



Facilities



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Note: Play presentation as a PowerPoint slide show to activate hyperlinks.

Facilities Laws and Regulations



- ❖ The 2007 Head Start Act requires the establishment of uniform procedures for [Head Start agencies](#) to request approval to purchase facilities to be used to carry out Head Start programs. Sec. 644(f)(1).
- ❖ 45 CFR §1309.10 and §1309.11 prescribe the procedures for applying for Head Start grant funds to purchase, construct, or make major renovations to facilities in which to operate Head Start programs.
- ❖ 45 CFR §1309.21 and §1309.31 detail the measures which must be taken to protect the Federal interest in such facilities (including modular units) which are purchased, constructed or renovated with Head Start grant funds.

Organization of Facilities Regulations



- Subpart A – General
 - 45 CFR §1309.1 - §1309.5
- Subpart B – Application Procedures
 - 45 CFR §1309.10 - §1309.12
- Subpart C – Protection of Federal Interest
 - 45 CFR §1309.20 - §1309.23
- Subpart D – Modular Units
 - 45 CFR §1309.30 - §1309.34
- Subpart E – Other Administrative Provisions
 - 45 CFR §1309.40 - §1309.44
- Subpart F – Construction and Major Renovation
 - 45 CFR §1309.51 - §1309.54

Types of Facilities Activities



- Acquisition

- Purchase

- ✦ Outright (full purchase or down payment)
- ✦ Payments (mortgage principal and/or interest)

- Construction

- Renovation

- Major Renovation

- Minor Renovation (incidental alteration)

Facilities Project Process



Pre-Award

- Planning costs approval
- Application
- Cost comparison
 - Independent analysis
- Davis-Bacon Act assurance
- Special circumstances
 - Modular units
 - Leased property
 - Third party property
 - Mortgages

Post-Award & Pre-Project

- Final working drawings and written specifications
- Certification of appropriateness and conformity
- Written estimate of project costs
- Procurement compliance
- Davis-Bacon Act in contracts
- Contract approval
 - Changes in scope
 - Material cost alteration
- File notice of Federal interest for major renovations, construction and ongoing purchases
- Casualty insurance for construction and renovation projects

Post-Award & Ongoing

- Provide and maintain architectural or engineering inspection onsite
- Submit final inspection
- File notice of Federal interest for outright purchase
- Title insurance and casualty insurance for outright purchase
- Ongoing maintenance
- Audit of mortgage
- Submit document copies
- Maintain property records for three years after disposition

Definitions

45 CFR §1309.3



- **Facility**

- *Facility* means a structure such as a building or modular unit appropriate for use by a Head Start grantee to carry out a Head Start program.
- *Modular unit* means a portable prefabricated structure made at another location and moved to a site for use by a Head Start grantee to carry out a Head Start program.

Definitions

45 CFR §1309.3



- **Purchase**

- *Purchase* means to buy an existing facility, either outright or through a mortgage. Purchase also refers to an approved use of Head Start funds to continue paying the cost of purchasing facilities.

- **Construction**

- Construction means new buildings, and excludes renovations, alterations, additions, or work of any kind to existing buildings.

Definitions

45 CFR §1309.3



- Major Renovation

- *Major renovation* means a structural change to the foundation, roof, floor, or exterior or load-bearing walls of a facility, or extension of an existing facility to increase its floor area. Major renovation also means extensive alteration of an existing facility, such as to significantly change its function and purpose, even if such renovation does not include any structural change to the facility. Major renovation also includes a renovation of any kind which has a cost exceeding the lesser of \$200,000, adjusted annually to reflect the percentage change in the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) beginning one year after June 2, 2003, or 25 percent of the total annual direct costs approved for the grantee by ACF for the budget period in which the application is made.
- <http://data.bls.gov/cgi-bin/cpicalc.pl>

- Minor Renovation

- *Incidental alterations and [minor] renovations* mean improvements to facility which do not meet the definition of major renovation.

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Davis–Bacon Act

45 CFR §1309.54



- Construction and renovation projects and subcontracts financed with funds awarded under the Head Start program are subject to the [Davis–Bacon Act](#) and the Regulations of the Department of Labor.
- All contracts entered into by any Head Start program which are in excess of \$2,000 and are for the construction, renovation or repair of buildings used by Head Start programs, are subject to the requirements of the Davis–Bacon Act. [See ACYF–IM–HS–95–04.](#)
- All laborers and mechanics employed by contractors or subcontractors in the construction or renovation of affected Head Start facilities shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor.

Facilities Projects



THE PRE-AWARD PHASE

Facilities Application (General)



- Applications to use Head Start funds (in whole or in part) for the purchase, construction and major renovation of facilities.
 - 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 § 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. 45 CFR §1309.43.
 - A grantee which proposes to use grant funds to purchase a facility, to apply for funds to construct a facility, or to undertake major renovation of a facility, including facilities purchased for that purpose, must submit a written application to the responsible HHS official, detailed in 45 CFR § 1309.10 (a) – (q).

Facilities Application (Cost Comparison)



- Applications for the purchase, construction and major renovation of facilities must include a cost estimate.
 - A grantee proposing to acquire or undertake a major renovation of a facility must submit a detailed estimate of the costs of the proposed activity and compare the costs of the proposed activity and provide any additional information requested by the responsible HHS official, detailed in 45 CFR §1309.11(b)–(f).
 - ✦ *Responsible HHS official* means the official who is authorized to make the grant of financial assistance to operate a Head Start program, or such official's designee, 45 CFR §1309.3, the Regional Grants Manager or Grants Management Officer (GMO).
 - ✦ 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. 45 CFR §1309.44.

Pre-Award Summary



- Before using Head Start funds (wholly or partly) for any of the following facilities activities, a grantee must submit a written application and receive permission:
 - **Purchase a facility**
 - ✦ Initial purchase
 - ✦ Ongoing purchase (mortgage)
 - ✦ Purchase of a modular unit
 - **Construct a facility**
 - **Make a major renovation**
 - ✦ To grantee owned property
 - ✦ To third party owned property
- Approval of the facilities application generates many additional grantee restrictions and responsibilities.



45 CFR §1309.21 applies to all Head Start and Early Head Start grantees:

The Federal government has an interest in all real property and equipment acquired or upon which major renovations have been undertaken with grant funds for use as a Head Start facility.

Facilities acquired with grant funds may not be mortgaged or used as collateral, or sold or otherwise transferred to another party, without the written permission of the responsible HHS official.

Use of the facility for other than the purpose for which the facility was funded, without the express written approval of the responsible HHS official, is prohibited.

the grantee must record the Notice of Federal Interest in the appropriate official records for the jurisdiction where a facility is or will be located



45 CFR §74.37 applies to institutions of higher education, hospitals, other nonprofit organizations and commercial organizations:

Property trust relationship. Real property acquired or improved with Federal funds shall be held in trust by the recipients as trustee for the beneficiaries of the project or program under which the property was acquired or improved, and shall not be encumbered without the approval of the HHS awarding agency. Recipients shall record liens or other appropriate notices of record to indicate that real property has been acquired or constructed or, where applicable, improved with Federal funds, and that use and disposition conditions apply to the property.

45 CFR §92.31 applies to state, local and tribal governments: Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purposes, and the grantee or subgrantee shall not dispose of or encumber its title or other interests.

Facilities Projects



THE POST-AWARD PHASE

Title to Facilities

45 CFR §1309.20



Title Held by Grantee

- Title to facilities acquired with Head Start grant funds vests with the grantee upon acquisition (purchase or construction).

Subject to Restrictions

- Facilities acquired with Head Start grant funds are subject to the provisions of 45 CFR Part 1309, including applicable sections of 45 CFR Part 74 and 45 CFR Part 92.

Grantee Facilities Responsibilities

45 CFR §1309.51,



§1309.52, §1309.53 and §1309.54.

- Before advertising or taking bids, submit required drawings, specifications and certification and cost estimate by engineer or architect.
- Follow procurement procedures in [45 CFR Part 74](#) and [45 CFR Part 92](#).
- Submit contracts, leases and mortgages (including subordination agreements) for approval.
- Maintain architect or engineer inspection onsite and submit upon completion.
- Comply with the Davis–Bacon Act.

Grantee Facilities Responsibilities



- Record ([45 CFR §1309.21](#)) or post ([45 CFR §1309.31](#)) notice of Federal interest.
- Special length of occupancy requirements and mandatory lease language. 45 CFR §1309.21.
 - Facility on land not owned by the grantee.
 - Major renovations to leased facilities.
- Make written request and receive written permission before mortgage, use as collateral, sale or transfer. 45 CFR §1309.21.
- Obtain permission and enter into a written agreement with required terms before subordination of the Federal interest. 45 CFR §1309.21.
- Include mortgages and encumbrance review in the annual audit. [45 CFR §1309.42](#)

Grantee Facilities Responsibilities (Cont'd)



- Receive express written permission before using a facility for a purpose other than that for which it was funded. 45 CFR §1309.21.
- Obtain title insurance with ACF named as loss payee. [45 CFR §1309.23](#).
- Obtain physical destruction insurance (may include flood insurance). 45 CFR §1309.23.
- Adequately maintain facilities. 45 CFR §1309.23.
- Submit timely certified copies of all required documents. [45 CFR §1309.40](#).

Grantee Facilities Responsibilities (Cont'd)

45 CFR §1309.41, §1309.23



- Keep all facilities records for three years after end of ownership or occupancy (if leased). [45 CFR §1309.41](#).
- For modular units, meet the additional requirements of 45 CFR §§[1309.30](#) – [1309.34](#), Subpart D.
- Meet property disposal requirements of [45 CFR §74.32](#) and [45 CFR §92.31](#).
- Additional Resource: [PI-09-10](#).

Notice of Federal Interest

When Applicable, Filing and Posting (45 CFR Part 1309)



- *Acquire* means to purchase or construct in whole or in part with Head Start grant funds through payments made in satisfaction of a mortgage agreement (both principal and interest), as a down payment, and for professional fees, closing costs and any other costs associated with the purchase or construction of the property that are usual and customary for the locality. 45 CFR §1309.3.
- The Federal government has an interest in all real property and equipment acquired or upon which major renovations have been undertaken with grant funds for use as a Head Start facility. 45 CFR §1309.21(a).
- Except for certain modular units, the grantee must record the Notice of Federal Interest in the appropriate official records for the jurisdiction where a facility is or will be located immediately upon [\[45 CFR §1309.21\(d\)\(2\)\]](#):
 - purchasing a facility or land on which a facility is to be constructed
 - receiving permission to use funds to continue purchase of a facility
 - commencing major renovation of a facility or construction of a facility
- 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 [a Notice of Federal Interest] posted in a conspicuous place. [45 CFR §1309.31\(b\)](#).

Property Trust Relationship

Grants Management Regulations (45 CFR §74.37 and 45 CFR §92.31(b))



Property trust relationship Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipients as trustee for the beneficiaries of the project or program under which the property was acquired or improved, and shall not be encumbered without the approval of the HHS awarding agency. Recipients shall record liens or other appropriate notices of record to indicate that real property has been acquired or constructed or, where applicable, improved with Federal funds, and that use and disposition conditions apply to the property.

Facilities Projects

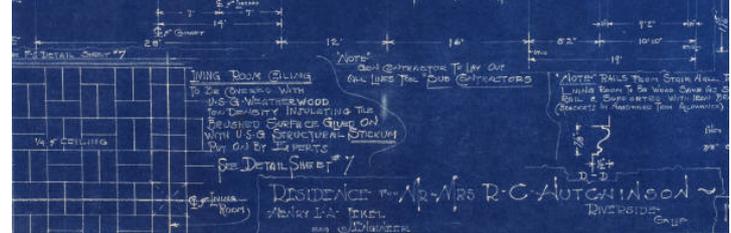
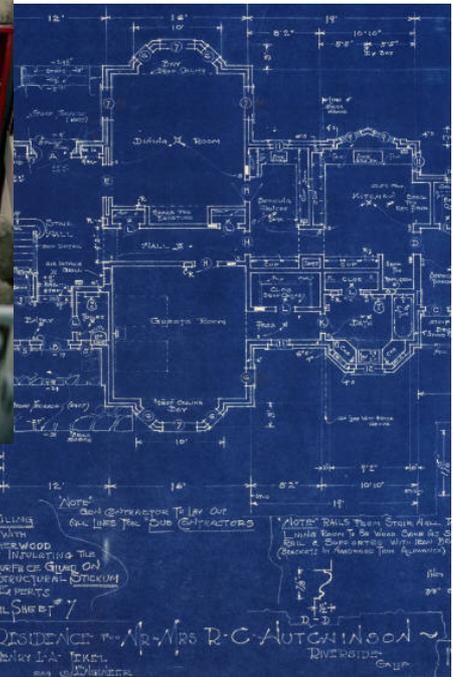


COST ALLOCATION

Cost Allocation for Shared Facilities



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Considerations for Allocation of Facilities



- Use floor plans, blueprints or measurements.
- Assign square footage to individual programs to the extent possible.
- Calculate percentages of shared use from assigned square footage.
- Apply percentages of shared use to square footage which can't be assigned to individual program (common areas).
- Make sure all space is accounted for.
- May need to factor in amount of time used to equitably apportion shared space.

Example: The Sunshine Center



- The Sunshine Center building floor plan shows it to be 10,000 square feet, used as follows:
- Head Start (HS) classrooms: 3,000 sq. ft
- Offices for EHS home visitors: 2,000 sq. ft
- Adult Basic Education (ABE) classrooms: 2,000 sq. ft
- Meeting room: 1,000 sq. ft
 - Used 30 hours per week for ABE classes
 - Used 10 hours per week for EHS meetings
 - Not used by HS program
- Common areas: 2,000 sq. ft
 - Stairways, halls, utilities, public restrooms used by all programs
 - ✦ How would you allocate rent, maintenance, insurance and utilities for the Sunshine Center?

Sunshine Center Cost Allocation Plan



	Head Start	Early Head Start	Adult Basic Ed
Classrooms	3,000		2,000
Offices		2,000	
Meeting Room • 30 hours ABE (75%) • 10 hours EHS (25%)		250	750
Subtotals:	3,000	2,250	2,750
Percentages:	$3,000/8,000=38\%$	$2,250/8,000=28\%$	$2,750/8,000=34\%$
Common Areas:	$38\% \times 2,000=760$	$28\% \times 2,000=560$	$34\% \times 2,000=680$
Entire Center:	3,760	2,810	3,430
		Total:	10,000

Facilities Projects



SPECIAL SITUATIONS

Mortgages and Loans



- Facilities acquired with grant funds may not be mortgaged or used as collateral, or sold or otherwise transferred to another party, without the written permission of the responsible HHS official, including refinancing of existing loans. 45 CFR 1309.21(b).
- The terms of any proposed or existing loan(s) related to acquisition or major renovation of facility and the repayment plans (detailing balloon payments or other unconventional terms, if any), and information on all other sources of funding of the acquisition or major renovations, including any restrictions or conditions imposed by other funding sources. 45 CFR §1309.10(g).
- If loan is paid in whole or in part, directly or indirectly, with grant funds, 45 CFR §1309.21(d) requires the filing or posting of a Notice of Federal Interest.
- 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. 45 CFR §1309.42.
 - Notice of default to ACF
 - ACF right of intervention
 - ACF right to substitute borrower
 - If foreclosure occurs, Federal share must be paid to ACF

Lines of Credit



- Facilities acquired with grant funds may not be mortgaged or used as collateral, or sold or otherwise transferred to another party, without the written permission of the responsible HHS official. 45 CFR §1309.21(b).
- Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipients as trustee for the beneficiaries of the project or program under which the property was acquired or improved, and shall not be encumbered without the approval of the HHS awarding agency. 45 CFR §74.37 and 45 CFR §92.31(b).
- Lenders providing lines of credit often require a security agreement. A security agreement is a written agreement between a borrower and a lender, filed of record, that creates a lien on behalf of the lender in the property covered by the security agreement. Security agreements covering multiple types of property are sometimes referred to as “blanket liens” and may include:
 - Real property
 - Inventory
 - Fixtures
 - Equipment
 - Vehicles
 - Accounts receivable
 - Deposit accounts
- _____.621, C-27: Interest on debt (or financing costs) to acquire, construct, or replace capital assets is allowable, subject to the conditions stated in this section C-27 Interest. All other interest costs, including interest on borrowed capital, temporary use of endowment funds, and use of the recipient’s own funds, however represented, are unallowable. See new Omni Cost Principles, at:
http://www.whitehouse.gov/sites/default/files/omb/financial/grant_reform/proposed-omb-uniform-guidance-for-federal-financial-assistance.pdf

Subordination Agreements



- The responsible HHS official may subordinate the Federal interest in such property to that of a lender which financed the acquisition or major renovation costs subject to the conditions set forth in [paragraph \(f\) of this section](#). 45 CFR §1309.21(a).
- Subordination of the Federal interest allows a lender to take precedence over HHS in receiving its money back in case the borrower (grantee) defaults on the mortgage.
- Mortgage provisions in §1309.21(d) still apply:
 - Notice of default to ACF
 - ACF right of intervention
 - ACF right to substitute borrower
 - If foreclosure occurs, Federal share must be paid to ACF
- Head Start grantees which purchase facilities with respect to which the responsible HHS official has subordinated the Federal Interest to that of the lender must keep the lender informed of the current addresses and telephone numbers of the agencies to which the lender is obligated to give notice in the event of a default.

Depreciation and (not) Use Allowance



- **___621, C-15.** Depreciation is calculated using:
 - Acquisition cost, excluding land, Federal contributions and amounts claimed to meet a matching requirement (nonfederal share).
 - Period of useful service or useful life is to be established taking into account such factors as type of construction.
 - Straight line depreciation is presumed to be the appropriate method.
 - If the facility is shared, depreciation costs must be properly allocated.
 - Charges for depreciation must be supported by adequate property records, and physical inventories must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed.
 - No depreciation may be allowed on any assets that have outlived their depreciable lives.

Sample Calculation of Depreciation



Facts:

Acquisition cost of the facility was \$1,200,000

Useful life of the facility is 40 years

Depreciation is straight line

Head Start uses 80% of the building

\$200,000 of the cost was donated materials claimed as nonfederal match

\$400,000 of the cost was funded by an OHS facilities grant award

What amount of annual depreciation can the grantee charge against its Head Start award?

Step 1: $\$1,200,000 - \$200,000 - \$400,000 = \$600,000$
(removes match and Federal share)

Step 2: $\$600,000 \div 40 = \$15,000$
(applies useful life to adjusted acquisition cost to determine amount of unallocated annual depreciation)

Step 3: $\$15,000 \times 80\% = \$12,000$
(allocates for use and benefit to Head Start)

Facility (including Modular Unit) Sited on or Major Renovations on Leased or Third Party Property



- **Required by 45 CFR §1309.10(l):**
 - A grantee applying for funding to make major renovations to a facility it does not own must include with its application written permission from the owner of the building projected to undergo major renovation and a copy of the lease or proposed lease for the facility.
- **Required by 45 CFR §1309.21(d)(1):**
 - A lease or other arrangement which protects the Federal interest in the facility and ensures the grantee's undisturbed use and possession of the facility.
 - A land lease or other similar interest in the underlying land which is long enough to allow the Head Start program to receive the full value of those permanent grant-supported improvements.
 - The lease or document evidencing another arrangement shall include provisions to protect the right of the grantee, or some other organization designated by ACF in the place of the grantee, to occupy the facility for the term of the lease or other arrangement.
 - Such other terms required by the responsible HHS official.
- **Filing of lease or affidavit as Notice of Federal Interest required by 45 CFR §1309.21(d)(2)–(4):**
 - In the case of a facility now sited or to be constructed on land not owned by the grantee, the Notice of Federal Interest shall be the land lease or other document protecting the Federal interest. In the event that filing of a lease is prohibited by State law, the grantee shall file an affidavit signed by the representatives of the grantee and the Lessor stating that the lease includes terms which protect the right of the grantee, or some other organization designated by ACF in the place of the grantee, to occupy the facility for the term of the lease.

Valuation of Donated Property and Space

(Do not apply fair rental value below to Related Party donations – see next Slide)



- Third party in-kind contributions count towards satisfying a cost sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs. 45 CFR § 74.23(a)(4) or 45 CFR §92.24(b)(7)(i).
- The value of donated land and buildings shall not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient. 45 CFR §74.23(h)(1) or 45 CFR §92.24(g).
- The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality. 45 CFR §74.23(h)(1) or 45 CFR §92.24(g).
- For reductions in fair rental value, intent to contribute must be demonstrated.

Donated Space from Related Parties



- Third party in-kind contributions count towards satisfying a cost sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs. 45 CFR § 74.23(a)(4) or 45 CFR §92.24(b)(7)(i).
- Rental costs under "less-than-arm's-length" leases are allowable only up to the amount (as explained in paragraph (2)) that would be allowed had title to the property vested in the institution. For this purpose, a less-than-arm's-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between (1) divisions of an institution; (2) non-Federal entities under common control through common officers, directors, or members; and (3) an institution and a director, trustee, officer, or key employee of the institution or an immediate family member, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, an institution may establish a separate corporation for the sole purpose of owning property and leasing it back to the institution. Omni Cost Principles, ____.621, C-15.

Sample Comparison for Unrelated and Related Parties



Unrelated Party:

- A local private school allows Head Start to use 1,000 square feet of classroom and common space without charge.
- An independent appraisal by a certified appraiser sets the fair rental value of the space at \$12 per square foot per year.
- $1,000 \times \$12 = \$12,000$
- The grantee can claim \$12,000 in nonfederal match.

Related Party:

- A separate housing corporation with the same governing body members as the Head Start agency allows Head Start to use 1,000 square feet of classroom and common space without charge.
- The acquisition cost of the building was \$200,000, the useful life is 40 years and 1,000 square feet is 20% of the total square footage in the building.
- $\$200,000 \div 40 = \$5,000$
 $\$5,000 \times 20\% = \$1,000$
- The grantee can claim \$1,000 in nonfederal match.

Capital Leases (Slide #1)



- Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount that would be allowed had the institution purchased the property on the date the lease agreement was executed.
- This amount would include expenses such as depreciation, maintenance, taxes, and insurance.
- The provisions of [Financial Accounting Standards Board Statement 13, *Accounting for Leases*](#), shall be used to determine whether a lease is a capital lease.
 - Ownership is transferred at the end of the lease term
 - The lease contains a bargain purchase option
 - The lease term is equal to 75 percent or more of the estimated economic life
 - The present value of the minimum lease payments equals or exceeds 90 percent of the fair market value of the leased property

Capital Leases (Slide #2)



- Interest costs related to capital leases are allowable to the extent they meet the criteria in C-27 Interest. Interest on debt (or financing costs) to acquire, construct, or replace capital assets is allowable, subject to the conditions stated.
- Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the institution purchased the facility.
- The use of Head Start funds to pay all or part of capital lease payments is classified as an acquisition for purposes of application of 45 CFR Part 1309.
 - An application meeting the requirements of 45 CFR §1309.10 and §1309.11 is required.
 - The grantee must file a Notice of Federal Interest in accordance with 45 CFR §1309.21.

Modular Units



- Special regulations for modular units are found at 45 CFR §1309.30 – §1309.34.
- Applications for purchase must include:
 - A detailed site description. 45 CFR 1309.31(a).
 - A statement of procurement procedures used by the grantee. 45 CFR 1309.32(a).
 - Specifications for the proposed modular unit. 45 CFR 1309.32(a).
- The grantee 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. 45 CFR 1309.33.
- Notice of Federal Interest must be posted in a conspicuous location on the modular unit. 45 CFR 1309.31(b).
- Must also meet applicable regulations if modular unit is placed on leased property or property owned by a third party. [See Slide 36.](#)
- After 15 years, modular units can be disposed of without further responsibility for compensation to ACF. See [ACF-IM-HS-12-08](#), Disposition of Older Modular Units.

Disposition of Facilities



- Real property must be used for the authorized purpose as long as it is needed.
- May use in other Federally sponsored programs with approval of the HHS awarding agency.
- If property is no longer needed, grantee must request disposition instructions:
 - Grantee retains property and compensates the U. S. Treasury for the Federal share.
 - Awarding agency directs transfer to another grantee and compensates for the grantee share.
 - Property is sold and net proceeds are allocated between Federal share and grantee share. [45 CFR §74.32](#) and [45 CFR §92.31](#).

Sample Disposition Calculation



Original Purchase Price: \$2,000,000

- ▷ \$1,200,000 Down Payment
- ▷ \$ 800,000 Purchase Mortgage
- ▷ \$ 200,000 Mortgage Balance at Disposition
- ▷ \$2,500,000 Facility Fair Market Appraised Value or Net Proceeds at Disposition

Contribution	Grantee	OHS/ACF (Federal)
Down Payment	\$200,000 Third party donation not claimed as nonfederal match	\$1,000,000 One time funds
Annual Mortgage Payments Made prior to disposition over 20 years	\$600,000 Principal paid by grantee from nonfederal funds	\$ 400,000 Interest charged to annual base grant
Major Renovation Year 5	\$300,000 Donated not federal source	
Major Renovation Year 10		\$500,000 One time funds
Total: \$3,000,000	\$1,100,000	\$1,900,000

Sample Disposition Calculation

(No Subordination Agreement)



Original Purchase Price: \$2,000,000

- ▷ \$1,200,000 Down Payment
- ▷ \$ 800,000 Purchase Mortgage (Federal Interest not subordinated)
- ▷ \$ 200,000 Mortgage Balance at Disposition
- ▷ \$2,500,000 Facility Fair Market Appraised Value at Disposition

Contribution	Grantee	OHS/ACF (Federal)
Total: \$3,000,000	\$1,100,000	\$1,900,000

Step 1: Establish Grantee and Federal Shares as Percentages

Grantee: $\$1,100,000 \div \$3,000,000 = 37\%$

Federal: $\$1,900,000 \div \$3,000,000 = 63\%$

Step 2: Apply Grantee and Federal Shares to Facility FMV or Net Proceeds

Federal: $63\% \times \$2,500,000 = \$1,580,000$

Grantee: $37\% \times \$2,500,000 = \$ 920,000$

Step 3: Lender paid from Grantee Share: **\$ 200,000**

Final Grantee Share: **\$ 720,000**

Sample Disposition Calculation

(Subordination Agreement)



Original Purchase Price: \$2,000,000

- ▷ \$1,200,000 Down Payment
- ▷ \$ 800,000 Purchase Mortgage (Federal Interest subordinated)
- ▷ \$ 200,000 Mortgage Balance at Disposition
- ▷ \$2,500,000 Facility Fair Market Appraised Value or Net Proceeds at Disposition

Contribution	Grantee	OHS/ACF (Federal)
Total: \$3,000,000	\$1,100,000	\$1,900,000

Step 1: Establish Grantee and Federal Shares as Percentages

Grantee: $\$1,100,000 \div \$3,000,000 = 37\%$

Federal: $\$1,900,000 \div \$3,000,000 = 63\%$

Step 2: Lender paid from Net Proceeds

$\$2,500,000 - \$200,000 = \$2,200,000$

Step 3: Apply Grantee and Federal Shares to remaining Net Proceeds

Federal: $63\% \times \$2,200,000 = \$1,386,000$

Grantee: $37\% \times \$2,200,000 = \$814,000$

Super Circular Disposition Language

(Does not currently apply except to Part 92 pending implementation of regulations)



- Disposition. When real property is no longer needed for the originally authorized purpose, the recipient or subrecipient will request disposition instructions from the Federal awarding agency. The instructions will provide for one of the following alternatives:
 - Retention of title. Retain title after compensating the Federal awarding agency. The amount paid to the Federal awarding agency will be computed by applying the Federal awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a recipient or subrecipient is disposing of real property acquired or improved with award funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
 - Sale of property. Sell the property and compensate the Federal awarding agency. The amount due to the Federal awarding agency will be calculated by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the award is still active, the net proceeds from sale may be offset against the original cost of the property. When a recipient or subrecipient is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.
 - Transfer of title. Transfer title to the Federal awarding agency or to a third party designated/approved by the Federal awarding agency. The recipient or subrecipient shall be entitled to be paid an amount calculated by applying the award or subaward recipient's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.

Facilities Tip Sheet #1



- **Facilities activities by Grantees**: The facilities regulations apply to grantees, so facilities activities proposing that title be held by a delegate agency or mortgage payments be made on behalf of a delegate agency are not fundable.
- **Construction**: The term “construction” in the Head Start regulations is defined at a much higher dollar value than the term “construction” under the Davis–Bacon Act. Under the Head Start regulations, the term construction only applies to *new* facilities.
- **Major Renovation**: Note the three separate criteria for defining a major renovation. Be sure to use the CPI adjusted dollar threshold, if applicable. The term “construction” under the Davis–Bacon Act includes a major renovation as defined in the Head Start regulations.

Facilities Tip Sheet #2



- Pre-Application Costs: Be sure to obtain prior *written* approval for initial pre-project costs such as blueprints, feasibility studies, surveys and similar expenses.
- Facilities Project Applications: An effective way to organize applications is to use a notebook with an alphabetic tab system aligned with the subsections of 45 CFR §1309.10. Under §1309.10(q) applicants must submit such additional information as the responsible HHS official may require.

Facilities Tip Sheet #3



- Independent Analysis: The responsible HHS official may require the applicant to obtain an independent analysis of the cost comparison submitted under §1309.11 or the statement under §1309.10(f) [lack of alternative facilities], or both, if, in the judgment of the official, such an analysis is necessary to adequately review a proposal. 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. 45 CFR §1309.44.

Questions and Comments

