

(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.

(e) Grantees must meet all of the requirements in 45 CFR parts 74 or 92 pertaining to the purchase and disposition of real property, or the use and disposal of equipment, as appropriate.

(f) In subordinating its interest in a facility acquired or upon which major renovations have been undertaken with grant funds, the responsible HHS official 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:

(1)(i) The lender shall notify the Office of the Regional Administrator, Administration for Children and Families, the Office of the Commissioner, Administration on Children, Youth and Families, Washington, D.C., and the Office of the General Counsel, Department of Health and Human Services, Washington, DC, or their successor agencies, immediately, both telephonically and in writing of any default by the Head Start grantee;

(ii) Written notice of default must be sent by registered mail return receipt requested; and,

(iii) The lender will not foreclose on the property until at least 60 days after the required notice by the lender has been sent.

(2) Such notice will include:

(i) The full names, addresses, and telephone numbers of the lender and the Head Start grantee;

(ii) The following statement prominently displayed at the top of the first page of the notice: "The Federal Interest in certain real property or equipment used for the Head Start Program may be at risk. Immediately give this notice to the appropriate government official";

(iii) The date and nature of the default and the manner in which the default may be cured; and

(iv) In the event that the lender will be exercising its remedy of foreclosure or other remedies, the date or expected date of the foreclosure or other remedies.

(3) 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 under paragraph (b) of this section to give notice in the event of a default.

[64 FR 5945, Feb. 8, 1999, as amended at 68 FR 23221, May 1, 2003]

§ 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

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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.

(b) The grantee must immediately provide the responsible HHS official with both telephonic and written notification of a default of any description on the part of the grantee under a real property or chattel mortgage.

(c) In the event that a default is not cured and foreclosure takes place, the mortgagee or creditor shall pay ACF that percentage of the proceeds from the foreclosure sale of the property attributable to the Federal share as defined in 45 CFR 74.2, or, if part 92 is applicable, to ACF's share as defined in 45 CFR 92.3. If ACF and the mortgagee or creditor have agreed that ACF's Federal interest will be subordinated to the mortgagee's or creditor's interest in the property, that agreement must be set forth in a written subordination agreement that is signed by the responsible HHS official and that complies with §1309.21 and any other applicable Federal law.

[64 FR 5945, Feb. 8, 1999, as amended at 68 FR 23222, May 1, 2003]

§ 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 require-

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ments of the coverage specified in paragraphs (a)(1) and (2) of this section. For facilities, which have been constructed or renovated, insurance coverage must begin at the commencement of the expenditure of costs in fulfillment of construction or renovation work.

(1) A title insurance policy which insures the fee interest in the facility for an amount not less than the full appraised value as approved by ACF, or the amount of the purchase price, whichever is greater, and which contains an endorsement identifying ACF as a loss payee to be reimbursed if the title fails. If no endorsement naming ACF as loss payee is made, the grantee is required to pay ACF the title insurance proceeds it receives in the event of title failure; and

(2) A physical destruction insurance policy, including flood insurance where appropriate, which insures the full replacement value of the facility from risk of partial and total physical destruction. The insurance policy is to be maintained for the period of time the facility is owned by the grantee.

(b) The grantee shall submit copies of such insurance policies to ACF within five days of acquiring the facility or receiving approval for the previous purchase of a facility. If the grantee has not received the policies in time to submit copies within this period, it shall submit evidence that it has obtained the appropriate insurance policies within five days of acquiring the facility or receiving approval for the previous purchase of a facility, and it shall submit copies of the policies within five days of its receipt of them.

(c) The grantee must maintain facilities acquired with grant funds in a manner consistent with the purposes for which the funds were provided and in compliance with State and local government property standards and building codes.

[64 FR 5945, Feb. 8, 1999, as amended at 68 FR 23222, May 1, 2003]

Subpart D—Modular Units

§ 1309.30 General.

In addition to the special requirements of §§1309.31 through 1309.34, the