

The Commission notes that the proposed rule change would be implemented on a pilot basis for one year. During this time, the Commission intends to evaluate the impact of the proposal on the options markets to determine whether it would be beneficial to customers and to the options markets as a whole before approving any request for permanent approval of the pilot program.

For these reasons, the Commission believes that the proposal is consistent with the requirements of Section 6(b)(5) of the Act,³³ and will not jeopardize market integrity or the incentive for market participants to post competitive quotes.³⁴

IV. Accelerated Approval of Amendment No. 1

Pursuant to Section 19(b)(2) of the Act,³⁵ the Commission may not approve any proposed rule change, or amendment thereto, prior to the 30th day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding. The Commission hereby finds good cause for approving Amendment No. 1 to the proposal, prior to the 30th day after publishing notice of Amendment No. 1 in the **Federal Register**.

The Commission believes that it has received and fully considered meaningful comments with respect to the proposal, and that Amendment No. 1 does not raise any new regulatory issues that warrant further delay. In Amendment No. 1, the Exchange added language to clarify the application of the allocation algorithm. In addition, Amendment No. 1 added language to note that Phlx Rule 707, Just and Equitable Principles of Trade, prohibits coordinated actions between the Phlx directed participant and the OFP involving Directed Orders. The Commission believes that the addition of the language is appropriate to clarify the proposed Directed Order process.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

centers for pre-open orders included the mid-point of the spread or at the bid or offer).

³³ 15 U.S.C. 78f(b)(5).

³⁴ Approval of this proposal is in no way an endorsement of payment for order flow by the Commission.

³⁵ 15 U.S.C. 78s(b)(2).

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2004-91 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Phlx-2004-91. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR-Phlx-2004-91 and should be submitted on or before June 27, 2005.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁶ that the proposed rule change (SR-Phlx-2004-91) be, and hereby is, approved, and that Amendment No. 1 to the proposed rule change be, and hereby is, approved on an accelerated basis, for a pilot period to expire on May 27, 2006.

³⁶ 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁷

Margaret H. McFarland,
Deputy Secretary.

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DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under the VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.
ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for currently operational VA Per Diem Only Recipients (projects that were originally awarded in 2002, 2003, and 2004 that are currently providing services and receiving per diem payments as of May 15, 2005) to make reapplication for assistance for their existing project number under the Per Diem Only Grant Component of VA's Homeless Providers Grant and Per Diem (GPD) Program. The focus of this Notice of Funds Availability (NOFA) is to provide previous recipients that have demonstrated performance in the delivery of services to the homeless veteran population an opportunity to seek re-application. This Notice contains information concerning the program, re-application process, and the amount of funding available.

DATES: An original request for re-application letter, on agency letterhead for assistance under the VA's Homeless Providers Grant and Per Diem Program, must be received in the Grant and Per Diem Field Office, by 4 p.m. Eastern Time on October 5, 2005. Requests for re-application may not be sent by facsimile (FAX). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any request for re-application that is received after the deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

For a Copy of the Application Package: An application package is not needed for this NOFA. Applicants submitting a letter requesting re-application on their agency's letterhead

³⁷ 17 CFR 200.30-3(a)(12).

agree to VA using their previously awarded Per Diem Only application for scoring purposes (*see* re-application requirements in this NOFA).

Submission of Application: An original and complete letter requesting re-application with project number (*see* re-application requirements in this NOFA) must be submitted to the following address: VA Homeless Providers Grant and Per Diem Field Office, 10770 N. 46th Street, Suite C-200, Tampa, FL, 33617. Letters of re-application must be received in the Grant and Per Diem Field office by the re-application deadline. Any additional materials arriving separately will not be included in the re-application package for consideration.

FOR FURTHER INFORMATION CONTACT: Guy Liedke, VA Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 N. 46th Street, Suite C-200, Tampa, FL, 33617; (toll-free) 1-877-332-0334.

SUPPLEMENTARY INFORMATION: This Notice announces the availability of funds for assistance under VA's Homeless Providers Grant and Per Diem Program for eligible currently operational programs that have previously received a VA Per Diem Only grant in 2002, 2003, and 2004 under VA's Homeless Providers Grant and Per Diem Program. The Final Rule, published in the **Federal Register**, September 26, 2003, secs. 61.0 through 61.82. Public Law 107-95, § 5(a)(1) the Homeless Veterans Comprehensive Assistance Act of 2001 codified at 38 U.S.C. 2011, 2012, 2061, and 2064 authorizes this program. Funding applied for under this Notice may be used for aid for service centers and supportive housing. Funding will be in the form of per diem payments issued to eligible entities beginning on 1/31/06 and will continue so long as the grantee meets the requirements of 38 CFR part 61. Per diem payments are also subject to availability of funds and will run concurrently with the reauthorization period of the Grant and Per Diem Program.

Capital grant recipients who received capital grant funding under VA's Homeless Providers Grant and Per Diem Program in 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2003 for acquisition, renovation or new construction should not respond to this NOFA. Per diem for those portions of their programs that were created with capital grant funds is requested in the capital grant application and paid at the time of capital grant project completion and inspection.

VA is pleased to issue this NOFA for the Homeless Providers Grant and Per Diem Program. The Department expects to award approximately \$38 million annually under this NOFA.

Funding available under this NOFA is being offered to help offset the operating expenses of existing state and local governments, Indian Tribal governments, faith-based, and community-based organizations that are capable of providing supported housing and/or supportive service center services for homeless veterans. It should be noted that VA payment is limited to the applicant's cost of care per eligible veteran minus other sources of payments to the applicant for furnishing services to homeless veterans up to the per day rate VA pays for State Home Domiciliary care, which is currently \$27.44. Awardees will be required to support their request for per diem payment with adequate fiscal documentation as to program income and expenses.

It is important to be aware that VA places great emphasis on responsibility and accountability. VA has procedures in place to monitor services provided to homeless veterans and outcomes associated with the services provided in grant and per diem-funded programs. VA is also implementing new procedures to further this effort. Applicants should be aware of the following:

All awardees that are selected in response to *this NOFA* must meet the Life Safety Code of the National Fire and Protection Association as it relates to their specific facility. VA will conduct an inspection prior to awardees being able to submit a request for per diem payment under this NOFA to ensure this requirement is met.

Note: 2002 Per Diem Only awardees that have a project co-located at a facility that has been given an extension to meet the Life Safety Code by Public Law 107-95 have until December 21, 2006, to do so. If selected for refunding and the project does not meet the Life Safety Code by that date, per diem funding will be stopped as per the requirement set forth in Section 5(a)(1) of Public Law 107-95.

Per Diem Only programs that have received a "Special Needs Grant" in conjunction with their Per Diem Only Project are advised that "Special Needs" funding is also subject to reauthorization of the special need component and may not continue if not reauthorized.

Each per diem-funded program will have a liaison appointed from a nearby VA medical facility to provide oversight and monitor services provided to

homeless veterans in the per diem-funded program.

Monitoring will include at least an annual review of each per diem program's progress toward meeting internal goals and objectives in helping veterans attain housing stability, adequate income support, and self sufficiency as identified in each per diem program's original application. Monitoring will also include a review of the agency's income and expenses as they relate to this project to ensure per diem payment is accurate.

Each per diem-funded program will participate in VA's national program monitoring and evaluation system administered by VA's Northeast Program Evaluation Center (NEPEC). It is the intention of VA to develop specific performance targets with respect to housing for homeless veterans. NEPEC's monitoring procedures will be used to determine successful accomplishment of these housing outcomes for each per diem-funded program.

Authority: VA's Homeless Providers Grant and Per Diem Program is authorized by Public Law 107-95, § 5(a)(1) the Homeless Veterans Comprehensive Assistance Act of 2001 codified at 38 U.S.C. 2011, 2012, 2061, 2064 and has been extended through Fiscal Year 2005. The program is implemented by the final rule codified at 38 CFR part 61.0. The final rule was published in the **Federal Register** on September 26, 2003, the regulations can be found in their entirety in 38 CFR, sec. 61.0 through 61.82. Funds made available under this notice are subject to the requirements of those regulations.

Allocation: Approximately \$38 million annually is available for the per diem only award component of this program. This funding is expected to be available from 1/31/06 subject to the availability of funds and reauthorization of the program past September 30, 2005.

Funding Priorities: None.

Methodology: VA will review all previously awarded operational Per Diem Only grant recipients applications that request reapplication in response to this notice of funding availability. Applicants will then be ranked based on score and any ranking criteria set forth only if the applicant scores at least 500 cumulative points from paragraphs (b) (c) (d) (e) and (i) of 38 CFR 61.13.

The highest-ranked application for which funding is available, will be conditionally selected for eligibility to receive per diem payment in accordance with its ranked order until VA reaches the projected funding allowance for this NOFA.

Reapplication Requirements: The specific grant re-application requirements are: An original request for reapplication letter on agency letterhead for assistance under the VA's Homeless Providers Grant and Per Diem Program requesting that the previous Per Diem Only project number be considered for reapplication. Applicants that do not know or are not sure of their project number should contact the Grant and Per Diem Field Office (toll-free) at 1-877-332-0334 to obtain their existing project number.

A new application package is not needed for this NOFA. Applicants submitting a letter requesting reapplication on agency letterhead agree to VA using their previously awarded Per Diem Only application for scoring purposes. Selections will be made based on criteria described in the original application, final rule, and NOFA. Applicants who are selected will be notified of any additional information needed to confirm or clarify information provided in the reapplication. Applicants will then be notified of the

deadline to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other grant and per diem applicants.

Dated: May 31, 2005.

R. James Nicholson,

Secretary of Veterans Affairs.

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