

§ 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

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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

defeated by a grantee's failure to file a notice of federal interest.

(b) *Recording notices of federal interest.*

(1) If a grantee uses federal funds to purchase real property or a facility, excluding modular units, appurtenant to real property, it must record a notice of federal interest in the official real property records for the jurisdiction where the facility is or will be located. The grantee must file the notice of federal interest as soon as it uses Head Start funds to either fully or partially purchase a facility or real property where a facility will be constructed or as soon as it receives permission from the responsible HHS official to use Head Start funds to continue purchase on a facility.

(2) If a grantee uses federal funds in whole or in part to construct a facility, it must record the notice of federal interest in the official real property records for the jurisdiction in which the facility is located as soon as it receives the notice of award to construct the facility.

(3) If a grantee uses federal funds to renovate a facility that it, or a third party owns, the grantee must record the notice of federal interest in the official real property records for the jurisdiction in which the facility is located as soon as it receives the notice of award to renovate the facility.

(4) If a grantee uses federal funds in whole or in part to purchase a modular unit or to renovate a modular unit, the grantee must post the notice of federal interest, in clearly visible locations, on the exterior of the modular unit and inside the modular unit.

§ 1303.47 Contents of notices of federal interest.

(a) *Facility and real property a grantee owns.* A notice of federal interest for a facility, other than a modular unit, and real property the grantee owns or will own, must include:

(1) The grantee's correct legal name and current mailing address;

(2) A legal description of the real property;

(3) Grant award number, amount and date of initial facilities funding award or initial use of base grant funds for ongoing purchase or mortgage payments;

(4) A statement that the notice of federal interest includes funds awarded in grant award(s) and any Head Start funds subsequently used to purchase, construct or to make major renovations to the real property;

(5) A statement that the facility and real property will only be used for purposes consistent with the Act and applicable Head Start regulations;

(6) A statement that the facility and real property will not be mortgaged or used as collateral, sold or otherwise transferred to another party, without the responsible HHS official's written permission;

(7) A statement that the federal interest cannot be subordinated, diminished, nullified or released through encumbrance of the property, transfer of the property to another party or any other action the grantee takes without the responsible HHS official's written permission;

(8) A statement that confirms that the agency's governing body received a copy of the notice of federal interest prior to filing and the date the governing body was provided with a copy; and,

(9) The name, title, and signature of the person who drafted the notice.

(b) *Facility leased by a grantee.* (1) A notice of federal interest for a leased facility, excluding a modular unit, on land the grantee does not own, must be recorded in the official real property records for the jurisdiction where the facility is located and must include:

(i) The grantee's correct legal name and current mailing address;

(ii) A legal description of affected real property;

(iii) The grant award number, amount and date of initial funding award or initial use of base grant funds for major renovation;

(iv) Acknowledgement that the notice of federal interest includes any Head Start funds subsequently used to make major renovations on the affected real property;

(v) A statement the facility and real property will only be used for purposes consistent with the Act and applicable Head Start regulations; and,

(vi) A lease or occupancy agreement that includes the required information from paragraphs (b)(1)(i) through (v) of