

**§ 1309.23**

had been made by the grantee. The agreement shall also provide that ACF will have a period of 60 days after notification by the grantee of default in which to intervene to attempt to cure the default. The agreement shall further provide that in the event of a default, or the withdrawal or termination of the grantee the mortgage may be assumed by an organization designated by ACF. The mortgage or creditor will have the right to approve the organization designated to assume the mortgage, but such approval will not be withheld except for good reason. The required provisions must be included in the mortgages of facilities funded as continuing purchases pursuant to §1309.2 unless a convincing justification for not doing so is shown by the Head Start grantee.

(b) The grantee must immediately provide the responsible HHS official with both telephonic and written notification of a default of any description on the part of the grantee under a real property or chattel mortgage.

(c) In the event that a default is not cured and foreclosure takes place, the mortgagee or creditor shall pay ACF that percentage of the proceeds from the foreclosure sale of the property attributable to the Federal share as defined in 45 CFR 74.2, or, if part 92 is applicable, to ACF's share as defined in 45 CFR 92.3. If ACF and the mortgagee or creditor have agreed that ACF's Federal interest will be subordinated to the mortgagee's or creditor's interest in the property, that agreement must be set forth in a written subordination agreement that is signed by the responsible HHS official and that complies with §1309.21 and any other applicable Federal law.

[64 FR 5945, Feb. 8, 1999, as amended at 68 FR 23222, May 1, 2003]

**§ 1309.23 Insurance, bonding and maintenance.**

(a) At the time of acquiring or undertaking a major renovation of a facility or receiving approval for the use of Head Start funds to continue purchase the grantee shall obtain insurance coverage for the facility which is not lower in value than coverage it has obtained for other real property it owns, and which at least meets the require-

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ments of the coverage specified in paragraphs (a)(1) and (2) of this section. For facilities, which have been constructed or renovated, insurance coverage must begin at the commencement of the expenditure of costs in fulfillment of construction or renovation work.

(1) A title insurance policy which insures the fee interest in the facility for an amount not less than the full appraised value as approved by ACF, or the amount of the purchase price, whichever is greater, and which contains an endorsement identifying ACF as a loss payee to be reimbursed if the title fails. If no endorsement naming ACF as loss payee is made, the grantee is required to pay ACF the title insurance proceeds it receives in the event of title failure; and

(2) A physical destruction insurance policy, including flood insurance where appropriate, which insures the full replacement value of the facility from risk of partial and total physical destruction. The insurance policy is to be maintained for the period of time the facility is owned by the grantee.

(b) The grantee shall submit copies of such insurance policies to ACF within five days of acquiring the facility or receiving approval for the previous purchase of a facility. If the grantee has not received the policies in time to submit copies within this period, it shall submit evidence that it has obtained the appropriate insurance policies within five days of acquiring the facility or receiving approval for the previous purchase of a facility, and it shall submit copies of the policies within five days of its receipt of them.

(c) The grantee must maintain facilities acquired with grant funds in a manner consistent with the purposes for which the funds were provided and in compliance with State and local government property standards and building codes.

[64 FR 5945, Feb. 8, 1999, as amended at 68 FR 23222, May 1, 2003]

**Subpart D—Modular Units**

**§ 1309.30 General.**

In addition to the special requirements of §§1309.31 through 1309.34, the

proposed purchase or request for approval of continuing purchase of a modular unit is subject to all of the requirements of this part with the following exceptions:

(a) The requirements of § 1309.33 apply rather than the requirement of § 1309.10(i); and

(b) Section 1309.21(d) of this part does not apply to the proposed purchase of modular units if the land on which the unit is installed is not owned by the grantee.

[64 FR 5945, Feb. 8, 1999, as amended at 68 FR 23223, May 1, 2003]

#### § 1309.31 Site description.

(a) An application for the purchase or approval of a continuing purchase of a modular unit pursuant to § 1309.2 must state specifically where the modular unit is or will be installed, and whether the land on which the modular unit will be installed will be purchased by the grantee. If the grantee does not propose to purchase the land on which to install the modular unit or if the modular unit the grantee is continuing to purchase with Head Start funds is located on land not owned by the grantee, the application must state who owns the land on which the modular unit is or will be situated and describe the easement, right-of-way or land rental it will obtain or has obtained to allow it sufficient access to the modular unit.

(b) Modular units which are purchased with grant funds and which are not permanently affixed to land, or which are affixed to land which is not owned by the grantee, must have posted in a conspicuous place the following notice: "On (date), the Department of Health and Human Services (DHHS) awarded (grant number) to (Name of grantee). The grant provided Federal funds for conduct of a Head Start program, including purchase of this modular unit. The grant incorporated conditions which included restrictions on the use and disposition of this property, and provided for a continuing Federal interest in the property. Specifically, the property may not be used for any purpose other than the purpose for which the facility was funded, without the express written approval of the responsible DHHS official, or sold or

transferred to another party without the written permission of the responsible DHHS official. These conditions are in accordance with the statutory provisions set forth in 42 U.S.C. 9839; the regulatory provisions set forth in 45 CFR part 1309, 45 CFR part 74 and 45 CFR part 92; and Administration for Children and Families' grants policy."

(c) A modular unit which has been approved for purchase and installation in one location may not be moved to another location without the written permission of the responsible HHS official.

[64 FR 5945, Feb. 8, 1999, as amended at 68 FR 23223, May 1, 2003]

#### § 1309.32 Statement of procurement procedure for modular units.

(a) An application for the purchase of a modular unit must include a statement describing the procedures which will be used by the grantee to purchase the modular unit.

(b) This statement must include a copy of the specifications for the unit which is proposed to be purchased and assurance that the grantee will comply with procurement procedures in 45 CFR parts 74 and 92, including assurance that all transactions will be conducted in a manner to provide, to the maximum extent practical, open and free competition. A grantee requesting approval for the use of Head Start funds for continued purchase of a modular unit must also include a copy of the specifications for the unit.

[64 FR 5945, Feb. 8, 1999, as amended at 68 FR 23223, May 1, 2003]

#### § 1309.33 Inspection.

A grantee which purchases a modular unit with grant funds or receives approval of a continuing purchase must have the modular unit inspected by a licensed engineer or architect within 15 calendar days of its installation or approval of a continuing purchase, and must submit to the responsible HHS official the engineer's or architect's inspection report within 30 calendar days of the inspection.

[68 FR 23223, May 1, 2003]

## § 1309.34

### § 1309.34 Costs of installation of modular unit.

Consistent with the cost principles referred to in 45 CFR part 74 and 45 CFR part 92, all reasonable costs necessary to the installation of a modular unit the purchase of which has been approved by the responsible HHS official are payable with grant funds. Such costs include, but are not limited to, payments for public utility hook-ups, site surveys and soil investigations.

## Subpart E—Other Administrative Provisions

### § 1309.40 Copies of documents.

Certified copies of the deed, lease, loan instrument, mortgage, and any other legal documents related to the acquisition or major renovation of the facility or the discharge of any debt secured by the facility must be submitted to the responsible HHS official within ten days of their execution.

[68 FR 23223, May 1, 2003]

### § 1309.41 Record retention.

All records pertinent to the acquisition or major renovation of a facility must be retained by the grantee for a period equal to the period of the grantee's ownership (or occupancy, in the case of leased facilities) of the facility plus three years.

[68 FR 23223, May 1, 2003]

### § 1309.42 Audit of mortgage.

Any audit of a grantee, which has acquired or made major renovations to a facility with grant funds, shall include an audit of any mortgage or encumbrance on the facility. Reasonable and necessary fees for this audit and appraisal are payable with grant funds.

[68 FR 23223, May 1, 2003]

### § 1309.43 Use of grant funds to pay fees.

Consistent with the cost principles referred to in 45 CFR part 74 and 45 CFR part 92, reasonable fees and costs associated with and necessary to the acquisition or major renovation of a facility (including reasonable and necessary fees and costs incurred to establish preliminary eligibility under

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§§ 1309.4 and 1309.5, or otherwise prior to the submission of an application under § 1309.10 or acquisition of the facility) are payable with grant funds, and require prior, written approval of the responsible HHS official.

[68 FR 23223, May 1, 2003]

### § 1309.44 Independent analysis.

(a) The responsible HHS official may direct the grantee applying for funds to acquire or make major renovations to a facility to obtain an independent analysis of the cost comparison submitted by the grantee pursuant to § 1309.11, or the statement under 1309.10(f) of this part, or both, if, in the judgment of the official, such an analysis is necessary to adequately review a proposal submitted under this part.

(b) The analysis shall be in writing and shall be made by a qualified, disinterested real estate professional in the community in which the property to be purchased or renovated is situated.

(c) Section 1309.43 of this part applies to payment of the cost of the analysis.

[64 FR 5945, Feb. 8, 1999, as amended at 68 FR 23223, May 1, 2003]

## Subpart F—Construction and Major Renovation

SOURCE: 68 FR 23223, May 1, 2003, unless otherwise noted.

### § 1309.51 Submission of drawings and specifications.

(a) The grantee may not advertise for bids or award a contract for any part of construction or major renovation funded by grant funds until the grantee has submitted to the responsible HHS official final working drawings and written specifications for the project, a written certification by a licensed engineer or architect as to technical appropriateness of the proposed construction or renovation and the conformity of the project as shown in the final working drawings and specifications with Head Start programmatic requirements, and a written estimate of the costs of the project by a licensed architect or engineer.

(b) The responsible HHS official may authorize the grantee to advertise bids or award a contract after receiving the