

§ 300s-1. Medical facility project applications**(a) Submissions**

No loan, loan guarantee, or grant may be made under part A or B for a medical facilities project unless an application for such project has been submitted to and approved by the Secretary. If two or more entities join in a project, an application for such project may be filed by any of such entities or by all of them.

(b) Form; required provisions; waiver; projects subject to requirements

(1) An application for a medical facilities project shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall, except as provided in paragraph (2), set forth—

(A) in the case of a modernization project for a medical facility for continuation of existing health services, a finding by the State Agency of a continued need for such services, and, in the case of any other project for a medical facility, a finding by the State Agency of the need for the new health services to be provided through the medical facility upon completion of the project;

(B) in the case of an application for a grant, assurances satisfactory to the Secretary that (i) the applicant making the application would not be able to complete the project for which the application is submitted without the grant applied for, and (ii) in the case of a project to construct a new medical facility, it would be inappropriate to convert an existing medical facility to provide the services to be provided through the new medical facility;

(C) in the case of a project for the discontinuance of a service or facility or the conversion of a service or a facility, an evaluation of the impact of such discontinuance or conversion on the provision of health care in the health service area in which such service was provided or facility located;

(D) a description of the site of such project;

(E) plans and specifications therefor which meet the requirements of the regulations prescribed under section 300s(2) of this title;

(F) reasonable assurance that title to such site is or will be vested in one or more of the entities filing the application or in a public or other nonprofit entity which is to operate the facility on completion of the project;

(G) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed, and, for the purpose of determining if the requirements of this subparagraph are met, Federal assistance provided directly to a medical facility which is located in an area determined by the Secretary to be an urban or rural poverty area or through benefits provided individuals served at such facility shall be considered as financial support;

(H) the type of assistance being sought under part A or B for the project;

(I) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less

than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141-3144, 3146, and 3147 of title 40, and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 5 U.S.C. Appendix) and section 3145 of title 40;

(J) in the case of a project for the construction or modernization of an outpatient facility, reasonable assurance that the services of a general hospital will be available to patients at such facility who are in need of hospital care; and

(K) reasonable assurance that at all times after such application is approved (i) the facility or portion thereof to be constructed, modernized, or converted will be made available to all persons residing or employed in the area served by the facility, and (ii) there will be made available in the facility or portion thereof to be constructed, modernized, or converted a reasonable volume of services to persons unable to pay therefor and the Secretary, in determining the reasonableness of the volume of services provided, shall take into consideration the extent to which compliance is feasible from a financial viewpoint.

(2)(A) The Secretary may waive—

(i) the requirements of subparagraph (D) of paragraph (1) for compliance with modernization and equipment standards prescribed pursuant to section 300s(2) of this title, and

(ii) the requirement of subparagraph (E) of paragraph (1) respecting title to a project site,

in the case of an application for a project described in subparagraph (B) of this paragraph.

(B) A project referred to in subparagraph (A) is a project—

(i) for the modernization of an outpatient medical facility which will provide general purpose health services, which is not part of a hospital, and which will serve a medically underserved population as defined in section 300s-3 of this title or as designated by a health systems agency, and

(ii) for which the applicant seeks a loan under part A the principal amount of which does not exceed \$20,000.

(July 1, 1944, ch. 373, title XVI, § 1621, as added Pub. L. 96-79, title II, § 202(b), Oct. 4, 1979, 93 Stat. 633.)

CODIFICATION

In subsec. (b)(1)(I), “sections 3141-3144, 3146, and 3147 of title 40” substituted for “the Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act)” and “section 3145 of title 40” substituted for “section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

A prior section 300s-1 was redesignated 300s-1a and amended as part of the general revision of this subchapter by Pub. L. 96-79.

A prior section 1621 of act July 1, 1944, as added Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2265, which related to the allocation among States of the total amount of

principal of loans and loan guarantees, was classified to section 300q-1 of this title, prior to repeal as part of the general revision of this subchapter by Pub. L. 96-79.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 204 of Pub. L. 96-79, set out as an Effective Date of 1979 Amendment note under section 300q of this title.

§ 300s-1a. Recovery of expenditures under certain conditions

(a) Persons liable

If any facility with respect to which funds have been paid under this subchapter shall, at any time within 20 years after the completion of construction or modernization—

- (1) be sold or transferred to any entity (A) which is not qualified to file an application under section 300s-1 or 300t-12 of this title or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor, or
- (2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c).

(b) Notice to Secretary

The transferor of a facility which is sold or transferred as described in subsection (a)(1), or the owner of a facility the use of which is changed as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

(c) Amount of recovery; interest; interest period

(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

(2)(A) After the expiration of—

- (i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) in the case of a facility which is sold or transferred or the use of which changes after July 18, 1984, or
- (ii) thirty days after July 18, 1984, or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which was sold or transferred or the use of which changed before July 18, 1984,

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period de-

scribed in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rate.

(B) The period referred to in subparagraph (A) is the period beginning—

- (i) in the case of a facility which was sold or transferred or the use of which changed before July 18, 1984, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b),¹
- (ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or
- (iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or changes of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

(d) Waiver

(1) The Secretary may waive the recovery rights of the United States under subsection (a)(1) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that the entity to which the facility was sold or transferred—

(A) has established an irrevocable trust—

- (i) in an amount equal to the greater of twice the cost of the remaining obligation of the facility under clause (ii) of section 300s-1(b)(1)(K) of this title or the amount, determined under subsection (c), that the United States is entitled to recover, and
- (ii) which will only be used by the entity to provide the care required by clause (ii) of section 300s-1(b)(1)(K) of this title; and

(B) will meet the obligation of the facility under clause (i) of section 300s-1(b)(1)(K) of this title.

(2) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

(e) Lien

The right of recovery of the United States under subsection (a) shall not constitute a lien on any facility with respect to which funds have been paid under this subchapter.

(July 1, 1944, ch. 373, title XVI, §1622, formerly §1631, as added Pub. L. 93-641, §4, Jan. 4, 1975, 88 Stat. 2269; amended Pub. L. 94-278, title XI, §1106(c), Apr. 22, 1976, 90 Stat. 416; renumbered §1622 and amended Pub. L. 96-79, title II, §§202(b), 203(c), Oct. 4, 1979, 93 Stat. 632, 635; Pub. L. 98-369, div. B, title III, §2381(b), July 18, 1984, 98 Stat. 1114.)

CODIFICATION

Section was formerly classified to section 300s-1 of this title prior to the general revision of this subchapter by Pub. L. 96-79.

¹ So in original. The period probably should be a comma.