

Filing A Notice of Federal Interest

Guidance Document



Introduction

Federally-funded construction projects are subject to regulations, including additional reporting requirements, as outlined in this [Construction Guidance](#) document provided by the Colorado Department of Education (CDE). Additionally, the federal interest in such construction projects must be recorded in the applicable local government office (e.g., county, district, or city) wherein the facility is located. This document summarizes guidance CDE recently received from the U.S. Department of Education (ED) regarding the process a local educational agency (LEA) should use to file a Notice of Federal Interest (NFI). Filing an NFI does not take the place of annual real property reporting requirements.

Uniform Guidance Definition of Federal Interest ([2 CFR §200.1](#))

Federal interest means, for purposes of [2 CFR §200.330](#) or when used in connection with the acquisition or improvement of real property, equipment, or supplies under a federal award, the dollar amount that is the **product** of the:

1. Percentage of federal participation in the total cost of the real property, equipment, or supplies; and
2. Current fair market value of the property, improvements, or both, to the extent the costs of acquiring or improving the property were included as project costs.

Your local government office may not require the above calculation for purposes of filing the NFI; however, this calculation will be required for any real property reporting to CDE, as the pass-through entity.

Federal Requirements

An LEA using federal education funds to support a construction or renovation project must record an NFI in the official real property records for the jurisdiction in which the facility is located as soon as possible after the approval from the state educational agency (SEA) to construct or renovate the facility.

The federal interest in the property will exist regardless of whether the interest is properly recorded; however, the federal interest should be recorded for all construction and renovation projects including HVAC **regardless of the dollar amount of the project**. ED does not have a threshold amount or percentage that would exempt projects from the requirements to file an NFI. The purpose of this requirement is to help protect the grantee's interest as well as the federal government's interest in a real property. It also helps to ensure that the property may continue to be used for educational purposes even after the federal grant is closed.

How to Record An NFI

ED does not have any forms for recording the federal interest because each local jurisdiction may have a different procedure. LEAs should check with the applicable local governmental office to determine what must be provided in order to record property interests.



General Information

1. 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.
2. Local governments may have different formatting requirements. It is important to check with the office before filing.
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.).
4. The recorded NFI with the official stamp must be kept on file by the LEA for future monitoring or audit purposes as long as the LEA holds title to the property.

NFI Document Requirements

1. The grant number must reference the appropriate Grant No/FAIN found in the Award Information box of the applicable GAL received from CDE (e.g., S425D21XXXX).
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).
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 signatory of the NFI should be the owner of the property or authorized representative (e.g., superintendent). This indicates the owner's consent to have a lien filed on the property.
5. The NFI must then be notarized and embossed with a notary seal.
6. The NFI must then be recorded with the applicable jurisdiction.

Additional Resources

The following are additional federal resources available for review. CDE cannot interpret or provide guidance or advice. Please contact your local jurisdiction for additional information.

1. OMB Standard Form 424D (available here: <https://www.rd.usda.gov/files/vtnhcfApplication-AssuranceAgreement.pdf>)
2. Sample documents and additional information published by other federal agencies or subagencies:
 - a. <https://bphc.hrsa.gov/sites/default/files/bphc/funding/sample-notice-federal-interest.pdf>
 - b. <https://www.rd.usda.gov/sites/default/files/rdul-notice.pdf>
 - c. <https://www.acf.hhs.gov/grants/manage-grant/property/real-property>



Example Filing

Example of a Correctly Filed NFI
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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 C81CS14208 to Whatley Health Services, 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 23 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 17TH 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