

§ 52b.7

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, or other period prescribed by statute, unless the grantee obtains advance approval from the Director, in the form and manner as the Director may prescribe, to use the facility for another purpose. Use for other purposes shall be limited as prescribed in § 52b.9(c)(2).

(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 used by the grantee or other owner for a purpose described in § 52b.9(c)(2); or

(2) There are reasonable assurances that alternative facilities not previously used for NIH supported research will be utilized to carry out the original purpose as prescribed in § 52b.9(c)(1).

(c) *Sale or transfer.* In the form and manner as the Director may prescribe, the grantee may request the Director's approval to sell the facility or transfer title to a third party eligible under § 52b.3 for continued use of the facility for an authorized purpose 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, the regulations of this part, and the other terms and conditions 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 originally authorized research purpose, by means of reviewing periodic facility use certifications or

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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 the grantee plans to cease using the facility for the particular biomedical research or training purposes for which it was constructed as required by § 52b.7 (or alternate use authorized under § 52b.7(a) or paragraph (c) of this section), or the grantee decides to sell or transfer title to an entity ineligible for a grant under § 52b.3, the grantee shall request disposition instructions from NIH in the form and manner as the Director may prescribe. Those instructions shall 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). The sales procedures must provide for competition to the extent practicable, and be designed to provide the highest possible return;

(2) The grantee may retain title and shall pay to the United States an amount computed by multiplying the current fair market value of the facility by the federal share of the facility; or

(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 current fair market value of the facility by the nonfederal share of the facility.

(b) The grantee or 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 report that action in writing to the Director not later than 10 days from the date on which the sale, transfer, or change occurs, in the form and manner as the Director may prescribe.