

must demonstrate 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 grant recipient 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 grant recipient purchased or constructed and at least 15 years for a modular unit the grant recipient renovated, and deferred costs, including mortgage 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 grant recipient 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 grant recipient 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 grant recipient 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 grant recipient 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.

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§ 1303.46 Recording and posting notices of federal interest.

(a) *Survival of federal interest.* A grant recipient 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 grant recipient's failure to file a notice of federal interest.

(b) *Recording notices of federal interest.*

(1) If a grant recipient 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 grant recipient 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 grant recipient 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 grant recipient uses federal funds to renovate a facility that it, or a third party owns, the grant recipient 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 grant recipient uses federal funds in whole or in part to purchase a modular unit or to renovate a modular unit, the grant recipient 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 grant recipient owns.* A notice of federal interest for a facility, other than a modular unit, and real property the grant recipient owns or will own, must include:

- (1) The grant recipient'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 grant recipient 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 grant recipient.*

(1) A notice of federal interest for a leased facility, excluding a modular unit, on land the grant recipient 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 grant recipient'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 this section may be recorded in the official real property records for the jurisdiction where the facility is located to serve as a notice of federal interest.

(2) If a grant recipient cannot file the lease or occupancy agreement described in paragraph (b)(1)(vi) of this section in the official real property records for the jurisdiction where the facility is located, it may file an abstract. The abstract must include the names and addresses of parties to the lease or occupancy agreement, terms of the lease or occupancy agreement, and information described in paragraphs (a)(1) through (9) of this section.

(c) *Modular units.* A notice of federal interest on a modular unit the grant recipient purchased or renovated must be visible and clearly posted on the exterior of the modular and inside the modular and must include:

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

(2) The grant award number, amount and date of initial funding award or initial use of base grant funds to purchase or renovate;

(3) A statement that the notice of federal interest includes any Head Start funds subsequently used for major renovations to the modular unit;

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

(5) A statement that the modular unit will not be mortgaged or used as collateral, sold or otherwise transferred to another party, without the responsible HHS official's written permission;

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

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(7) A statement that the modular unit cannot be moved to another location without the responsible HHS official's written permission;

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

(9) The name, title, and signature of the person who completed the notice for the grant recipient agency.

§ 1303.48 Grant recipient limitations on Federal interest.

(a) A grant recipient cannot mortgage, use as collateral for a credit line or for other loan obligations, or, sell or transfer to another party, a facility, real property, or a modular unit it has purchased, constructed or renovated with Head Start funds, without the responsible HHS official's written permission.

(b) A grant recipient must have the responsible HHS official's written permission before it can use real property, a facility, or a modular unit subject to federal interest for a purpose other than that for which the grant recipient's application was approved.

§ 1303.49 Protection of federal interest in mortgage agreements.

(a) Any mortgage agreement or other security instrument that is secured by real property or a modular unit constructed or purchased in whole or in part with federal funds or subject to renovation with federal funds must:

(1) Specify that the responsible HHS official can intervene in case the grant recipient defaults on, terminates or withdraws from the agreement;

(2) Designate the responsible HHS official to receive a copy of any notice of default given to the grant recipient under the terms of the agreement and include the regional grants management officer's current address;

(3) Include a clause that requires any action to foreclose the mortgage agreement or security agreement be suspended for 60 days after the responsible HHS official receives the default notice to allow the responsible HHS official reasonable time to respond;

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(4) Include a clause that preserves the notice of federal interest and the grant recipient's obligation for its federal share if the responsible HHS official fails to respond to any notice of default provided under this section;

(5) Include a statement that requires the responsible HHS official to be paid the federal interest before foreclosure proceeds are paid to the lender, unless the official's rights under the notice of federal interest have been subordinated by a written agreement in conformance with § 1303.51;

(6) Include a clause that gives the responsible HHS official the right to cure any default under the agreement within the designated period to cure the default; and,

(7) Include a clause that gives the responsible HHS official the right to assign or transfer the agreement to another interim or permanent grant recipient.

(b) A grant recipient must immediately notify the responsible HHS official of any default under an agreement described in paragraph (a) of this section.

§ 1303.50 Third party leases and occupancy arrangements.

(a) After November 7, 2016, if a grant recipient receives federal funds to purchase, construct or renovate a facility on real property the grant recipient does not own or to purchase or renovate a modular unit on real property the grant recipient does not own, the grant recipient must have a lease or other occupancy agreement of at least 30 years for purchase or construction of a facility and at least 15 years for a major renovation or placement of a modular unit.

(b) The lease or occupancy agreement must:

(1) Provide for the grant recipient's right of continued use and occupancy of the leased or occupied premises during the entire term of the lease;

(2) Designate the regional grants management officer to receive a copy of any notice of default given to the grant recipient under the terms of the agreement and include the regional grants management officer's current address;