

(i) The facility will be available to Indian tribes, or rural or other low-income communities;

(ii) The proposed purchase, construction or major renovation is within the grantee's designated service area; and,

(iii) The proposed purchase, construction or major renovation is necessary because the lack of suitable facilities in the grantee's service area will inhibit the operation of the program.

(2) If a program applies to construct a facility, that the construction of such facility is more cost-effective than the purchase of available facilities or renovation.

(b) *Proving a lack of suitable facilities.* To satisfy paragraph (a)(1)(iii) of this section, the grantee must have a written statement from an independent real estate professional familiar with the commercial real estate market in the grantee's service area, that includes factors considered and supports how the real estate professional determined there are no other suitable facilities in the area.

§ 1303.43 Use of grant funds to pay fees.

A grantee may submit a written request to the responsible HHS official for reasonable fees and costs necessary to determine preliminary eligibility under § 1303.42 before it submits an application under § 1303.44. If the responsible HHS official approves the grantee's application, the grantee may use federal funds to pay fees and costs.

§ 1303.44 Applications to purchase, construct, and renovate facilities.

(a) *Application requirements.* If a grantee is preliminarily eligible under § 1303.42 to apply for funds to purchase, construct, or renovate a facility, it must submit to the responsible HHS official:

(1) A statement that explains the anticipated effect the proposed purchase, construction or renovation has had or will have on program enrollment, activities and services, and how it determined what the anticipated effect would be;

(2) A deed or other document showing legal ownership of the real property where facilities activity is proposed, legal description of the facility site,

and an explanation why the location is appropriate for the grantee's service area;

(3) Plans and specifications for the facility, including square footage, structure type, the number of rooms the facility will have or has, how the rooms will be used, where the structure will be positioned or located on the building site, and whether there is space available for outdoor play and for parking;

(4) Certification by a licensed engineer or architect that the facility is, or will be upon completion, structurally sound and safe for use as a Head Start facility and that the facility complies, or will comply upon completion, with local building codes, applicable child care licensing requirements, the accessibility requirements of the Americans with Disabilities Act, section 504 of the Rehabilitation Act of 1973, the Flood Disaster Protection Act of 1973, and the National Historic Preservation Act of 1966;

(5) A description of proposed renovations or repairs to make the facility suitable for program activities, and plans and specification that describe the facility after renovation or repair;

(6) A proposed schedule that details when the grantee will acquire, renovate, repair and occupy the facility;

(7) An estimate by a licensed independent certified appraiser of the facility's fair market value after proposed purchase and associated repairs and renovations construction, or major renovation is completed is required for all facilities activities except for major renovations to leased property;

(8) The cost comparison described in § 1303.45;

(9) A statement that shows what share of the purchase, construction, or major renovation will be paid with grant funds and what the grantee proposes to contribute as a nonfederal match to the purchase, construction or major renovation;

(10) A statement from a lender, if a grantee applies to use Head Start funds to continue purchase on a facility or refinance existing debt on a facility that indicates the lender is willing to comply with § 1303.49;

§ 1303.45

(11) The terms of any proposed or existing loan(s) related to purchase, construction or major renovation of the facility, including copies of any funding commitment letters, mortgages, promissory notes, potential security agreements to be entered into, information on all other sources of funding, construction or major renovation, and any restrictions or conditions imposed by other funding sources;

(12) A Phase I environmental site assessment that describes the environmental condition of the proposed facility site and any structures on the site;

(13) A description of the efforts by the grantee to coordinate or collaborate with other providers in the community to seek assistance, including financial assistance, prior to the use of funds under this section; and,

(14) Any additional information the responsible HHS official may require.

(b) *Additional requirements for leased properties.* (1) If a grantee applies to renovate leased property, it must submit to the responsible HHS official information described in paragraph (a) of this section, a copy of the existing or proposed lease agreement, and the landlord or lessor's consent.

(2) If a grantee applies to purchase a modular unit it intends to site on leased property or on other property the grantee does not own, the grantee must submit to the responsible HHS official information described in paragraph (a) of this section and a copy of the proposed lease or other occupancy agreement that will allow the grantee access to the modular unit for at least 15 years.

(c) *Non-federal match.* Any non-federal match associated with facilities activities becomes part of the federal share of the facility.

§ 1303.45 Cost-comparison to purchase, construct, and renovate facilities.

(a) *Cost comparison.* (1) If a grantee proposes to purchase, construct, or renovate a facility, it must submit a detailed cost estimate of the proposed activity, compare the costs associated with the proposed activity to other available alternatives in the service area, and provide any additional information the responsible HHS official requests. The grantee must demonstrate

45 CFR Ch. XIII (10–1–23 Edition)

that the proposed activity will result in savings when compared to the costs that would be incurred to acquire the use of an alternative facility to carry out program.

(2) In addition to requirements in paragraph (a)(1) of this section, the grantee must:

(i) Identify who owns the property;

(ii) List all costs related to the purchase, construction, or renovation;

(iii) Identify costs over the structure's useful life, which is at least 20 years for a facility that the grantee purchased or constructed and at least 15 years for a modular unit the grantee renovated, and deferred costs, including mortgage balloon payments, as costs with associated due dates; and,

(iv) Demonstrate how the proposed purchase, construction, or major renovation is consistent with program management and fiscal goals, community needs, enrollment and program options and how the proposed facility will support the grantee as it provides quality services to children and families.

(b) *Continue purchase or refinance.* To use funds to continue purchase on a facility or to refinance an existing indebtedness, the grantee must compare the costs of continued purchase against the cost of purchasing a comparable facility in the service area over the remaining years of the facility's useful life. The grantee must demonstrate that the proposed activity will result in savings when compared to the cost that would be incurred to acquire the use of an alternative facility to carry out the program.

(c) *Multi-purpose use.* If the grantee intends to use a facility to operate a Head Start program and for another purpose, it must disclose what percentage of the facility will be used for non-Head Start activities, along with costs associated with those activities, in accordance with applicable cost principles.

§ 1303.46 Recording and posting notices of federal interest.

(a) *Survival of federal interest.* A grantee that receives funds under this subpart must file notices of federal interest as set forth in paragraph (b) of this section. Federal interest cannot be