

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 Senior Companion on the basis of race, color, national origin, sex, age, religion, or political affiliation, or on the basis of disability, if the Senior Companion with a disability is qualified to serve.

(g) *Religious activities.* A Senior Companion 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.

§ 2551.122 What legal coverage does the Corporation make available to Senior Companions?

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 Senior Companion are paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the Senior Companion's activities. The circumstances under which the Corporation shall 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 1208 and 2552

RIN 3045-AA18

Foster Grandparent Program

ACTION: Final regulations.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), amends the regulations governing the administration of the Foster Grandparent Program (FGP). 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 It updates program operations, consolidates requirements from outdated sources into one user friendly document; and incorporates new concepts of programming to highlight the accomplishments and impact of senior service.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 Foster Grandparent Program regulations and Foster Grandparent Program Operations Handbook dated January 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 Foster Grandparent Program, 45 CFR Parts 1208 and 2552, in the **Federal Register** at 63 FR 46963, September 3, 1998.

Summary of Main Comments and Changes

In response to the Corporation's invitation in the NPRM, the Corporation received 524 letters. A significant number (73 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 2552.11 What is the Foster Grandparent Program?

Comments: Expressed concern that the language proposed for § 2552.11 puts too much emphasis on service, less on the volunteers, and disregards the dual purpose of the program.

Response: The Corporation understands the concerns expressed and has modified the section to emphasize the dual purpose of the program. The first sentence of § 2552.11 was revised by adding "for the dual purpose of engaging" after "organizations", and "and to provide a high quality experience that will enrich the lives of the volunteers" after "needs."

Section 2552.12(c) Annual Income

Comments: Expressed some confusion as to whether it is mandatory to count the value of food and shelter given the use of the word "may" in this section, and the word "should" in the second sentence of § 2552.42(b).

Response: In determining income eligibility, it is the Corporation's intent to count the value of food and shelter

provided at no cost to a volunteer. This is to ensure that volunteer applicants receiving such assistance do not have an undue advantage over those who do not. To make this point clear, the Corporation has amended the second sentence of this section by using the word "shall" instead of "may", and has also inserted the word "in-kind" after "cash" in the first sentence.

Section 2552.12(g) Children Having Exceptional Needs

Comments: Expressed concern that limiting services to children with special and exceptional needs would eliminate services to so called "at-risk" children who do not meet the definition. Others said that the examples cited exclude other types of children such as those with literacy needs; while some objected to the use of the term "mentally retarded" in the first sentence.

Response: The Corporation has expanded the examples by including children with literacy needs in the definition. It also deleted the term "mentally retarded". The Domestic Volunteer Service Act (DVSA) requires that volunteer services be focused on children with "special or exceptional needs".

Section 2552.12(n) National Senior Service Corps

Comments: Object 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 2552.23(f) Volunteer Orientation

Comments: Indicated that 40 hours of pre-service orientation is difficult for staff to deliver; others thought that the four hours of monthly in-service training is excessive.

Response: The Corporations understands the concerns expressed. To increase flexibility and training options, the Corporation amended the provision to provide 40 hours of orientation of which 20 hours must be pre-service. The Corporation believes four hours of monthly in-service training is essential.

Section 2552.23(i) 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 2552.23(k) Assessment of Accomplishments and Impact

Comments: All 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 2552.24 Securing Community Participation

Comments: Comments were mixed. Some of the comments 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 2552.25(b) Delegation of Authority

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

Response: The Corporation has withdrawn the provision from the final rule.

Section 2552.25(d) Full-Time Project Director

Comments: Comments were mixed. Some were in support of the new rule; others wanted a provision to waive the full-time project director requirement; and a few wanted the requirement taken out of federal regulations and left at the sponsor's discretion.

Response: 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 2552.41 Foster Grandparent Eligibility

Comments: Suggested lowering the age eligibility from 60 to 55 to attract more volunteers into the program and broaden the potential volunteer pool.

Response: The age eligibility of volunteers is established by law. Only Congress can change this requirement and the Corporation plans to pursue that objective through the reauthorization process.

Section 2552.42 Income Guidelines

Comments: Many recommend increasing the income guideline to 150 percent of poverty. Others questioned the inclusion of the value of food and shelter provided at no cost to a volunteer in determining income.

Response: The income guideline is established by law and can only be changed through a legislative amendment. Counting the value of food, clothing and shelter provided at no cost, encourages equitable participation by not giving advantage to volunteers who receive such assistance.

Section 2552.43 What Is Considered Income

Comments: Requests special consideration for volunteers who own their homes and have related expenses.

Response: This section restates a provision in the old regulations and will be maintained. The only consideration with respect to expenses relates to extraordinary health care expenses.

Section 2552.45(a) Stipend

Comments: Expressed concern that the rule excludes eligible married couples from receiving a stipend.

Response: The Corporation, after considering the concerns expressed, has decided to withdraw subsections (a)(1) and (a)(2) in order to allow all eligible married volunteers to receive a stipend.

Section 2552.45(c) Transportation

Comments: 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 "Grandparents".

Section 2552.45(d) Physical Examination

Comments: Requested that the physical examination be permitted

during the first month of service rather than requiring that it be provided only prior to service. The rationale for the request is that such an approach could save money particularly in cases where volunteers terminate shortly after enrollment.

Response: The Corporation understands the rationale for the request. However, physical examinations provide some assurance that volunteers can serve without detriment to themselves or their clients. The Corporation believes this justifies the costs involved.

Section 2552.45(e) Meals and Recognition

Comments: Expressed concern that this Section reduces the value of support by limiting it to available resources and suggested that recognition be made mandatory.

Response: To emphasize its importance to the volunteers, the Corporation revised this Section by using the term "shall be" instead of "are" in the first line. The level of support volunteers receive is always governed by the resources available to a project under an approved grant.

Section 2552.51(a) (b) (c) Terms of Service

Comments: Comments were mixed. Some agree with the flexibility provided under the new rule; others thought there should be more flexibility suggesting that terms of service should be left to the discretion of the sponsor.

Response: After considering the comments, the Corporation modified this Section to allow even more flexibility in volunteers' term of service. SubSection (a) was revised to allow volunteers to serve a minimum of nine months a year at an average of 20 hours of service a week. Consistent with this amendment, subsections (b) and (c) were deleted.

Section 2552.52 Modified Schedule

Comments: All opposed the proposed rule. Many thought the 10 year service requirement as a condition for a modified service schedule was excessive.

Response: The Corporation deleted this Section in view of the changes made on Section 2552.51 (a) on terms of service.

Section 2552.55 Volunteer Leave

Comments: Opposed this provision because it may result in less leave for volunteers. Many thought that volunteer leave should be governed by sponsor's policies.

Response: After considering the comments, the Corporation has withdrawn this provision from the final rule.

Section 2552.62(c) Care Plans

Comments: Opposed the care plan provision saying that it would increase paperwork burden on stations and raise issues of client confidentiality.

Response: The Corporation modified the provision changing "care plan" to a "written volunteer assignment plan" for each child that identifies the role and activities of the Foster Grandparent and expected outcomes for the child served.

Section 2552.71 Number of Children in a Station

Comments: All were opposed, stating that the provision is unrealistic and may be difficult for rural stations and those that cannot accommodate more than one volunteer. They suggested including a waiver provision.

Response: The Corporation has withdrawn this provision from the final rule.

Section 2552.73 Volunteer Assignments

Comments: Suggested that volunteers be permitted to serve as group leaders as an acceptable volunteer assignment.

Response: The program's authorizing legislation requires that volunteers provide supportive, person to person service to children with special or exceptional needs. The volunteer role suggested by the comments cannot be accommodated without a change in the authorizing legislation.

Section 2552.74 Care Plans

Comments: Opposed the care plan provision saying that it would increase paperwork burden on stations and raise issues of client confidentiality.

Response: The Corporation modified the provision changing "care plan" to a "written volunteer assignment plan" for each child that identifies the role and activities of the Foster Grandparent and expected outcomes for the child served.

Section 2552.81 Children Served

Comments: Objected to the use of the term children with special or exceptional needs citing that it labels children receiving volunteer services.

Response: The term children with special or exceptional needs is specified in the program's authorizing legislation. It is restated in the final rule for this reason.

Section 2552.82 Service After Age 21

Comments: Objected to the use in this Section of the term mentally retarded.

Response: The term is used because it is specified in the authorizing

legislation. To change it would require a change in the law.

Section 2552.92(c) Excess Non-Corporation Support

Comments: Recommended that the Corporation not restrict the manner in which contributions in excess of the required local support are spent. They also suggest deleting the condition that such expenditure be made consistent with the provision of the Act.

Response: The final rule does not restrict the manner in which the sponsors spend contributions made in excess of the local support required. The condition that such expenditures be made consistent with the provisions of the Act is a requirement of the law.

Section 2552.92(e) Cost Reimbursement Ratio

Comments: Comments were mixed. Some are opposed to the requirement and suggest that a waiver provision be included. Others are in favor of the new provision that reduces the required cost reimbursement ratio from 90% to 80%.

Response: The new provision lessens the burden on local sponsors by reducing the required ratio under the old regulation by 10%. It ensures that volunteer support items are adequately covered in the grant budget. The Corporation believes that allowing any further reduction through a waiver provision would jeopardize the sponsor's ability to provide volunteer support.

Section 2552.93(d) Assignment Related Costs

Comments: Opposed the provision specifying that equipment or supplies for a volunteer while on assignment are not allowable costs.

Response: The provision restates a requirement under the old regulations. Limited program funds can cover only essential direct volunteer support such as transportation to and from assignment. Other costs associated with the volunteers service activity are the responsibility of the station or other third parties.

Section 2552.104 Funds for Non-Stipended Foster Grandparents

Comments: Questioned why federal funds cannot be used to pay any cost related to non-stipended volunteers when the Corporation encourages their recruitment and allows them to receive cost reimbursements other than the stipend.

Response: The rule on non-stipended volunteers is a restatement of the language in the program's authorizing

legislation. The rule cannot be changed without a change in the law.

Section 2552.121(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 shall not be a precondition to the assignment of volunteers to that station. However, if a station agrees to provide support under a Memorandum of Understanding, and 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 1208	New 45 CFR part 2552
1208.1-1	2552.11
1208.1-2	2552.12
1208.1-3	2552.23
1208.2-1	None
1208.2-2	2552.92
1208.2-3	2552.21
1208.2-4	2552.91
1208.2-5	2552.91
1208.2-6	2552.91
1208.2-7	2552.93
1208.2-8	2552.31
1208.3-1	2552.23
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1208.3-5	2552.41
1208.3-6	2552.71
1208.3-7	2552.81
1208.4-1	2552.111
1208.5-1	2252.121
1208.5-2	2552.122

List of Subjects

45 CFR Part 1208

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

45 CFR Part 2552

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 1208 in 45 CFR chapter XII is redesignated as part 2552 in 45 CFR chapter XXV and is revised to read as follows:

PART 2552—FOSTER GRANDPARENT PROGRAM

Subpart A—General

Sec.

2552.11 What is the Foster Grandparent Program?

2552.12 Definitions.

Subpart B—Eligibility and Responsibilities of a Sponsor

2552.21 Who is eligible to serve as a sponsor?

2552.22 What are the responsibilities of a sponsor?

2552.23 What are a sponsor's program responsibilities?

2552.24 What are a sponsor's responsibilities for securing community participation?

2552.25 What are a sponsor's administrative responsibilities?

2552.26 May a sponsor administer more than one program grant from the Corporation?

Subpart C—Suspension and Termination of Corporation Assistance

2552.31 What are the rules on suspension, termination, and denial of refunding of grants?

Subpart D—Foster Grandparent Eligibility, Status and Cost Reimbursements

2552.41 Who is eligible to be a Foster Grandparent?

2552.42 What income guidelines govern eligibility to serve as a stipended Foster Grandparent?

2552.43 What is considered income for determining volunteer eligibility?

2552.44 Is a Foster Grandparent a federal employee, an employee of the sponsor or of the volunteer station?

2552.45 What cost reimbursements are provided to Foster Grandparents?

2552.46 May the cost reimbursements of a Foster Grandparent be subject to any tax or charge, be treated as wages or compensation, or affect eligibility to receive assistance from other programs?

Subpart E—Foster Grandparent Terms of Service

2552.51 What are the terms of service of a Foster Grandparent?

2552.52 What factors are considered in determining a Foster Grandparent's service schedule?

2552.53 Under what circumstances may a Foster Grandparent's service be terminated?

Subpart F—Responsibilities of a Volunteer Station

2552.61 When may a sponsor serve as a volunteer station?

2552.62 What are the responsibilities of a volunteer station?

Subpart G—Foster Grandparent Placements and Assignments

2552.71 What requirements govern the assignment of Foster Grandparents?

2552.72 Is a written volunteer assignment plan required for each volunteer?

Subpart H—Children Served

2552.81 What type of children are eligible to be served?

2552.82 Under what circumstances may a Foster Grandparent continue to serve an individual beyond his or her 21st birthday?

Subpart I—Application and Fiscal Requirements

2552.91 What is the process for application and award of a grant?

2552.92 What are project funding requirements?

2552.93 What are grants management requirements?

Subpart J—Non-Stipended Foster Grandparents

2552.101 What rule governs the recruitment and enrollment of persons who do not meet the income eligibility guidelines to serve as Foster Grandparents without stipends?

2552.102 What are the conditions of service of non-stipended Foster Grandparents?

2552.103 Must a sponsor be required to enroll non-stipended Foster Grandparents?

2552.104 May Corporation funds be used for non-stipended Foster Grandparents?

Subpart K—Non-Corporation Funded Foster Grandparent Program Projects

2552.111 Under what conditions can an agency or organization sponsor a Foster Grandparent project without Corporation funding?

2552.112 What benefits are a non-Corporation funded project entitled to?

2552.113 What financial obligation does the Corporation incur for non-Corporation funded projects?

2552.114 What happens if a non-Corporation funded sponsor does not comply with the Memorandum of Agreement?

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?

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

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

Subpart A—General

§ 2552.11 What is the Foster Grandparent Program?

The Foster Grandparent Program provides grants to qualified agencies and organizations for the dual purpose of: engaging persons 60 and older, particularly those with limited incomes, in volunteer service to meet critical community needs; and to provide a high quality experience that will enrich the lives of the volunteers. Program funds are used to support Foster Grandparents in providing supportive, person to

person service to children with exceptional or special needs.

§ 2552.12 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/Volunteer Service Years (VSYs), number of volunteer stations, and the size of the service area.

(c) *Annual income*. Total cash and in-kind receipts from all sources over the preceding 12 months including: the applicant or enrollee's income and, the applicant or enrollee's spouse's income, if the spouse lives in the same residence. The value of shelter, food, and clothing, shall be counted if provided at no cost by persons related to the applicant/enrollee, or spouse.

(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) *Child*. Any individual who is less than 21 years of age.

(f) *Children having exceptional needs*. Children who are developmentally disabled, such as those who are autistic, have cerebral palsy or epilepsy, are visually impaired, speech impaired, hearing impaired, orthopedically impaired, are emotionally disturbed or have a language disorder, specific learning disability, have multiple disabilities, other significant health impairment or have literacy needs. Existence of a child's exceptional need shall be verified by an appropriate professional, such as a physician, psychiatrist, psychologist, registered nurse or licensed practical nurse, speech therapist or educator before a Foster Grandparent is assigned to the child.

(g) *Children with special needs*. Children who are abused or neglected; in need of foster care; adjudicated youth; homeless youths; teen-age parents; and children in need of protective intervention in their homes. Existence of a child's special need shall be verified by an appropriate professional before a Foster Grandparent is assigned to the child.

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

(i) *Cost reimbursements*. Reimbursements provided to volunteers such as stipends to cover incidental costs, meals, and transportation, to enable them to serve without cost to themselves. Also included are the costs of annual physical examinations, volunteer insurance and recognition which are budgeted as Volunteer Expenses.

(j) *In-home*. The non-institutional assignment of a Foster Grandparent in a private residence or a foster home.

(k) *Letter of Agreement*. A written agreement between a volunteer station, the sponsor and the parent or persons legally responsible for the child served by the Foster Grandparent. It authorizes the assignment of a Foster Grandparent in the child's home, defines the Foster Grandparent's activities and delineates specific arrangements for supervision.

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

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

(n) *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.

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

(p) *Parent*. A natural parent or a person acting in place of a natural parent, such as a guardian, a child's natural grandparent, or a step-parent with whom the child lives. The term also includes otherwise unrelated individuals who are legally responsible for a child's welfare.

(q) *Project*. The locally planned and implemented Foster Grandparent Program activity or set of activities as agreed upon between a sponsor and the Corporation.

(r) *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.

(s) *Service area*. The geographically defined area in which Foster Grandparents are recruited, enrolled, and placed on assignments.

(t) *Service schedule*. A written delineation of the days and times a Foster Grandparent serves each week.

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

(v) *Stipend*. A payment to Foster Grandparents to enable them to serve without cost to themselves. The amount of the stipend is determined by the Corporation and is payable in regular installments. The minimum amount of the stipend is set by law and shall be adjusted by the CEO from time to time.

(w) *Trust Act*. The National and Community Service Trust Act of 1993, Pub. L. 103-82, Sept. 21, 1993, 107 Stat. 785.

(x) *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.

(y) *Volunteer assignment plan*. A written description of a Foster Grandparent's assignment with a child. The plan identifies specific outcomes for the child served and the activities of the Foster Grandparent.

(z) *Volunteer station*. A public agency, private non-profit organization or proprietary health care agency or organization that accepts the responsibility for assignment and supervision of Foster Grandparents in health, education, social service or related settings such as hospitals, homes for dependent and neglected children, or similar establishments. Each volunteer station must be licensed or otherwise certified, when required, by the appropriate state or local government. Private homes are not volunteer stations.

Subpart B—Eligibility and Responsibilities of a Sponsor

§ 2552.21 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 Foster Grandparent project.

§ 2552.22 What are the responsibilities of a sponsor?

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

§ 2552.23 What are a sponsor's program responsibilities?

A sponsor shall:

- (a) Focus Foster Grandparent resources on critical problems affecting children with special and exceptional needs within the project's service area.
- (b) Assess in collaboration with other community organizations or utilize existing assessment of the needs of the client population in the community and develop strategies to respond to those needs using the resources of Foster Grandparents.
- (c) Develop and manage a system of volunteer stations 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 Foster Grandparents;
 - (2) Ensuring that the placement of Foster Grandparents will be 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 Foster Grandparents 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) Reviewing volunteer placements regularly to ensure that clients are eligible to be served.
 - (d) Develop Foster Grandparent service opportunities to support locally-identified needs of eligible children in a way that considers the skills and experiences of Foster Grandparents.
 - (e) Consider the demographic make-up of the project service area in the enrollment of Foster Grandparents, taking special efforts to recruit eligible individuals from minority groups, persons with disabilities, and under-represented groups.

- (f) Provide Foster Grandparents with assignments that show direct and demonstrable benefits to the children and the community served, the Foster Grandparents, and the volunteer station; with required cost reimbursements specified in § 2552.45; with not less than 40 hours of orientation of which 20 hours must be pre-service, and an average of 4 hours of monthly in-service training.

- (g) Encourage the most efficient and effective use of Foster Grandparents by coordinating project services and activities with related national, state and local programs, including other Corporation programs.

- (h) Conduct an annual appraisal of volunteers' performance and annual review of their income eligibility.

- (i) Develop, and annually update, a plan for promoting senior service within the project's service area.

- (j) Annually assess the accomplishments and impact of the project on the identified needs and problems of the client population in the community.

- (k) Establish written service policies for Foster Grandparents that include but are not limited to annual and sick leave, holidays, service schedules, termination, appeal procedures, meal and transportation reimbursements.

§ 2552.24 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 of human and social needs of the community;
- (2) Competent in the field of community service, volunteerism and children's issues;
- (3) Capable of helping the sponsor meet its administrative and program responsibilities including fund-raising, publicity and programming for impact;
- (4) With 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 such participation shall be secured consistent with the provisions of paragraphs (a)(1) through (a)(5) of this section.

§ 2552.25 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 other similar staff positions in the sponsor organization and/or project service area.

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

- (g) Establish record keeping/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.

§ 2552.26 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 and Termination of Corporation Assistance**§ 2552.31 What are the rules on suspension, termination, and denial of refunding of grants?**

(a) The Chief Executive Officer or designee is authorized to suspend further payments or to terminate payments under any grant providing assistance under the Act whenever he/she determines there is a material

failure to comply with applicable terms and conditions of the grant. The Chief Executive Officer shall prescribe procedures to ensure 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 Foster Grandparent Program are specified in 45 CFR part 1206.

Subpart D—Foster Grandparent Eligibility, Status and Cost Reimbursements

§ 2552.41 Who is eligible to be a Foster Grandparent?

(a) To be a Foster Grandparent an individual must:

(1) Be 60 years of age or older;

(2) Be determined by a physical examination to be capable, with or without reasonable accommodation, of serving children with exceptional or special needs without detriment to either himself/herself or the children served;

(3) Agree to abide by all requirements as set forth in this part; and

(4) In order to receive a stipend, have an income that is within the income eligibility guidelines specified in this subpart D.

(b) Eligibility to be a Foster Grandparent shall not be restricted on the basis of formal education, experience, race, religion, color,

national origin, sex, age, handicap, or political affiliation.

§ 2552.42 What income guidelines govern eligibility to serve as a stipended Foster Grandparent?

(a) To be enrolled and receive a stipend, a Foster Grandparent cannot have an annual income from all sources, after deducting allowable medical expenses, which exceeds the program's income eligibility guideline for the state in which he or she resides. The income eligibility guideline for each state is the higher amount of either:

(1) 125 percent of the poverty line as set forth in 42 U.S.C. 9902 (2); or

(2) 135 percent of the poverty line, in those primary metropolitan statistical areas (PMSA), metropolitan statistical areas (MSA) and non-metropolitan counties identified by the Corporation as being higher in cost of living, as determined by application of the Volunteers in Service to America (VISTA) subsistence rates. In Alaska the guideline may be waived by the Corporation State Director if a project demonstrates that low-income individuals in that location are participating in the project.

(b) Annual income is counted for the past 12 months and includes the applicant or enrollee's income and that of his/her spouse, if the spouse lives in the same residence. Sponsors shall count the value of shelter, food, and clothing, if provided at no cost by persons related to the applicant, enrollee, or spouse.

(c) Allowable medical expenses are annual out-of-pocket medical expenses for health insurance premiums, health care services, and medications provided to the applicant, enrollee, or spouse which were not and will not be paid by Medicare, Medicaid, other insurance, or other third party pay or, and which do not exceed 15 percent of the applicable income guideline.

(d) Applicants whose income is not more than 100 percent of the poverty line shall be given special consideration for enrollment.

(e) Once enrolled, a Foster Grandparent shall remain eligible to serve and to receive a stipend so long as his or her income, does not exceed the applicable income eligibility guideline by 20 percent.

§ 2552.43 What is considered income for determining volunteer eligibility?

(a) For determining eligibility, "income" refers to total cash and in-kind receipts before taxes from all sources including:

(1) Money, wages, and salaries before any deduction, but not including food or rent in lieu of wages;

(2) Receipts from self-employment or from a farm or business after deductions for business or farm expenses;

(3) Regular payments for public assistance, Social Security, Unemployment or Workers Compensation, strike benefits, training stipends, alimony, child support, and military family allotments, or other regular support from an absent family member or someone not living in the household;

(4) Government employee pensions, private pensions, and regular insurance or annuity payments; and

(5) Income from dividends, interest, net rents, royalties, or income from estates and trusts.

(b) For eligibility purposes, income does not refer to the following money receipts:

(1) Any assets drawn down as withdrawals from a bank, sale of property, house or car, tax refunds, gifts, one-time insurance payments or compensation from injury.

(2) Non-cash income, such as the bonus value of food and fuel produced and consumed on farms and the imputed value of rent from owner-occupied farm or non-farm housing.

§ 2552.44 Is a Foster Grandparent a federal employee, an employee of the sponsor or of the volunteer station?

Foster Grandparents are volunteers, and are not employees of the sponsor, the volunteer station, the Corporation, or the Federal Government.

§ 2552.45 What cost reimbursements are provided to Foster Grandparents?

Cost reimbursements include:

(a) *Stipend.* Foster Grandparents who are income eligible will receive a stipend in an amount determined by the Corporation and payable in regular installments, to enable them to serve without cost to themselves. The stipend is paid for the time Foster Grandparents spend with their assigned children, for earned leave, and for attendance at official project events.

(b) *Insurance.* A Foster Grandparent is provided with the Corporation-specified minimum levels of insurance as follows:

(1) *Accident insurance.* Accident insurance covers Foster Grandparents 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 Foster Grandparents who drive in connection with their service, protection is provided against claims in excess of the greater of either:

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

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

(ii) Foster Grandparents 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.

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

(d) *Physical examination.* Foster Grandparents are provided a physical examination prior to assignment and annually thereafter to ensure that they will be able to provide supportive service without injury to themselves or the children served.

(e) *Meals and recognition.* Foster Grandparents shall be provided the following within limits of the project's available resources:

(1) Assistance with the cost of meals taken while on assignment; and

(2) Recognition for their service.

§ 2552.46 May the cost reimbursements of a Foster Grandparent be subject to any tax or charge, be treated as wages or compensation, or affect eligibility to receive assistance from other programs?

No. Foster Grandparent's cost reimbursements are not subject to any tax or charge or 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, and do not reduce or eliminate the level of, or eligibility for, assistance or services a Foster Grandparent may be receiving under any governmental program.

Subpart E—Foster Grandparent Terms of Service

§ 2552.51 What are the terms of service of a Foster Grandparent?

A Foster Grandparent shall serve a minimum of nine months a year for an average of 20 hours of service per week. A Foster Grandparent shall not serve more than 1044 hours per year.

§ 2552.52 What factors are considered in determining a Foster Grandparent's service schedule?

(a) Travel time between the Foster Grandparent's home and place of assignment is not part of the service schedule and is not stipended.

(b) Travel time between individual assignments is a part of the service schedule and is stipended.

(c) Meal time may be part of the service schedule and is stipended only if it is specified in the goal statement as part of the service activity.

§ 2552.53 Under what circumstances may a Foster Grandparent's service be terminated?

(a) A sponsor may remove a Foster Grandparent 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. A Foster Grandparent may also be removed from service for having income in excess of the eligibility level.

(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

§ 2552.61 When may a sponsor serve as a volunteer station?

(a) A sponsor may function as a volunteer station if it is:

(1) A State organization administering a statewide Foster Grandparent project where the volunteer station is part of the State organization; or

(2) A Federal or State-recognized Indian tribal government.

(b) Other sponsors not included in the categories specified in paragraphs (a)(1) and (a)(2) of this section, can serve as a volunteer station provided that no more than 20 percent of its budgeted VSYS can be placed in programs administered by such sponsors. In special circumstances, the Corporation may grant a waiver to increase this percentage.

§ 2552.62 What are the responsibilities of a volunteer station?

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

(a) Develop volunteer assignments that meet the requirements specified in §§ 2552.71 through 2552.72 and regularly assess those assignments for continued appropriateness.

(b) Select eligible children for assigned volunteers.

(c) Develop a written volunteer assignment plan for each child that identifies the role and activities of the Foster Grandparent and expected outcomes for the child served.

(d) Obtain a Letter of Agreement for Foster Grandparents assigned in-home. This letter must comply with all Federal, State and local regulations.

(e) Provide Foster Grandparents serving the station with:

(1) Orientation to the station and any in-service training necessary to enhance performance of assignments;

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

(3) Appropriate recognition.

(f) Designate a staff member to oversee fulfillment of station responsibilities and supervision of Foster Grandparents while on assignment.

(g) Keep records and prepare reports required by the sponsor.

(h) Provide for the safety of Foster Grandparents assigned to it.

(i) Comply with all applicable civil rights laws and regulations including reasonable accommodation for Foster Grandparents with disabilities.

(j) Undertake such other responsibilities as may be necessary to the successful performance of Foster Grandparents in their assignments or as agreed to in the Memorandum of Understanding.

Subpart G—Foster Grandparent Placements and Assignments

§ 2552.71 What requirements govern the assignment of Foster Grandparents?

Foster Grandparent assignments shall:

(a) Provide for Foster Grandparents to give direct services to one or more eligible children. Foster Grandparents cannot be assigned to roles such as teacher's aides, group leaders or other similar positions that would detract from the person-to-person relationship.

(b) Result in person-to-person supportive relationships with each child served.

(c) Support the development and growth of each child served.

(d) Be meaningful to the Foster Grandparent.

(e) Be supported by appropriate orientation, training and supervision.

§ 2552.72 Is a written volunteer assignment plan required for each volunteer?

(a) All Foster Grandparents shall receive a written volunteer assignment plan developed by the volunteer station that:

(1) Is approved by the sponsor and accepted by the Foster Grandparent;

(2) Identifies the individual child(ren) to be served;

(3) Identifies the role and activities of the Foster Grandparent and expected outcomes for the child;

(4) Addresses the period of time each child should receive such services; and

(5) Is used to review the status of the Foster Grandparent's services in working with the assigned child, as well as the impact of the assignment on the child's development.

(b) If there is an existing plan that incorporates paragraphs (a)(2), (3), and (4) of this section, that plan shall meet the requirement.

Subpart H—Children Served

§ 2552.81 What type of children are eligible to be served?

Foster Grandparents serve only children and youth with special and exceptional needs who are less than 21 years of age.

§ 2552.82 Under what circumstances may a Foster Grandparent continue to serve an individual beyond his or her 21st birthday?

(a) Only when a Foster Grandparent has been assigned to, and has developed a relationship with, a mentally retarded child, that assignment may continue beyond the individual's 21st birthday, provided that:

(1) Such individual was receiving such services prior to attaining the chronological age of 21, and the continuation of service is in the best interest of the individual; and

(2) The sponsor determines that it is in the best interest of both the Foster Grandparent and the individual for the assignment to continue. Such a determination will be made through mutual agreement by all parties involved in the provision of services to the individual served.

(b) In cases where the assigned Foster Grandparent becomes unavailable to serve a particular individual, the sponsor may select another Foster Grandparent to continue the service.

(c) The sponsor may terminate service to a mentally retarded individual over age 21, if it determines that such service is no longer in the best interest of either the Foster Grandparent or the individual served.

Subpart I—Application and Fiscal Requirements

§ 2552.91 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 grant at any time.

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

(3) The Corporation may also solicit grants. Applicants solicited under this provision are not assured of selection or approval and may have to compete with other solicited or unsolicited applications.

(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 "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 an 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 Notice of Grant Award (NGA).

(2) The Corporation and the sponsoring organization are the 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 an application that is not approved for funding to the applicant with an explanation of the Corporation's decision.

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

§ 2552.92 What are project funding requirements?

(a) *Is non-Corporation support required?* A Corporation grant may be

awarded to fund up to 90 percent of the cost of development and operation of a Foster Grandparent project. The sponsor is required to contribute at least 10 percent of the total project cost from non-Federal sources or authorized Federal sources.

(b) *Under what circumstances does the Corporation allow less than the 10 percent non-Corporation support?* The Corporation may allow exceptions to the 10 percent local support requirement 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 10 percent non-Corporation support required?* Whenever locally generated contributions to Foster Grandparent projects are in excess of the minimum 10 percent non-Corporation support required, 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 in support of the grant, are subject to audit by the Corporation, its Inspector General or their authorized agents.

(e) *How are Foster Grandparent cost reimbursements budgeted?* The total of cost reimbursements for Foster Grandparents, including stipends, insurance, transportation, meals, physical examinations, and recognition, shall be a sum equal to at least 80 percent of the amount of the federal share of the grant award. Federal, required and excess non-Corporation resources can be used to make up the amount allotted for cost reimbursements.

(f) *May a sponsor pay stipends at a rate different than the rate established by the Corporation?* A sponsor shall pay stipends at the same rate as that established by the Corporation.

§ 2552.93 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); 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 necessary and essential to project operation.

(d) Other than reimbursement for meals during a normal meal period, project funds shall not be used to reimburse volunteers for expenses, including transportation costs, incurred while performing their volunteer assignments. 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, and are not an allowable grant cost.

(e) Volunteer expense items, including transportation, meals, recognition activities and items purchased at the volunteers' own expense and which 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 approval/concurrence is required for the following changes in the approved grant:

(1) Reduction in budgeted volunteer service years.

(2) Change in the service area.

(3) Transfer of budgeted line items from Volunteer Expenses to Support Expenses. This requirement does not apply if the 80 percent volunteer cost reimbursement ratio is maintained.

Subpart J—Non-Stipended Foster Grandparents**§ 2552.101 What rule governs the recruitment and enrollment of persons who do not meet the income eligibility guidelines to serve as Foster Grandparents without stipends?**

Over-income persons, age 60 or over, may be enrolled in FGP projects as non-stipended volunteers in communities where there is no RSVP project or where agreement is reached with the RSVP project that allows for the enrollment of non-stipended volunteers in the FGP project.

§ 2552.102 What are the conditions of service of non-stipended Foster Grandparents?

Non-stipended Foster Grandparents serve under the following conditions:

(a) They must not displace or prevent eligible low-income individuals from becoming Foster Grandparents.

(b) No special privilege or status is granted or created among Foster Grandparents, stipended or non-stipended, and equal treatment is required.

(c) Training, supervision, and other support services and cost reimbursements, other than the stipend, are available equally to all Foster Grandparents.

(d) All regulations and requirements applicable to the program, with the exception listed in paragraph (f) of this section, apply to all Foster Grandparents.

(e) Non-stipended Foster Grandparents may be placed in separate volunteer stations where warranted.

(f) Non-stipended Foster Grandparents will be encouraged but not required to serve an average of 20 hours per week and nine months per year. Foster Grandparents will maintain a close person-to-person relationship with their assigned children on a regular basis.

(g) Non-stipended Foster Grandparents may contribute the costs they incur in connection with their participation in the program. Such contributions are not counted as part of the required non-federal share of the grant but may be reflected in the budget column for excess non-federal resources.

§ 2552.103 Must a sponsor be required to enroll non-stipended Foster Grandparents?

Enrollment of non-stipended Foster Grandparents is not a factor in the award of new or continuation grants.

§ 2552.104 May Corporation funds be used for non-stipended Foster Grandparents?

Federally appropriated funds for FGP shall not be used to pay any cost, including any administrative cost, incurred in implementing the regulations in this part for non-stipended Foster Grandparents.

Subpart K—Non-Corporation Funded Foster Grandparent Program Projects**§ 2552.111 Under what conditions can an agency or organization sponsor a Foster Grandparent project without Corporation funding?**

An eligible agency or organization who wishes to sponsor a Foster Grandparent 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 Foster Grandparent Program; and
- (b) Identifies responsibilities to be carried out by each party.

§ 2552.112 What benefits are a non-Corporation funded project entitled to?

The Memorandum of Agreement entitles the sponsor of a non-Corporation funded project to:

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

§ 2552.113 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, 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