

## § 1303.40

(b) The grant recipient's decision to terminate must not be arbitrary or capricious.

(c) The grant recipient must establish a process for defunding a delegate agency, including an appeal of a defunding decision and must ensure the process is fair and timely.

(d) The grant recipient must notify the responsible HHS official about the appeal and its decision.

### Subpart E—Facilities

#### § 1303.40 Purpose.

This subpart prescribes what a grant recipient must establish to show it is eligible to purchase, construct and renovate facilities as outlined in section 644(c), (f) and (g) of the Act. It explains how a grant recipient may apply for funds, details what measures a grant recipient must take to protect federal interest in facilities purchased, constructed or renovated with grant funds, and concludes with other administrative provisions. This subpart applies to major renovations. It only applies to minor renovations and repairs, when they are included with a purchase application and are part of purchase costs.

#### § 1303.41 Approval of previously purchased facilities.

If a grant recipient purchased a facility after December 31, 1986, and seeks to use grant funds to continue to pay purchase costs for the facility or to refinance current indebtedness and use grant funds to service the resulting debt, the grant recipient may apply for funds to meet those costs. The grant recipient must submit an application that conforms to requirements in this part and in the Act to the responsible HHS official. If the responsible HHS official approves the grant recipient's application, Head Start funds may be used to pay ongoing purchase costs, which include principal and interest on approved loans.

#### § 1303.42 Eligibility to purchase, construct, and renovate facilities.

Before a grant recipient can apply for funds to purchase, construct, or renovate a facility under § 1303.44, it must establish that:

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

(b) The proposed purchase, construction, or major renovation is within the grant recipient's designated service area;

(c) The proposed purchase, construction, or major renovation is necessary because the lack of suitable facilities in the grant recipient's service area will inhibit the operation of the program; and

(d) The proposed construction of a facility is more cost-effective than the purchase of available facilities or renovation.

[89 FR 67816, Aug. 21, 2024]

#### § 1303.43 Use of grant funds to pay fees.

If a recipient seeks to use Federal funds for reasonable fees and costs necessary to submit an application under §§ 1303.42 and 1303.44, they must be granted approval from the responsible HHS official. Once approval is granted to use Federal funds to submit an application, the funds are allowable regardless of the outcome of the preliminary eligibility under § 1303.42 and the application under § 1303.44.

[89 FR 67816, Aug. 21, 2024]

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

(a) *Application requirements.* If a grant recipient 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 grant recipient's service area;

(3) Plans and specifications for the facility, including square footage,