Property and Facilities:
What You Should Know and Remember – Crammed into 90 Minutes

A. Why This Is Important

1. Facilities are often a Head Start program’s largest assets, and may continue in use over long periods of time
2. Large amounts of money are at issue
3. Some grantees weak in record-keeping
4. Monitoring results indicate challenges
   a. Property management standards not met for facilities/equipment
   b. Non-compliance with Davis-Bacon Act
   c. Procurement transactions failing to ensure open and free competition

B. Facilities Regulations – 45 CFR 1309

1. Key Definitions
   a. Facility means a structure such as a building or modular unit appropriate for use by a Head Start grantee
   b. Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment
   c. 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
   d. Construction means new buildings, and excludes renovations, alterations, additions, or work of any kind to existing buildings
   e. Major renovation means:
      i. A structural change to the foundation, roof, floor or exterior or load bearing walls of a facility, or an extension of an existing facility to increase its floor area.
      ii. Extensive alteration of an existing facility, such as to significantly change its function and purpose, even without structural changes.
      iii. Any renovation with cost exceeding the lesser of $200,000 (adjusted annually for CPI-U since 2003) or 25% of the total annual approved direct costs of the grantee.

   Note: Current adjusted amount is $245,613.04 and an online calculator to determine the current cost amount is found at http://www.bls.gov/data/inflation_calculator.htm.

2. Eligibility for Construction/Major Renovation funds
   a. Grantee must establish that it serves an Indian Tribe or is located in a rural or other low-income community, and
   b. Grantee must establish that there is a lack of suitable facilities in the grantee’s service area. (See 45 CFR 1309.4 and 1309.5)
3. Applications for Facility Acquisition (selected items)
   a. A legal description of the site of the facility
   b. Detailed plans and specifications of the facility to be acquired or renovated
   c. Specific information identifying the intended Head Start use of the facility
   e. An explanation of the appropriateness of the location to the grantee’s service area (including effect on transportation, ability to collaborate and all other program activities and services)
   f. Statement of impact of acquisition or major renovation on grantee’s meeting non-federal share requirements
   g. Proposed schedule for acquisition, renovation and occupancy
   h. … and more, as found in 1309.10(a)-(q)

4. Finding expert help
   a. Grants Management Officer
   b. Architects, engineers, project managers, real estate and legal professionals
   c. Banks and finance companies
   d. Community partners

C. Federal Interest Protection

1. Review: what is the Federal Interest
   a. Facilities which are acquired or undergo major renovations using Head Start funds are subject to a Federal Interest (45 CFR §1309.3)
   b. A Federal Interest is the current fair market value of property attributable to the Federal share in the property (45 CFR §74.32)
   c. The Federal Interest will change over time as the market value of the property changes

2. How the Federal Interest is protected
   a. 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 may apply to the property. See 45 CFR §74.37 and 45 CFR §1309.21
   b. 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. See 45 CFR §1309.31 for specific language.
   c. The federal interest can also be protected by other documents filed of record, including a notice of long term lease or an easement making reference to the Federal Interest
3. **Timeframe for filing a Notice of Federal Interest**
   a. The Notice of Federal Interest must be filed immediately upon purchasing a facility with grant funds or receiving permission to use new funds to reduce debt or make major renovations.
   b. A copy of the Notice of Federal Interest must be sent to the Grants Officer within 10 days of closing

4. **This is important because …**
   a. It is required by federal regulations – it’s the law
   b. Grant acceptance and continued funding requires it
   c. Program assets are protected from third party claims
   d. Program senior employees, officers and board members have no risk of personal liability
   e. Conversion charges under 18 USC §641 are not an issue
   f. Program assets are maintained in trust for the children and families served by the grantee

**D. Financing and Budgeting**

1. **How much does it cost?**
   a. Do you really know the total cost?
      i. Land acquisition
      ii. Land development – infrastructure
      iii. Construction
      iv. Professional fees
      v. Furnishings
      vi. Playground
   b. Cost comparison required by 45 CFR 1309.11
   c. Maintenance, utility, and other operating costs

2. **Where can I find the money?**
   a. Local banking contacts
   b. Community Development Financial Institutions
   c. Community Development Block Grant
   d. Community Partnerships
   e. Internal financing – mortgage may be less than rent

**E. Davis-Bacon Act Compliance**

1. **Review:** Construction and renovation projects, maintenance, repair, and subcontracts financed with funds awarded under the Head Start program are subject to the Davis-Bacon Act (40 U.S.C. 276a et seq.) and the Regulations of the Department of Labor, 29 CFR Part 5

2. **How to comply**
   a. Grantees engaged in projects that require compliance with the Davis-Bacon Act must post the WH-1321 “Employee Rights Under the Davis-
Bacon Act” poster at the site of the work in a where it may be easily seen by employees.

b. Grantees must also post the Davis-Bacon wage determination for corresponding classes of laborers and mechanics employed on similar projects in the area.

c. The grantee must provide an assurance that 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.

d. Applies to contracts in excess of $2,000.

e. Must obtain a weekly payroll certification from the contractor.

f. Applies only to work performed on-site not work performed off-site, such as fabrication or manufacturing.

F. Resources

1. 1309 Checklist

2. Sample Notice of Federal Interest

3. Environmental Assessment tool-kit (CD)
   (all available from pmfoinfo4u@fhi360.org)

4. Davis-Bacon resources
   b. www.wdol.gov

5. Other resources, including:
   a. Building Childcare archives (http://www.buildingchildcare.org)
      (http://www.lisc.org/docs/publications/2005_cick_guide_vol1_developing.pdf)
   c. Head Start Design Guide – print version or