Supporting Statement

NATIONAL INSTITUTES OF HEALTH
CONSTRUCTION GRANTS - 42 CFR Part 52b (Final Rule)(OD)
(OMB NO. 0925-0424)

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Supporting Statement

National Institutes of Health Construction Grants - 42 CFR Part 52b (Final Rule)

JUSTIFICATION

A.1. Circumstances Making the Collection of Information Necessary

This request is for OMB review and approval for an extension of the current approval for estimated annual reporting and recordkeeping burden associated with information collection and recordkeeping requirements contained in the final rule (OMB No. 0925-0424). Under the Public Health Service (PHS) Act, as amended (42 U.S.C. 201 et seq.), construction or modernization grant authority exists in sections 413(b)(6)(B) and 414(b) for the National Cancer Institute (construction grants); sections 421(b)(2)(B) and 422(c)(3) for the National Heart, Lung, and Blood Institute (construction grants); section 441(a) for the National Institute of Arthritis and Musculoskeletal and Skin Diseases (modernization grants); section 455 for the National Eye Institute (construction grants); section 464C(a) for the National Institute on Deafness and Other Communication Disorders (modernization grants); section 464P(b)(3) for the National Institute on Drug Abuse (construction grants); section 481A(a) for the Director of NIH, acting through the Director of the National Center for Research Resources (construction and modernization grants)

or the Director of the National Institute for Allergy and Infectious Diseases (NIAID) (construction and modernization grants; section 481(a) for the Director of NIH (construction grants); and section 2354(a)(5)(B) for NIH AIDS research programs (construction grants).

NIH last revised the regulations at 42 CFR Part 52b (National Cancer Institute Construction Grants), November 22, 1999, to make them applicable to all NIH financial assistance programs with construction or modernization grant authority. The regulations were also revised in order to update statutory references, add new administrative and technical requirements for the awarding of these grants, and add procedures for the recovery of grant funds for facilities no longer used for biomedical research purposes.

The final rule was published in the Federal Register, November 22, 1999 (64 FR 63721).
In lieu of specifically listing in 52b.1, the applicability section, each NIH construction grant program to which the regulations apply, was revised and simplified to apply across-the-board to all NIH construction grant programs, except for those few programs specifically excluded by the section. This had the advantage of assuring that new NIH construction grant programs enacted by Congress will have implementing regulations without the necessity of having to amend the regulations. The final rule authorized the Director of NIH to publish a list from time to time of the construction grant programs covered by the regulations for informational purposes.

Part 52b was retitled and the authority citation amended to add the additional construction and modernization grant authorities. Sections 52.b.2 and 52b.5 were revised in their entirety.
The regulations governing the administration of grants, 45 CFR Part 74, which were

incorporated in part 52b, provided that the recipient shall use the real property "for the authorized purpose of the project as long as it is needed" [74.32(a)]. Deviations from that requirement were authorized with the approval of the HHS Office of Grants and Acquisition Management and on a case-by-case basis by the awarding agency. The revised regulations continued to specify continued use of the facility for its originally authorized purpose so long as needed, unless another period is prescribed by statute [e.g., 20 years prescribed by section 481A(c)(1)(B) of the PHS Act for biomedical and behavioral research facilities.]

The final rule continued without change the provisions relating to title (sufficient for the estimated useful life as determined by the awarding component director) and incorporation of 45 CFR part 74 (use for the originally authorized purpose as long as needed), but added express provisions authorizing alternate use in appropriate circumstances and the right of the Government to recover in the event a facility is sold or transferred to an ineligible third party or diverted to an unauthorized purpose, prior to the expiration of its useful life. Those provisions remained in the final rule with minor modifications to conform them more closely to the pertinent provisions of 45 CFR part 74.

Three new sections were added to part 52b. A new "52b.7 was added specifying facility usage requirements; a new 52b.8 was added concerning NIH monitoring of the usage of biomedical research facilities constructed with Federal funds; and a new 52b.9 was added concerning procedures to recover Federal funds for facilities that cease to be used for biomedical research purposes. Section 52b.10 added new requirements relating to the recording of the notice of Federal Interest and the purchasing of insurance.

The revised construction grant regulations do not apply to minor alterations and renovations that are included in applications for research project grants. Minor alterations and renovations that are included in applications for research project grants. Minor alterations and renovations are covered under the regulations at 42 CFR part 52 governing the award of research project grants. The regulation also does not cover alterations and renovations under NIH center grants. Those alterations and renovations are covered under the regulations for that program at 42 CFR part 52a.

The regulations govern the awarding and administration of grants awarded by NIH and its components for construction of new buildings and the alteration, renovation, remodeling, improvement, expansion, and repair of existing buildings, including the equipment necessary to make the building(or applicable part of the building) suitable for the purpose for which it was constructed.

We request OMB review and approval for extension of the current approval for the following information and recordkeeping requirements set forth in the final rule, National Institutes of Health Construction Grants: 42 CFR Part 52b.

Reporting

Section 52b.9(b) of the regulations requires the transferor of a facility which is sold or transferred, or the owner of a facility, the use of which has changed, to provide written notice to the NIH Director or the director of an NIH national research institute, center, or other component

of NIH, authorized to award grants for construction, of the sale, transfer or change within 10 days from the date on which the sale, transfer, or change occurs in the form and manner as the director may require.

Section 52b.10(f) requires a grantee to submit an approved copy of the construction schedule to the NIH Director or the director of an NIH national research institute, center, or other component of NIH, prior to the start of construction.

Section 52b.10(g) requires a grantee to submit to the NIH Director or the director of an NIH national research institute, center, or other component of NIH, at the times and in the form and manner required, daily construction logs and monthly status reports which must be maintained at the job site.

Section 52b.11(b) requires grant applicants for a project involving the acquisition of existing facilities to include in their application estimates of the costs of the project, the cost of acquiring the facilities, and the cost of remodeling, renovating, or altering facilities to serve the purposes for which they are acquired.

Recordkeeping

Section 52b.10(g) requires grantees to maintain daily construction logs and monthly status reports at the job site.

We request approval for the following information collection and recordkeeping requirements of the regulation 42 CFR Part 52b. The approval for OMB No. 0925-0424 expires August 31, 2008.

A.2. Purpose and Use of the Information Collection

As previously mentioned, section 52b.9(b) requires the original owner of a facility constructed with federal funds awarded under 42 CFR Part 52B and each transferee, as appropriate, to provide written notice to the NIH Director or the director of the awarding research institute, center, or other NIH component of any cessation of use for the biomedical research or training purpose for which it was originally constructed, no more than 10 days before the cessation occurs. The information is used by NIH officials to determine whether or not to waive cost recovery rights.

Section 52b.10(f) requires the recipient of a grant awarded under 42 CFR Part 52b to submit an approved copy of the construction schedule (critical path method) to the NIH Director or the director of the awarding research institute, center, or other NIH component prior to the start of the construction. Program officials use the construction schedule to monitor and evaluate the progress of the project.

Section 52b.10(g) requires the recipient of a grant awarded under 42 CFR Part 52b to provide and maintain construction management services at the job site including daily construction logs and monthly status reports, and submit these to the NIH Director or the director of an NIH

national research institute, center, or other component of NIH, at the times and in the form and manner required. Program officials use the logs and status reports to ensure that completed work conforms with approved plans and specifications.

Finally, section 52b.11(b) requires an applicant for a construction grant awarded under 42 CFR Part 52b to provide detailed estimates of the costs of the project, cost of acquiring the facilities, cost of remodeling, renovating or altering the facilities to serve the purposes for which they are acquired. NIH officials use the information to ensure that the architectural, mechanical, electrical, plumbing, structural, and other pertinent features of the facility, as modified by any proposed expansion, remodeling, renovation, or alteration will be suitable for the purposes authorized in statute.

A.3. Use of Information Technology and Burden Reduction

The regulations require only the minimum amount of information necessary. The use of information technology would not reduce the burden which is already minimal.

A.4. Efforts to Identify Duplication and Use of Similar Information

There are no reporting requirements included in the estimate of the burden that duplicate existing requirements. The collection of data regarding construction grant assistance is unique to each awarding component of NIH. Consequently, there is no duplication with other programs or activities.

A.5. Impact on Small Businesses or Other Small Entities

The information collected and the records maintained as a result of the requirements do not include small businesses or other small entities.

A.6. Consequences of Collecting the Information Less Frequently

Daily logs are required to be maintained and monthly status reports are needed to monitor and assess progress.

A.7. Special Circumstances Relating to the guidelines of 5 CFR 1320.5

Daily logs are required be maintained and monthly status reports are needed to monitor and assess progress. The information collection and recordkeeping requirements set forth in the various sections of Part 52b are consistent with the requirements of 5 CFR 1320.5.

A.8. Comments in Response to the Federal Register Notice to Consult Outside Agency

In compliance with 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB, the 60-day Federal Register Notice was published August 17, 2011, Volume 76, Number 159, pages 51042 - 51043. No public comments were received.

Several draft versions of the regulations were reviewed by grants management officials of NIH

organizations with construction grant authority who discussed the regulation informally with grantees. Based on those discussions and their experience with grantees, they believe that the information collection and recordkeeping requirements contained in the regulations would have minimal impact upon respondents.

A.9. Explanation of Any Payment or Gifts to Respondents

There are no payments made or gifts given to respondents.

A.10. Assurance of Confidentiality Provided to Respondents

The information collected is available only to NIH scientific and program officials who administer construction grant programs and to administrative personnel and financial officials who prepare the necessary documentation to activate, renew, and terminate approved awards, and to arrange for payments.

The information collected is subject to the provisions of the Privacy Act, and is collected and maintained in accordance with Privacy Act system of records: 09-25-0036, Extramural Awards and Chartered Advisory Committees (IMPAC2), Contract Information (DCIS), and Cooperative Agreement Information, HHS/NIH", published in the Federal Register, September 26, 2002, pages 60741-60794, (67 FR 187 60741-60794).

A.11. Justification for Sensitive Questions

Generally, sensitive questions are not a part of this data collection because the respondent is concerned with only facility and research needs. However, in accordance with Public Law 103-43 (National Institutes of Health Revitalization Act of 1993), Section 164, as it establishes Section 493A of the Public Health service Act, in particular Section 493A(a)(2), an Institution might be required to provide information to NIH about the disclosed financial interest of individuals who are employed by that Institution and are conducting research funded by NIH. The information reported to NIH is subject to the provisions of the Privacy Act.

A.12. Estimate of Hour Burden Including Annualized Hourly Costs

The revised estimated annual reporting and recordkeeping hour burden is set forth in the following table. The total annual burden is 16,481 hours.

A.12-1. ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

	Number of Respondents	**Frequency of Response**	**Average Time per Response**	**Annual Hour Burden**
Reporting				
52b.9(b)	1	1	.50	.50
52b.10(f)	60	1	1.0	60
52b.10(g)	60	12	1.0	720
52b.11(b)	100	1	1.0	100
Recordkeeping				
52b.10(g)	60	260	1.0	15,600
Total	281	----	----	16,480.50

The annual cost to the public is based on an estimated average administrative and professional salary of $35 per hour and an average of 60 active grants in the construction phase. The annual cost to respondents is estimated at $576,817.50 (or $35 x 16,480.50). The annual cost to respondents is set forth in the following table.

A.12-2. ESTIMATED ANNUAL COST TO RESPONDENTS OR RECORDKEEPERS

Applicable section of 42 CFR 52b	**Number of respondents**	**Frequency of response**	**Average time per response**	**Annual hours**	**Hourly cost rate**	**Respondent cost**
Reporting						
52b.9(b)	1	1	.50	.50	35	17.50
52b.10(f)	60	1	1	60	35	2,100
52b.10(g)	60	12	1	720	35	25,200
52b.11(b)	100	1	1	100	35	3,500
Recordkeeping						
52b.19(g)	60	260	1	15,600	35	546,000
Totals	281					$576,817.50

A.13. Estimate of Other Total Annual Cost Burden to Respondents or Record keepers

There is no other total annual cost burden to report for respondents or record keepers. There are no Capital costs, Operating Costs, or Maintenance Costs to report.

A.14. Annualized Cost to the Federal Government

Program officials estimate that it costs $3,500 (or $35 per applicant) to process cost data provided by construction grant applicants (Administration, including receipt, processing and assignment costs, computes to $1,000; and Data Capture and Computer costs compute to $2,500.) It costs an estimated $35 per grantee to process data concerning the cessation of the use of facilities for which the facilities were originally constructed. (Administration, including receipt, processing and assignment costs, computes to $10; and Data Capture and computer costs compute to $25. Given an average of 1 change per year, the annual cost is estimated at $35. Finally, program officials estimate that it costs $2,100 (or $35 per grantee) to process the construction schedule information, given an average of 60 awards per year.

The total estimated annualized cost to the government is $5,635.

A.15. Explanation for Program Changes or Adjustments

This is an extension of a currently approved clearance. The burden hours and cost are unchanged.

A.16. Plans for Tabulation and Publication and Project Time Schedule

There are no plans for tabulation or publication of the information collected.

A.17. Reason(s) Display of OMB Expiration Date is Inappropriate

The information collection and recordkeeping are set forth in regulations. Consequently, the expiration date is not displayed.

A.18. Exceptions to Certification for *Paperwork Reduction Act* Submission

There are no exceptions to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," for OMB Form 83-1.