

§ 1309.21 Recording of Federal interest and other protection of Federal interest.

(a) 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. 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.

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(d)(1) A grantee receiving funds to acquire or make major renovations to a facility that is or will be sited on land not owned by the grantee must have 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. 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 and such other terms required by the responsible HHS official. The designation of an alternate tenant or occupant of the facility by ACF shall be subject to approval by the Lessor, which will not be withheld except for good reason, not including the willingness of another party to pay a higher rent. A grantee receiving funds for the major renovation or acquisition of a facility, on land belonging to another party, must have 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.

(2) Except as required under § 1309.31 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: 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. In the case of a leased facility undergoing major renovations, the Notice of Federal Interest shall be a copy of the executed lease and all amendments. 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. The lease or other

document must ensure the right of the grantee to have undisturbed use and possession of the facility. 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.

(3) The Notice of Federal Interest for property sited on land not owned by the grantee shall include the following information:

(i) The date of the award of grant funds for the acquisition or major renovation of the property to be used as a Head Start facility, and the address and legal description of the property to be acquired or renovated;

(ii) That the grant incorporated conditions which included restrictions on the use of the property and provide for a Federal interest in the property;

(iii) That the property may not be used for any purpose inconsistent with that authorized by the Head Start Act and applicable regulations;

(iv) That the property may not be mortgaged or used as collateral, sold or otherwise transferred to another party, without the written permission of the responsible HHS official;

(v) That these grant conditions and requirements cannot be altered or nullified through a transfer of ownership; and

(vi) The name (including signature) and title of the person who completed the Notice for the grantee agency, and the date of the Notice.

(4) A lease, serving as a Notice of Federal Interest, an affidavit filed in the land records as a substitute for the lease, or other document protecting the Federal interest in a facility acquired with grant funds and sited on land not owned by the grantee, shall include the following information:

(i) The address and legal description of the property;

(ii) That the grant incorporated conditions which include restrictions on the use of the property and provide for a Federal interest in the property for the term of the lease or other arrangement; and

(iii) That the property may not be used for any purpose during the lease or other arrangement that is inconsistent with that authorized by the Head Start Act and applicable regulations.

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(f) In subordinating its interest in a facility acquired or upon which major renovations have been undertaken with

grant funds, the responsible HHS officials does not waive application of paragraph (d) of this section and § 1309.22. A written agreement by the responsible HHS official to subordinate the Federal interest must provide:

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■ 11. Section 1309.22(a) is revised to read as follows:

§ 1309.22 Rights and responsibilities in the event of grantee's default on mortgage, or withdrawal or termination.

(a) The mortgage agreement, or security agreement in the case of a modular unit which is proposed to be purchased under a chattel mortgage, shall provide in the case of default by the grantee or the withdrawal or termination of the grantee from the Head Start program that ACF may intervene. In the case of a default, the mortgage agreement or security agreement must provide that ACF may intervene to ensure that the default is cured by the grantee or another agency designated by ACF and that the lender shall accept the payment of money or performance of any other obligation by ACF's designee, for the grantee, as if such payment of money of performance had been made by the grantee. The agreement shall also provide that ACF will have a period of 60 days after notification by the grantee of default in which to intervene to attempt to cure the default. The agreement shall further provide that in the event of a default, or the withdrawal or termination of the grantee the mortgage may be assumed by an organization designated by ACF. The mortgage or creditor will have the right to approve the organization designated to assume the mortgage, but such approval will not be withheld except for good reason. The required provisions must be included in the mortgages of facilities funded as continuing purchases pursuant to § 1309.2 unless a convincing justification for not doing so is shown by the Head Start grantee.

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■ 12. Section 1309.23 is amended by revising paragraph (a) introductory text to read as follows:

§ 1309.23 Insurance, bonding and maintenance.

(a) At the time of acquiring or undertaking a major renovation of a facility or receiving approval for the use of Head Start funds to continue purchase the grantee shall obtain insurance coverage for the facility which is not lower in value than coverage it has obtained for other real property it owns, and which at least meets the requirements of the coverage