

(3) The organization of the applicant's research program and its relationship with the overall institutional settings,

(4) The anticipated effect of the project on other relevant research programs and facilities in the geographic area, and nation-wide,

(5) The need for the project or additional space, and

(6) The project cost and design.

§ 52b.6 What is the rate of Federal financial participation?

(a) Unless otherwise specified in statute, the rate of Federal participation in a construction project supported by a grant under this part shall not be more than 50 percent of the necessary allowable costs of construction as determined by the Director, except that when the Director finds good cause for waiving this limitation, the amount of the construction grant may be more than 50 percent of the necessary allowable costs of construction.

(b) Subject to paragraph (a) of this section, the Director shall set the actual rate of Federal financial participation in the necessary allowable costs of construction taking into consideration the most effective use of available Federal funds to further the purposes of the applicable provisions of the Act.

§ 52b.7 How is the grantee obligated to use the facility?

(a) The grantee shall use the facility (or that portion of the facility supported by a grant under this part) for its originally authorized purpose so long as needed for that purpose, unless that grantee obtains advance written approval from the Director to use the facility for another purpose. Use for other purposes shall be limited to, in order of priority:

(1) Projects or programs supported by other Federal grants or assistance agreements,

(2) Activities not supported by other Federal grants or assistance agreements, but whose purposes are consistent with those of the legislation under which the original grant was made.

(b) The Director, in determining whether to approve an alternative use of the facility, shall take into consideration the extent to which:

(1) the facility will be devoted by the grantee or other owner to a use described in paragraph (a)(1) or (2) of this section; or

(2) there are reasonable assurances that for the remainder of the useful life of the facility, alternative facilities not previously used for NIH supported research will be utilized for this purpose and are substantially equivalent in nature and extent for these purposes.

(c) *Sale, transfer, or change in use; general.* Approval may be requested from the Director to transfer title to a third party eligible under § 52b.3 for continued use for authorized purposes in accordance with paragraphs (a) and (b) of this section. If approval is permissible under the Act or other Federal statute and is granted, the terms of the transfer shall provide that the transferee shall assume all the rights and obligations of the transferor set forth in 45 CFR part 74, subpart O, or other terms of the grant.

§ 52b.8 How will NIH monitor the use of facilities constructed with Federal funds?

NIH may monitor the use of each facility constructed with funds awarded under this part to ensure its continued use for the original authorized research purpose, by means of requesting periodic facility use certifications or reports, site visits, and other appropriate means.

§ 52b.9 What is the right of the United States to recover Federal funds when facilities are not used for research or are transferred?

(a) If, during its useful life, a facility supported by a construction grant under this part ceases to be used for the particular biomedical research or training purposes for which it was constructed (or alternate use authorized under § 52b.7(a)), or the grantee sells or decides to sell or transfer title to an entity ineligible for a grant under § 52b.3, the grantee shall request disposition instructions from NIH. Those instructions will provide for one of the following alternatives:

(1) The facility may be sold and the grantee or transferee shall pay to the United States an amount computed by multiplying the Federal share of the facility times the proceeds from the sale (after deducting the actual and reasonable selling and fix-up expenses, if any, from the sales proceeds), plus interest, if any, as may be allowed by law. Proper sales procedures shall be used that provide for competition to the extent practicable and result in the highest possible return.

(2) The grantee may retain title and shall pay to the United States an amount computed by multiplying the market value of the facility by the Federal share of the facility.

(3) The grantee shall transfer the title to either the United States or to an eligible non-Federal party approved by the Director. The grantee shall be entitled to be paid an amount computed by multiplying the market value of the facility by the non-Federal share of the facility.

(b) The transferor of a facility which is sold or transferred, or the owner of a facility the use of which has changed, as described in paragraph (a) of this section, shall provide the Director written notice of the sale, transfer, or change not later than 30 days from the date on which the sale, transfer, or change occurs.

(c) The Secretary may waive the recovery rights of the United States set forth in paragraph (a) of this section with respect to a facility if the Secretary determines that there is good cause for waiving the rights with respect to the particular facility. In determining whether there is good cause, the Secretary shall take into consideration the extent to which (and the grantee or transferee provides reasonable assurances that):

(1) the facility will be utilized for the remainder of its useful life, in order of priority:

(i) For other health related activities consistent with the purposes of one or more of the activities of the awarding Institute authorized under title IV of the Act,

(ii) To provide training or instruction in the health fields for health professionals or health related information programs for the public, or

(iii) Other health related purposes consistent with one or more purposes authorized under the Act; or,

(2) facilities of substantially comparable value or utility will be utilized for the remainder of the facility's useful life to carry out the biomedical research or training purpose for which the grant was awarded. Alternative facilities (and the grantee) shall be subject to the same use obligation and the other requirements imposed on the grantee by this part.

(d) The right of recovery of the United States set forth in paragraph (a) of this section shall not, prior to judgment, constitute a lien on any facility with respect to which funds have been paid under this part.

(e) Any amount recovered under this section will be paid to the awarding institute for disposition as required by law.

§ 52b.10 What are the terms and conditions of awards?

In addition to any other requirement imposed by law or determined by the Director to be reasonably necessary with respect to any particular grant to fulfill the purposes of the grant, each construction grant shall be subject to the terms and conditions, and the grantee shall provide the assurances, required by this section, supported by such documentation as the Director may