

VA NATIONAL CEMETERY AGREEMENTS WITH NON-VA ENTITIES

- 1. REASON FOR ISSUE:** To establish National Cemetery Administration (NCA) policies and management controls regarding agreements between NCA cemeteries and non-Department of Veterans Affairs (VA) entities.
- 2. SUMMARY OF CONTENTS:** This directive describes agreements with non-VA entities and sets responsibilities for NCA staff to follow in establishing and maintaining such agreements. This directive refers to, but does not cover policy for: contracts between NCA and any other party, leases or licensing agreements related to real property, or rental of NCA properties (lodges) as residences by VA employees.
- 3. RELATED HANDBOOK:** NCA Handbook 3014 – Procedures for VA National Cemetery Agreements with Non-VA Entities (published simultaneously).
- 4. RESPONSIBLE OFFICE:** NCA, Office of Field Programs, 810 Vermont Avenue, NW, Washington, DC 20420, is responsible for the information contained in this directive.
- 5. RESCISSIONS:** None.
- 6. RECERTIFICATION:** This publication is scheduled for recertification January 2010.

/s/
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Under Secretary
for Memorial Affairs

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1. PURPOSE AND SCOPE

a. This directive establishes National Cemetery Administration (NCA) policies and management controls regarding agreements between NCA cemeteries and non-Department of Veterans Affairs (VA) entities (including local, State, or Federal agencies) for the acquisition or provision of goods, services or labor.

b. For the purposes of this directive and accompanying handbook, the term “agreements” specifically excludes any contractual arrangement between NCA and any other party, any leasing, licensing, or rental agreements related to real property, and any other “agreements” covered under formal Federal, VA or NCA guidance.

c. Congress explicitly extends fiscal budget authority to Federal entities through appropriations, collections other than through reimbursable work agreements, borrowing authority, contract authority and reimbursable authority. An appropriation is legal authority granted by Congress to incur obligations and to make disbursements for the purposes specified in the appropriation act. Receiving funds or services without authorization from Congress augments the appropriation and usurps the power of Congress. Any agreement between NCA and non-VA entities must ensure the agreement does not augment the appropriation unless it is authorized by specific statutory or reimbursement program authority.

d. VA has published guidance regarding bartering agreements - where there is an exchange of goods, services or assets for other non-monetary goods, services or assets (see VA OF Bulletin 05GA1.05 dated August 16, 2005 – Accounting for Non-Monetary Transactions (Bartering)).

e. The statutory authority for this directive is title 38, United States Code (U.S.C.), chapter 24 and 38 U.S.C. 513.

2. POLICY

AGREEMENTS COVERED BY THIS GUIDANCE

Agreements between NCA and non-VA entities generally cover the exchange of goods and/or services between NCA and:

a. **Volunteers registered with VA Voluntary Services (VAVS)** who have completed VAVS training in order to provide ongoing volunteer services to a cemetery. Examples would include individuals who serve on a regular schedule at the cemetery as greeters, or those who are part of a registered national cemetery support committee that plans an annual Memorial Day service.

b. **Volunteers not registered with VA Voluntary Services** who provide ‘one-time’ volunteer services (as individuals or groups). Examples would include volunteers coming to the cemetery for single purpose projects or in support of once a year ceremonies or special events arranged by another group, such as a local veterans’ organization or cemetery support

committee. Such events might include installing or renovating a landscape feature, or installing grave decorating flags in advance of a Memorial or Veterans' Day ceremony or special event. Details on requirements to establish and maintain agreements for one-time volunteer services that do not require registration with VAVS are provided in NCA Handbook 3014 – Procedures for VA National Cemetery Agreements with Non-VA Entities.

c. **Documented service individuals whose services are provided through a State or local government entity.** Examples would include Court Services Labor Programs. Details on requirements to establish and maintain agreements for documented service of individuals through State/local government authorities are provided in NCA Handbook 3014 – Procedures for VA National Cemetery Agreements with Non-VA Entities.

AGREEMENTS NOT COVERED BY THIS GUIDANCE

d. **Other Federal agencies** – Arrangements for NCA to provide or procure goods or services from another Federal agency in a manner that is advantageous to the Federal Government would be covered under the Economy Act of 1932. NCA will comply with the requirements of the Economy Act as administered by the VA Office of Acquisition and Material Management.

e. **Agreements with non-VA entities covering interests in real property**, such as easements, licenses, permits, rights-of-way, rights-of-entry, and leases of NCA buildings and land, are governed by the requirements and provisions set forth in Chapter 4 of MP-3, Part II – Management of VA Real Property. NCA Office of Construction Management has overall management responsibility for such agreements, which are contractual in nature and grant legal interests in real estate to non-VA entities.

f. **Individuals renting NCA lodges** as living quarters. Such rentals are arranged through the appropriate Memorial Service Network office under the requirements of Department of Veterans Affairs, Office of Facilities Management, Real Property Service. Veterans Health Administration (VHA) Handbook 7631.2 – Requirements for the Continued Operation of Quarters and Establishing Quarters Rental Rates, provides additional information.

3. RESPONSIBILITIES

a. The **Under Secretary for Memorial Affairs** is responsible for the overall administration of NCA and ensuring that NCA staff comply with Federal and VA requirements regarding the establishment, execution and monitoring of agreements between NCA cemeteries and non-VA entities.

b. The **Deputy Under Secretary for Memorial Affairs** is responsible for:

(1) Ensuring that all staff responsibilities related to agreements with non-VA entities are carried out appropriately; and

(2) Assisting in the resolution of any issues regarding agreements with non-VA entities.

c. The **Director, Office of Finance and Planning**, will provide advice and assistance as needed on financial matters related to cemetery agreements with non-VA entities.

d. **Director, Logistics Management Service**, will advise on whether or not agreements with non-VA entities should be in the form of a contract. If it is determined that NCA should enter into a contract rather than an agreement, that office will either provide the necessary contracting support, or be available for advice if the contracting is done through a local servicing station.

e. **Director, Office of Field Programs**, is responsible for:

(1) Providing guidance to the field regarding the establishment, review, execution and monitoring of all agreements with non-VA entities;

(2) Advising the Deputy and Under Secretary for Memorial Affairs of any issues regarding agreements with non-VA entities.

f. **Memorial Service Network (MSN) Directors** are responsible for:

(1) Approving all agreements between MSN national cemeteries and non-VA entities as described in paragraph 2. above;

(2) Providing the Office of Field Programs with an annual summary of new/active/closed agreements;

(3) Ensuring that Cemetery Directors conduct an annual review of all agreements between their cemetery and non-VA entities;

(4) Ensuring appropriate recordkeeping by cemetery staff of files related to all active and expired agreements between the cemetery and non-VA entities; and

(5) Reviewing any recommendations from Cemetery Directors to alter or change the terms of agreements with non-VA entities and informing the Director, Office of Field Programs, of the outcome.

h. **Cemetery Directors** are responsible for:

(1) Working with the appropriate VA Regional Counsel and contracting office (NCA or local servicing station) as necessary to ensure agreements with non-VA entities comply with Federal requirements;

(2) Ensuring an agreement is in place with all non-VA entities providing or receiving goods, services or labor;

(3) Submitting all new agreements with non-VA entities to the MSN for approval prior to signature/effective date;

(4) Maintaining a file of all agreements with non-VA entities for review by MSN or Central Office staff;

(5) Annually reviewing all agreements with non-VA entities to ensure they are still active and, for recurring/ongoing activities, to ensure the nature of the activity is unchanged;

(6) Terminating agreements, for cause, after review by MSN.

4. REFERENCES

a. Economy Act of 1932, as amended, 31 U.S.C. 1535 (available electronically at <http://www.gpoaccess.gov/>)

b. Title 38, United States Code, sections 2412, 8111, and 8112 (available electronically at <http://www.gpoaccess.gov/>)

c. VHA Handbook 7631.2 - Requirements for the Continued Operation of Quarters and Establishing Quarters Rental Rates (available electronically at <http://www1.va.gov/vhapublications/>)

d. VA OF Bulletin 05GA1.05 dated August 16, 2005, Accounting for Non-Monetary Transactions (Bartering)

e. VA Manual MP-3, Part II (VA Engineering – Acquisition, Management and Disposal of Real Property)