

## FAQ: Federal Interest in Real Property

### What is Federal Interest?

- ▶ Federal Interest is the Federal government's share in a property, based on the Federal funding that went towards acquiring or upgrading it. The Federal government has a Federal Interest in Equipment, Supplies, and Real Property (land and buildings). Property, equipment, and supplies are "tools" needed to help support and deliver the various health care services that HRSA funds through its grant programs.

### Federal Interest in Real Property

A grantee's property may be used to deliver health care services long after a grant is closed. When the Federal Government has provided funding for a substantial improvement (property construction or major renovations), the grantee may be required to attach a lien to the property called a **Notice of Federal Interest (NFI)**.

### Notice of Federal Interest

The NFI protects not only the Federal Government's interest in the property, but also the purpose for which the funds were originally awarded. An NFI is required for:

- New Construction Projects—result in an increase in usable square footage, regardless of total project cost.
- Major Renovation Projects—total project costs greater than \$500,000, excluding moveable equipment costs.

## Frequently Asked Questions

### Q1: Is a Notice of Federal Interest required for e capital projects?

A1: Yes. NFI filings are required for:

- **ALL** construction projects.
- **Each** alteration/renovation project having a total (Federal and non-Federal) allowable project cost of more than \$500,000, **excluding moveable equipment costs**.

### Q2: Does Federal interest exist if I don't file a NFI?

A2: Grantees that are not required to file a NFI must be aware that the Federal Interest still exists irrespective of the filing of the NFI. For alteration/renovation projects less than \$500,000, the grantee shall maintain adequate documentation regarding protection of all Federal Interest. This will include communications with a lessor related to protecting such interest during the lease period, in accordance with the standard award terms and conditions. Such documentation should be available for subsequent review.

### Q3: Will HRSA take a subordinate position to existing mortgage holders and lenders on potential debt financing for projects?

A3: HRSA's NFI is subordinate to all pre-existing mortgages or obligations recorded against the property. Also, the NFI is also subordinate to any pre-existing loans and obligations identified by the grantee in the grant application as sources of financing for the project. Future modifications to existing mortgages and new mortgages will require HRSA review and prior approval.

### Q4: The grant award requires that the facility owner file a NFI against a facility deed. What if the owner wants to secure additional mortgages, lease the facility to an entity that does not provide healthcare, or sell the facility?

A4: A NFI is essentially a lien that protects HRSA's financial and public interests in the real property being used to deliver health care services. After a NFI is filed against the property, activities such as new mortgages, selling the facility, or leasing the facility to an entity that does not provide healthcare, requires prior approval from the HRSA. The NFI will not affect existing mortgages or modifications being made to the facility.

Prior approval must come in the form of a written request from the grantee to HRSA, either by letter or by email, with the following information:

1. What is the action that the owner wants to undertake (new loan, refinancing, expansion, sale, etc.)?
2. What is the grantee or owner requesting from HRSA (permission to secure a new loan, transfer to another site, etc.)?
3. If applicable, details of the project financing (the combination of loans and internal funding), or proposed sale (whether there is an identified buyer, the proposed sale price).
4. Copy(s) of all HRSA NFIs, associated Notice(s) of Grant Award, and/or funding information associated with the NFI. A copy of the deed, with a legal description of the property, to which the Federal Interest is attached.
5. Appraised value of the property at the time of project completion.
6. Terms of the proposed loan, i.e., interest rate, period of loan, amortization schedule.
7. Last three years of audited Financial Statements.

Reviewing Federal Interest requests takes time and HRSA requests patience and cooperation in the process. Providing detailed requests and supporting documentation up front will aid in expediting reviews.

**Q5: Will the value of the Federal interest change over time, especially as the useful life of the renovation/alteration expires?**

A5: Each alteration/renovation project having a total (Federal and non-Federal) allowable project costs of more than \$500,000, excluding moveable equipment costs, is required to file a NFI.

HRSA acknowledges that the market value of ARRA supported renovations/alterations will change over time. HRSA will work with grantees to recognize the changing market value of improvements and other activities made by the grantee or property owner of the facility.

## How to Record a Notice of Federal Interest (NFI)

### General

1. Within the United States, except Hawaii, the NFI must be filed in the county or district office in which the facility is located. Often this is the County Court Clerk, Probate Office or the Register of Deeds. In the State of Hawaii, the NFI must be filed with the State Department of Land and Natural Resources, Bureau of Conveyances.
2. Please understand that local governments may have different formatting requirements. It is important to check with the office before filing, as it may save you an extra trip.
3. The county government will provide a copy of the recorded NFI with the county stamp, with a date, and either receipt information, or the final reference number (book and page, file, etc.).

### NFI Document<sup>1</sup>

1. The grant number must reference to the appropriate Grant No, i.e., CXXCSXXXXX.
2. The description of the project should clearly describe the new construction project, or alteration and renovation. The NFI does not apply to moveable equipment (though equipment does have Federal Interest, as do alteration and renovation projects below the NFI filing threshold).
3. The legal description should be preferably the full legal description of the property in the deed. However, Township and Range, or Map, Block, and Lot number will be accepted. A physical address may be included, but does not constitute a legal description in itself.
4. The restrictive language of the template may not be modified.
5. The signatory of the NFI should be the owner of the property. This indicates the owner's consent to have a lien filed on the property.
6. The NFI must then be notarized and embossed with a notary seal.
7. The NFI must then be recorded with the county government.

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<sup>1</sup> A sample NFI is available at <http://bphc.hrsa.gov/policiesregulations/capital>.

Example of a Correctly Filed NFI  
[Page 1]

STATE OF ALABAMA

A COUNTY

Correct Grant No. and  
purpose of award.

**NOTICE OF FEDERAL INTEREST**

On June 25, 2009, the Health Resources and Services Administration awarded Grant Number [redacted] Inc. The grant provides funds for the construction of What Health Services' What Health Center, which is located on the land described below in A County, Alabama:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.

The Notice of Award for this grant includes conditions on use of the aforementioned property and provides for a continuing Federal interest in the property. Specifically, the property may not be (1) used for any purpose inconsistent with the statute of any program regulations governing the award under which the property was acquired; (2) mortgaged or otherwise used as collateral without the written permission of the Associate Administrator, Office of Federal Assistance Management (OFAM), Health Resources and Services Administration (HRSA); or (3) sold or transferred to another party without the written permission of the Associate Administrator, OFAM, HRSA. These conditions are in accordance with the statutory provisions set forth in the American Recovery and Reinvestment Act, Title 45 CFR part 74 or 92 as applicable, the HHS Grants Policy Statement, and other terms and conditions of award.

These grant conditions and requirements cannot be nullified or voided through a transfer of ownership. Therefore, advance notice of any proposed change in usage or ownership must be provided to the Associate Administrator, OFAM, HRSA.

Correct restrictive information

WHAT HEALTH SERVICE

By: X  
X

Its President and CEO

Date: July 17, 2009

Signed by the  
property owner (in this  
case, the grantee)

Recorded with the County  
Records Office

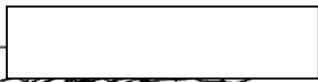
Recorded In RPB BK 25 PG 62, 07/22/2009 02:16:33 PM Recording Fee 15.50, TOTAL 15.50  
Jerry C. Pow, Probate Judge, H. County, Alabama

Example of a Correctly Filed NFI  
[Pages 2 and 3]

STATE OF ALABAMA  
A COUNTY

On this the 17<sup>th</sup> day July, 2009, before me, the undersigned, a Notary Public for the State of Alabama at Large, personally appeared before me and is known to be the person who executed this instrument on behalf of said What Health Service, and acknowledged to me that he executed the same as the free act and deed of said Corporation.

Witness my hand and official seal.

  
Notary Public  
My Commission Expires: 4/21/2012

PPB 23 62

Notarized

Recorded with  
the County  
Records Office

**EXHIBIT "A"**

A parcel of land 230' x 15' beginning at the NE corner of Lot #6, Blk 4, Bloc Height, Then W and S ROW of First Avenue, 230'(S), Then S 145', Then W 20', Then S 22'(S). Then E 15'(S), Then N 50', Then E 220', Then N with W ROW of School Street, 158' (S) to POB. West Bloc, Alabama Book 2 Page 37.

Correct Legal  
Description

PPB 23 62