

substantially in preparing and submitting a bid, offer, proposal, or request for modification of the arrangement has certified that he or she:

- (i) Is familiar with and will comply with the requirements of paragraph (a) of this section; and
- (ii) Has no information of any violations or possible violations of paragraph (a) of this section, and will report immediately to the retained entity any subsequently gained information concerning a violation or possible violation of paragraph (a) of this section.

§ 31.217 Confidentiality of information.

(a) *Nonpublic information defined.* Any information that Treasury provides to a retained entity under an arrangement, or that the retained entity obtains or develops pursuant to the arrangement, shall be deemed nonpublic until the Treasury determines otherwise in writing, or the information becomes part of the body of public information from a source other than the retained entity.

(b) *Prohibitions.* The retained entity shall not:

(1) Disclose nonpublic information to anyone except as required to perform the retained entity's obligations pursuant to the arrangement, or pursuant to a lawful court order or valid subpoena after giving prior notice to Treasury.

(2) Use or allow the use of any nonpublic information to further any private interest other than as contemplated by the arrangement.

(c) *Retained entity's responsibility.* A retained entity shall take appropriate measures to ensure the confidentiality of nonpublic information and to prevent its inappropriate use. The retained entity shall document these measures in sufficient detail to demonstrate compliance, and shall maintain this documentation for three years after the arrangement has terminated. The retained entity shall notify the TARP Chief Compliance Officer in writing within five business days of detecting a violation of the prohibitions in paragraph (b), above. The security measures required by this paragraph shall include:

(1) Security measures to prevent unauthorized access to facilities and storage containers where nonpublic information is stored.

(2) Security measures to detect and prevent unauthorized access to computer equipment and data storage devices that store or transmit nonpublic information.

(3) Periodic training to ensure that persons receiving nonpublic

information know their obligation to maintain its confidentiality and to use it only for purposes contemplated by the arrangement.

(4) Programs to ensure compliance with federal securities laws, including laws relating to insider trading, when the arrangement relates to the acquisition, valuation, management, or disposition of troubled assets.

(5) A certification from each management official performing work under the arrangement and each key individual stating that he or she will comply with the requirements in section 31.217(b). The retained entity shall obtain this certification, in the form of a nondisclosure agreement, before a management official or key individual performs work under the arrangement, and then annually thereafter.

§ 31.218 Enforcement.

(a) Compliance with these rules concerning conflicts of interest is of the utmost importance. In the event a retained entity or any individual or entity providing information pursuant to 31 U.S.C. Part 31 violates any of these rules, Treasury may impose or pursue one or more of the following sanctions:

(1) Rejection of work tainted by an organizational conflict of interest or a personal conflict of interest and denial of payment for that work.

(2) Termination of the arrangement for default.

(3) Debarment of the retained entity for Federal government contracting and/or disqualification of the retained entity from future financial agency agreements.

(4) Imposition of any other remedy available under the terms of the arrangement or at law.

(5) In the event of violation of a criminal statute, referral to the Department of Justice for prosecution of the retained entity and/or its officers or employees. In such cases, the Department of Justice may make direct and derivative use of any statements and information provided by any entity, its representatives and employees or any individual, to the extent permitted by law.

(b) To the extent Treasury has discretion in selecting or imposing a remedy, it will give significant consideration to a retained entity's prompt disclosure of any violation of these rules.

Dated: January 14, 2009.

Neel Kashkari,

Interim Assistant Secretary for Financial Stability.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AM67

Increase in Rates Payable Under the Survivors' and Dependents' Educational Assistance Program and Other Miscellaneous Issues

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: The Department of Veterans Affairs (VA) published a document in the **Federal Register** of December 30, 2008, amending its regulations to reflect increases effective for fiscal years 2005, 2006, 2007, 2008, and 2009. The document contained an error in an amendatory instruction. We inadvertently omitted instruction to the editor to add two new paragraphs to the section. This document corrects that error.

DATES: *Effective Date:* This correction is effective January 21, 2009.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The VA published a document in the **Federal Register** on December 30, 2008, (73 FR 79645) amending its regulations to reflect increases effective for fiscal years 2005, 2006, 2007, 2008, and 2009, respectively. In FR Doc. E8-31033, published on December 30, 2008, the addition of paragraphs (a)(5) and (a)(6) to § 21.3333 was inadvertently omitted from amendatory instruction 7a. This document corrects that error.

In rule FR Doc. E8-31033 published on December 30, 2008 (73 FR 79645), make the following correction: On page 79651, in the second column, amendatory instruction 7a. should read as follows:

a. Revising paragraphs (a)(1), (a)(2), and (a)(3), and adding paragraphs (a)(4), (a)(5) and (a)(6).

Approved: January 13, 2009.

Gloria P. Armstrong,

Federal Register Liaison Officer.

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