is a waiver request considered automatically approved. Each waiver request must be considered on a case-by-case basis.

h. Builder Selection and Registration

The Veteran has freedom of choice in selecting a builder for the proposed adaptations, but the following requirements apply:

- The builder must possess any and all applicable licenses administered through their respective state/local licensing board. The SAH Agent must upload a copy of the selected builder's license or certification indicating that the existing license is valid, and will remain active through the duration of the proposed construction.
 - If a builder's license is to expire within the proposed construction time frame, the builder must provide a signed acknowledgment that their builder license will be renewed prior to the expiration date.
 - If the locality the Veteran resides in does not maintain a licensing board or other recognized certification, the Veteran must sign an acknowledgment form that the builder is not regulated through a local licensing board.
- If the builder does not already possess a VA Builder Identification (ID), the builder must register for a VA Builder ID number by completing the following forms:
 - [VA Form 26-8791](#), *VA Affirmative Marketing Certification*
 - [VA Form 26-421](#), *Equal Employment Opportunity Certification*
 - Builder Information and Certifications must be completed using Figure 1 from the VA Pamphlet 26-7, *Lenders Handbook*, [Chapter 10](#), Property Eligibility and Appraisal Requests
- The SAH Agent must contact the builder prior to registration to explain the disbursement process, and explain that the builder will be required to carry the initial construction costs.

Note: The SAH Agent must allow the Veteran freedom of choice in selecting a builder, but the SAH Agent should encourage the Veteran to research the builder's background and previous job history to ensure an informed decision. The Veteran must be made aware that construction projects are often lengthy, and that in addition to a builder's professional performance, consideration should be given to ensure personal compatibility with each other.

5. Contracts

- Change Date** January , 2019, Change 5
- Subsections b was updated to encourage submission of an all-inclusive construction documents.
 - Subsection c was updated to clarify expectations of parties to a contract.
 - Subsection e was updated to clarify scope of work requirements.
 - Subsection f was updated to create builder conditions for language pertaining to the escape clause, CI acknowledgement, change order acknowledgment, construction start date, and VA builder certification.
-

a. General Information The contract is the legal agreement between the Veteran and the builder. The contract is the most important communication tool between the Veteran and builder; it should identify all project expectations to help avoid misunderstandings. While the contract is negotiated between the Veteran and builder, VA does require certain components.

Important: The Veteran should be encouraged not to sign anything until they understand the contract and agree to the terms.

b. Contract Requirements The selected builder must provide a fixed-price contract that includes the following components:

- the parties to the contract and specified roles, along with signatures of all parties and the dates of signatures;
- the address of the subject property;
- a reference to specific plans and specifications;
- the terms and cost of the project;
- a scope of work;
- the estimated time to complete the project; and
- VA conditions (see subsection f).

Builders are encouraged to utilize a contract format that may combine the description of materials, terms and cost of the project, and a scope of work. VA must review all information provided to ensure that the documentation is consistent, and to avoid any discrepancies in proposed work to be completed.

After final grant approval, any change to the elements specified in the original contract must be accompanied by a change order, signed by all parties, subject to VA approval. Refer to Chapter 6, Section 2, for additional information on change orders.

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5. Contracts, continued

c. Parties to the Contract

VA is not a party to the contract. Only those specifically named in the contract, usually the Veteran, or his or her representative and the builder are parties to the contract.

Important: A Veteran is a party to the contract and must perform per the elements of the contract. Disputes may arise where a Veteran may wish to ban access to their home, or sever ties with the contracted builder. A Veteran cannot unilaterally dissolve a contract, as both parties must come to an agreement before finalizing a decision.

d. Referencing Plans and Specifications

In order to ensure that the Veteran and builder are in total agreement, regarding the proposal as a whole, the contract must incorporate, by reference, the final signed and dated version of the plans and specifications approved by VA. It is sufficient to reference the plans and specifications by date or version number, so long as it is clearly visible on the documents.

e. Scope of Work

The format of the scope of work can be determined by the builder, but the scope of work is considered part of the contractual agreement between the Veteran and builder.

The scope of work:

- must contain a clear description of all proposed adaptations, separated by location within the home;
- must be consistent with all contractual documents submitted.

If the scope of work deviates from the plans and specifications, the SAH Agent will contact the builder to resolve inconsistencies, and document his or her action in the system.

Example for scope of work line item: *Master Bedroom – Install 36” wide entry door (model # abc, with hardware chosen by Veteran); replace existing carpet with non-slip ceramic tile (model #abc); install 36” wide emergency exit door (model # abc with hardware to be chosen by Veteran), with ½” threshold. The exit door will lead to an exterior broom swept concrete landing platform level with the interior grade.*

An example of an insufficient scope of work: *Install cabinets in handicap bathroom.*

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5. Contracts, continued

f. Conditions The following conditions must be included in the contract or in an addendum:

- **Escape Clause:** *“This contract is conditioned in its entirety upon the Veteran receiving a grant under Title 38 U.S.C. Chapter 21 and if this Veteran does not receive this grant, this contract is null and void and any and all monies will be returned without exception.”*
- **Warranty:** The builder must provide a 1-year warranty from the date of final construction completion.
- **Compliance Inspection Acknowledgement:** *“Upon grant approval, both parties agree that the construction of specially adapted features will be subject to VA compliance inspection(s) to assure conformity with the approved plans and specifications, to include a final field review by VA personnel. If payments are to be made subject to a disbursement schedule, a minimum 20 percent holdback of grant funds is required and will only be released subject to satisfactory completion of the final field review. These inspections are not to be substituted for local building permit inspections.”*
- **Change Order Acknowledgement:** *“Substitutions or deviations to the plans and specifications must be approved by VA in advance. The builder and the Veteran must request approval of any substitutions and deviations using a change order. The change(s) and any monetary effect on the original contract must be clearly shown. Failure to obtain approval by VA for substitutions and deviations in advance may result in construction delays, payment delays, and/or disputes between parties.”* (See Chapter 6, Topic 2, for more information on change orders).
- **Construction Start Date Acknowledgement:** *“Construction may not begin until VA has provided authorization. The construction will be completed approximately ____ days after the construction start date.”*

Provide the following VA Builder Certification, *“I certify that the construction exhibits for (the property address) meet all local code requirements and are in substantial conformity with both SAH and VA Minimum Property Requirements, and all building standards as required by VA. I also certify that all applicable permits required by the local building authority will be obtained prior to commencement of construction, and all required permit construction inspections will be satisfactorily completed per local build authority requirements.”*

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5. Contracts, continued

g. Addendums It is preferred that all contract components described in paragraph b above be incorporated into the builder-drafted contract. However, if the builder omits one or more required components, the RLC may utilize a contract addendum to address any gaps.

If a contract addendum is utilized, it must be signed and dated by the builder and the Veteran. Any action taken should be documented in the system.

6. Plans and Specifications

Change Date January , 2019, Change 5

- This entire section has been updated (Circulars 26-14-35 and 26-15-8).
- Subsection c was updated to account for Veterans obtaining plans prior to grant approval.

a. General Information Plans and specifications are critical to the grant approval process, as they illustrate the proposed adaptations and provide a detailed list of the materials that will be used for construction. Construction plans are usually required for all cases although the exhibits and levels of detail within the required construction plans depend upon the type and scope of the proposed project.

b. Regulatory Requirement Title 38 Code of Federal Regulations § 36.4406 establishes the requirement for plans and specifications for eligible individuals seeking SAH grant approval. The plans and specifications of the proposed adaptations must demonstrate compliance with the MPRs of the SAH program. The plan requirements for each of the four types of construction are listed below.

Important: Regardless of the level of detail required for the plans, it is the SAH Agent's responsibility to ensure that all SAH MPRs are represented in the construction documents, either graphically or textually. The SAH Agent may rely on all construction documents (plans, list of materials, scope of work, contract, specification sheets, etc.) to verify MPR compliance.

c. Cost of Plans The Veteran may hire an architect or draftsman at their own initial expense to create a set of plans and specifications that illustrate the proposed adaptations. Creating plans initially will allow interested builders to bid off the same requirements. The SAH Agent must convey all MPRs and RAs in the design phase as needed to ensure the successful inclusions of adapted features. A Veteran may be reimbursed with grant funds upon reaching grant approval if this option is chosen.

Alternately, the selected builder may be responsible for drafting (either personally or through the use of an architect or draftsman) and submitting the plans to the RLC for approval. This cost can be itemized in the cost breakdown and may be included in the first construction draw. VA strongly discourages Veterans from paying for construction plans in advance to a builder; however, if a Veteran insists upon paying for this cost out of pocket, he or she can be reimbursed with grant funds upon reaching grant approval.

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6. Plans and Specifications, continued

d. Types of Construction Projects

The table below lists the types of construction projects and the level of detail required for plan submission:

Type of Project	Plan Requirements
New Construction	Full set of construction plans (see subsection e).
Renovation with an Addition	Floor plan, plus other necessary exhibits (see subsection f).
Renovation without an Addition	Floor plan (see subsection g).
Installation Only	None (see subsection h).

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6. Plans and Specifications, continued

e. New Construction

For new construction projects, the level of detail required for plan submission is more substantial. The following details are typical in most new construction plans and are required for final grant approval unless otherwise stated:

- Plot Plan: The plot plan must illustrate the following items:
 - the proposed housing unit;
 - ramps, walkways, and driveways;
 - detached garages, carports, outbuildings, and/or other improvements;
 - significant changes in topography; and
 - critical easements and setback requirements, if applicable.
- Foundation plan: The foundation plan must illustrate the dimensions and materials used for footings, walls, slab, and/or support piers. A foundation plan must be notated if the home will be built with a foundation in which the finished floor elevation is flush with the exterior grade or exterior flat work (zero step entrance).
- Wall Detail: The wall detail must illustrate the proposed exterior wall cross section from the foundation/footing upward to the eave.
- Floor Plans: The floor plan must illustrate the following:
 - all levels, including the dimensions of the home;
 - all adapted areas/features and dimensions;
 - the garage/carport and dimensions;
 - the size and location of interior and exterior doors/windows;
 - the dimensions for all rooms, hallways, and passageways; and
 - all adapted ingress/egress points including ramps.
- Interior and Exterior Elevations: Elevations are typically included with new construction plans; however, they are not required. The builder may determine that providing elevations is the most efficient way to communicate project details. At a minimum, the SAH Agent must ensure that Veteran preference items are noted in the construction documents either graphically or textually. Veteran preference items include, but are not limited to:
 - heights for thermostats, outlets, switches, and service panels;
 - window sill and hardware heights;
 - bathrooms adaptations (e.g. all grab bars, plumbing fixtures, bathtub transfer platforms, mirror height, cabinets, and roll-under sink);
 - kitchen adaptations (e.g. cabinet and counter heights, sink basins, workspaces, and appliance locations); and
 - closet/storage area adaptations including the location of closet rods and shelving.

Continued on next page

6. Plans and Specifications, continued

e. New Construction, continued

- **Electrical and Mechanical Plans:** Detailed electrical and mechanical plans are not required. However, builders must provide sufficient detail in the contract, scope of work, and/or specifications. Builders may submit electrical and mechanical plans if they deem this to be the most efficient way of communicating the proposed work. The SAH Agent should request copies of electrical and mechanical plans if they are required by the local building authority as part of the permitting process.
-

f. Renovations with an Addition

For remodeling projects that include an addition, the following plans are required unless otherwise stated:

- **Plot Plan:** The plot plan must illustrate the following items:
 - the proposed addition with any proposed ramps, walkways, or driveways;
 - significant changes in topography; and
 - critical easements and setback requirements, if applicable.
- **Foundation plan:** The foundation plan must illustrate the dimensions and materials used for footings, walls, slab, and/or support piers. A foundation plan must be noted if the addition will be built with a foundation in which the finished floor elevation is flush with the exterior grade or exterior flat work (zero step entrance).
- **Wall Detail:** The wall detail must illustrate the proposed exterior wall cross section from the foundation/footing upward to the eave.
- **Floor Plan:** The floor plan must illustrate the following items:
 - all adapted areas/features and dimensions;
 - the size and location of new interior and exterior doors/windows;
 - all adapted ingress/egress points including ramps; and
 - the location of any special equipment to be installed (e.g. automatic door openers, vertical platform lifts, ceiling track systems, etc.).

Interior and exterior elevations are not required. However, the builder may determine that providing elevations is the most efficient way to communicate project details. At a minimum, the SAH Agent must ensure that Veteran preference items (listed in subsection e above) are noted in the construction documents either graphically or textually.

Note: If a remodeling project includes an addition, but the heating, ventilation, and air conditioning (HVAC) system will remain unchanged, the SAH Agent should question whether the existing system is sized adequately to heat/cool the new addition.

Continued on next page

6. Plans and Specifications, continued

g. Renovations without an Addition For remodeling projects without an addition, only a floor plan is required. The floor plan must illustrate the following:

- all proposed, adapted areas/features, and dimensions;
 - the size and location of new interior and exterior doors/windows; and
 - all proposed, adapted ingress/egress points including ramps/walkways; and
 - the location of any proposed special equipment (e.g. automatic door openers, vertical platform lifts, ceiling track systems, etc.).
-

h. Installation Only For projects in which only installation is proposed and no construction will be completed (e.g. an SAH project in which only flooring is installed or a SHA project in which only lighting is installed), construction plans are not required and a detailed list of materials will suffice. Other cases that do not require construction plans are SAH Plan 4 cases and SHA Plan 5 cases because the housing unit has already been adapted.

i. Signatures In order to ensure that the Veteran and builder are in total agreement regarding the plans, the final version of the plans must be signed and dated by the Veteran and builder. In most cases, it is not necessary for the Veteran and builder to sign and date every page. For example, if the dated plans are a cohesive set, it is acceptable for the Veteran and builder to sign one page, preferably the first page or title page. However, pages revised after the date of the Veteran's signature must be signed and dated by the Veteran and builder. Plans that are not submitted as a set must be signed and dated by the Veteran and builder on every page.

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6. Plans and Specifications, continued

j. Specifications

The builder must provide a complete list of materials in a format of their choosing. The list of materials must include enough detail so that it may be relied upon for compliance inspections and mediating potential construction disputes. Ideally, this document would incorporate the Cost Breakdown described in Chapter 5, Topic 7(f). Builders may elect to use [VA Form 26-1852, Description of Materials](#), in lieu of providing the list in their own format. All parties to the contract must sign and date the completed list of materials.

In addition to the list of materials, the SAH Agent is required to obtain manufacturer's specification sheets for flooring, appliances, and special equipment listed in Appendix A. To ensure that all parties are in agreement as to what materials are being used for the project, all parties to the contract must also sign and date the first page of each manufacturer's specification sheet. After final grant approval, any changes to the approved list of materials will require a written change order signed by all parties to the contract. Please see Chapter 6, Section 2 for more information on change orders.

Customer preference items, such as colors and finishes for paint and flooring, are not required for grant approval. In addition, it is acceptable for the builder to provide a budget allowance for lighting and plumbing fixtures rather than specific item descriptions. It should be noted that customer preference items are often the source of disagreements between the Veteran and builder. In order to reduce the likelihood of a construction complaint, the SAH Agent should advise the Veteran to obtain and retain proof of customer preference selections. The SAH Agent should also obtain copies of these documents and upload them into the system.

7. Cost Analysis

- Change Date** January , 2019, Change 5
- Subsection a was updated to expand on the cost analysis purpose.
 - Subsection h has been amended to call attention to undercharging.
 - Subsection i was updated to emphasize building phase consideration.
-

a. Purpose A cost analysis helps to determine if the construction cost is appropriate for the proposed scope of work. If a construction project indicates potential overcharging, this may limit the inclusion of MPRs or RAs that are essential to assisting SAH or SHA eligible Veterans with their independence needs.

- b. When to Perform** The SAH Agent completes the cost analysis after receiving the final versions of the following:
- the construction contract;
 - the plans and specifications, including the description of materials as provided by the builder; and
 - the builder's cost breakdown.
-

c. Typical Construction Related Costs It is important to remember that every construction project is different and the types of construction costs for each project will vary accordingly. The following are typical construction related costs:

- material
- labor or subcontractor fees
- profit
- overhead
 - architect or drafting fees
 - debris/trash containers and removal
 - storage
 - insurance
- site preparation
- job conditions

The SAH Agent should question any charges or fees that do not appear typical or related to the proposed construction project and document the system.

Continued on next page

7. Cost Analysis, continued

d. Cost Estimating Tools and Resources

On the job experience is the best source of cost estimating knowledge. In addition, there are several resources available to SAH Agents for completing the cost analysis. Most analyze the construction cost on a dollar per square foot basis, which is determined by the quality of construction and the location of the project. The Marshall & Swift Cost Estimator, an online software application, is a well-known source for cost estimation and may be accessed at <http://www.swiftestimator.com/>. Other resources for product and cost estimates include:

- builders associations,
 - suppliers (retail and wholesale),
 - manufacturers, and
 - other builders.
-

e. Challenges

Cost estimating is one of the most difficult parts of the grant process because:

- Every project is different and the needs of each Veteran are unique.
 - Job site conditions and locality costs vary significantly.
 - Costs for specific types of work vary by builder and construction quality.
 - Fluctuations in construction costs, especially material costs, are based on supply and demand and are not always consistent with general economic conditions in an area.
 - Remodeling work may involve:
 - unanticipated problems (e.g. termite or water damage, structural damage, foundation defects, etc.), resulting in additional costs; and
 - inherent structural or site limitations, providing less flexibility in design and use of materials.
-

f. Cost Breakdown

The cost breakdown is an itemized list of work and associated costs for a construction project. It must be provided for all construction and remodeling projects. The cost breakdown is an integral part of developing the disbursement schedule, which is discussed later in this chapter.

Continued on next page

7. Cost Analysis, continued

**g. Completing
the Cost
Analysis**

There are four steps to completing the cost analysis:

- Review the plans and specifications for materials, size (square feet), and construction quality.
- Use a cost estimating resource to determine the construction cost on a dollar per square foot basis. Apply this number to the size (square feet) of the proposed project.
- Use other resources, if necessary, to determine the cost of specialty equipment.
- Compare the builder's project cost with the cost derived using the cost estimating resource.

Continued on next page

7. Cost Analysis, continued

h. Excessive Cost

When the cost analysis indicates significant overcharging by the builder, the Veteran must be notified using the system-generated letter (which can be e-mailed or mailed). SAH Agents must question whether the excessive cost is concealing non-grant related work not disclosed in the contract. Potential signs of overcharging are:

- an experienced SAH builder charging more for similar work recently completed on another project,
- excessive overhead costs, or
- construction costs exceeding what is typical in the market when compared to other local builders.

Because the Veteran has freedom of choice in selecting the builder, he or she may elect to move forward with a project even if overcharging is evident. In these situations, the SAH Agent must determine that all work is grant related, and must obtain a written statement from the Veteran acknowledging:

- the disparity,
 - a desire to continue with the project, and
 - if applicable, the Veteran's ability to pay for the cost of the project that exceeds the available grant funds.
-
- **Important:** It is equally important for SAH Agents to recognize estimates that are too low. Undercharging can lead to situations in which the builder submits excessive change orders or worse, walks away from a project that is not profitable. If an SAH Agent believes that the builder is undercharging, the Agent must provide the Veteran a written letter documenting the concern. The Veteran must sign and return this letter, and it must be saved in the system of record.

Continued on next page

7. Cost Analysis, continued

i.
Disbursement
Schedule

The disbursement schedule is created to define the stages of construction and the amount of funds to be disbursed at each stage. The disbursement schedule also establishes construction phase expectations between the Veteran and builder. Often, Veterans remain in the home being remodeled, and consideration should be given to the phases of construction and their impact on the Veteran's activities of daily living.

Due to VA's unique payment procedure (i.e. funds are not released until the value-added work is complete) builders are required to carry the construction cost until the first disbursement. To ensure that builders are aware of this requirement, builders must provide a detailed disbursement schedule describing the work and associated costs for each stage of construction. Please refer to Chapter 7, Section 3 for more discussion on the minimum number of inspections and disbursements for each project type.

The SAH Agent is responsible for reviewing the disbursement schedule prior to submitting the grant for final approval. The disbursements for each stage must accurately represent the work to be completed during that stage. Equal disbursements throughout the project (e.g. four \$15,000 disbursements on a \$60,000 project) may be a sign that the builder did not invest much time in developing the disbursement schedule. The SAH Agent must scrutinize the disbursement schedule to ensure builders are not falsely inflating early disbursements. Typically, the first disbursement should not exceed 20 percent of the total construction cost. Accurate disbursements help to ensure sufficient grant funds remain to complete construction should the builder abandon the project.

Important: Every construction project will require 20 percent of the construction funds to be held in escrow until the project is complete. These funds are payable only after receiving a satisfactory final compliance inspection report and SAH Agent final field review (FFR). The exception is turn-key projects (defined as a project with one lump-sum payment made at project completion) because all funds are disbursed at once after the SAH Agent FFR is completed.

Note: The amount of funds held is based on the cost of the construction VA grant funds are responsible for. If a portion of the grant funds are being used for a mortgage principal reduction, this amount must not be included in the calculation. If a project exceeds available grant funds, and a Veteran contributes personal funds, the holdback may only account for the portion of VA grant funds.

8. Required Documents for Other Situations

- Change Date** January , 2019, Change 5
- Subsection b was amended to clarify documents required for construction loans versus personal loans.
 - Subsection e was amended to include acceptable documents for proof of cost and a note about communicating grant amounts.
 - Subsection f was edited to remove reference to PL109-233.
-

a. General Information The documents previously discussed in this chapter will be required for grant approval in most cases. However, there are unique situations that will require additional information and documentation.

b. When Construction Costs Exceed Available Grant Funds When the project cost exceeds the amount of available grant funds, the Veteran is responsible for paying the difference. To pay the difference, the Veteran will typically use personal funds, obtain a loan, or utilize the Home Improvement and Structural Alterations (HISA) grant administered by the office of Prosthetics and Sensory Aids (P&SA).

Loans such as personal loans, renovation loans, lines of credit, etc., that do not require an appraisal, require evidence of loan approval. If the Veteran is obtaining a new construction loan, the following must be provided:

- a loan commitment letter,
- an appraisal, and
- a VA Loan Analysis, [VA Form 26-6393](#), *Loan Analysis*, or equivalent documentation for non-VA loans.

If the Veteran is using personal funds, the following must be provided:

- A bank statement showing adequate personal funds to cover the difference.
- A signed disbursement schedule/escrow agreement indicating that Veteran funds will be paid prior to the release of grant funds.

Note: The Veteran's personal funds must be liquid. Evidence of investments, retirement accounts, or funds that are not readily available, are not acceptable.

If the Veteran is utilizing HISA grant funds, the SAH Agent must obtain the HISA approval notification, a description of the proposed work, and the associated cost.

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8. Required Documents for Other Situations, continued

c. Power of Attorney

If the Veteran has granted a Power of Attorney (POA), it must be sent to OGC for review and approval. It is important to note that the existence of a POA does not negate the Veteran's authority to sign documents; it merely allows another individual to sign for the Veteran.

Note: A medical POA is not sufficient for SAH purposes.

d. Plan 4 SAH/Plan 5 SHA

For Plan 4 SAH and Plan 5 SHA cases, construction has already been completed, or the Veteran has acquired a home that is already adapted. Therefore, no construction documents are necessary. However, the SAH Agent must complete a FFR of the property to ensure that it meets MPRs. Please see Chapter 10, *SAH Agent Final Field Review*, for more information.

e. Support for Grant Plan Formulas

As early as possible in the grant approval process, the SAH Agent should determine the plan type. The agent should then review the corresponding grant plan formula to ensure that any documents necessary to support the calculation are obtained from the Veteran. It is important to note that the grant plan formulas are provided in Title 38 United States Code, Chapter 21, which means they are a legal requirement to reach grant approval. Detailed information about grant plan types and calculations can be found in Appendix C of this manual.

The most common document required for grant plan formulas is proof of the original cost of the housing unit or land. Acceptable documents include a deed, warranty deed, HUD-1, closing disclosure, tax card, or evidence from an official online government source. If the Veteran is unable to provide an official document and the SAH Agent has been unable to locate proof of cost using official government sources, the RLC may accept a signed affidavit in which the Veteran states the original purchase price. Questions about other acceptable supporting documents should be directed to Central Office (CO).

Important: The SAH Agent should never communicate the grant amount until all relevant information and documents have been collected and the grant amount has been correctly calculated. Unforeseen circumstances could result in a calculated grant amount that is less than anticipated.

Continued on next page

8. Required Documents for Other Situations, continued

f. Cases Involving Mortgage Principal Reduction

If the Veteran plans to use part or all of the grant funds to reduce the principal balance of a mortgage, the SAH Agent must obtain a current mortgage statement that shows total principal balance. A mortgage statement will be considered current if the statement date is within 2 months of grant approval.

Typically, in these cases, SAH grant funds should be used to reduce the principal balance on the first/primary mortgage. However, some Veterans have second mortgages, home equity loans/lines of credit, reverse mortgages, or other indebtedness for which the housing unit serves as collateral. The Veteran has freedom of choice in terms of which mortgage product best serves his or her needs. As long as the SAH Agent can obtain documentation proving that the indebtedness in question is directly related to the acquisition and/or adaptation of the housing unit, grant funds may be used to reduce the principal balance of a variety of loan types.

Note: While flexibility is critical to successful administration of the SAH program, under no circumstances should the SAH Agent advise a Veteran to incur debt with the expectation of receiving grant funds as reimbursement or principal reduction.

9. RLC Requirements for Grant Disapproval

Change Date February 12, 2014, Change 1

- This entire section has been updated.

a. General Information Processing a grant for approval can be a time consuming and difficult process, especially for the Veteran involved. Returning to the Veteran repeatedly for corrections or additional documents, especially after the grant package has been submitted to the RLC for approval, can exacerbate an already stressful situation.

Important: It is imperative that SAH Agents are knowledgeable of the program requirements and complete a thorough review of the grant package prior to submitting it to RLC management for approval. Moreover, it is imperative that RLC management communicate effectively with SAH Agents when corrections or additional documents are required for grant approval.

b. Consistency Requirement Occasionally, mistakes will be found when the RLC reviews a case, causing the grant to be disapproved. RLC management should review the grant in its entirety to ensure an accurate and complete list of required items or corrections is compiled. When RLC management requires the SAH Agent to make corrections or obtain additional documents, RLC management must provide system notes that clearly document all reasons for disapproving the grant. This will help the SAH Agent avoid returning to the Veteran multiple times and will expedite grant approval. Once the requested documents or corrections are provided, approval of the grant should become a priority for RLC management.

If it is apparent that RLC management is not properly reviewing and documenting the cases (e.g. the grant is submitted for review by the SAH Agent multiple times and new information is requested from RLC management each time the grant is reviewed), the RLC may receive a negative finding as a result. The same is true if the SAH Agent continuously neglects to provide the information requested by RLC management.

c. Follow-up Requirement If RLC management disapproves a grant and additional documentation is required from the Veteran and/or builder, the SAH Agent must communicate this to the Veteran and/or builder within 5-business days of disapproval via e-mail or mail. A copy of this communication must be uploaded to the system.
