

## Federal Property Management Regulations

## §101-21.000

the proposed use. Permittees making alterations must make provisions to ensure the safety of users and the prevention of damage to property.

(c) Permittees are responsible for furnishing items such as tickets, audiovisual equipment, etc., which are necessary for the proposed use.

### §101-20.408 Conduct.

(a) Permittees are subject to all rules and regulations governing conduct on Federal property as set forth in subpart 101-20.3. In addition, a permittee shall:

(1) Not misrepresent his or her identity to the public;

(2) Not conduct any activities in a misleading or fraudulent manner;

(3) Not discriminate on the basis of race, creed, color, sex or national origin in conducting activities;

(4) Not distribute any item, nor post or otherwise affix any item, for which prior approval under §101-20.401 has not been obtained;

(5) Not leave leaflets or other materials unattended on the property; and

(6) Not engage in activities which would interfere with the preferences afforded blind licenses under the Randolph-Sheppard Act (20 U.S.C. 107).

(b) Permittees engaging in the solicitation of funds as authorized by §101-20.401 shall display identification badges while on Federal property. Each badge shall indicate the permittee's name, address, telephone number, and organization.

### §101-20.409 Non-affiliation with the Government.

The General Services Administration reserves the right to advise the public through signs or announcements of the presence of any permittees and of their nonaffiliation with the Federal Government.

## Subpart 101-20.5—Sidewalk Installation, Repair, and Replacement

### §101-20.500 Scope of subpart.

This subpart contains the regulations governing the installation, repair, and replacement of sidewalks around buildings, installations, properties, or grounds under the control of executive

agencies and owned by the United States within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, by reimbursement to a State or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, or the territory or possession of the United States. They are issued with the approval of the Director of the Office of Management and Budget.

### §101-20.501 Responsibilities.

Upon prior consent of the property-holding agency, the State in which the property lies may perform or arrange for the installation, repair, and replacement of sidewalks, and obtain reimbursement therefor from the property-holding agency, or, if mutually agreed upon, the property-holding agency may contract or otherwise arrange for and pay directly for such installation, repair, and replacement.

### §101-20.502 Standards.

Sidewalks shall be installed, repaired, or replaced with due consideration to the standards and specifications prescribed by the State or political subdivision thereof. However, where the property-holding agency determines that it is necessary, in order to achieve or retain architectural harmony with the surroundings, the property-holding agency may prescribe other standards and specifications.

## PART 101-21—FEDERAL BUILDINGS FUND

AUTHORITY: 40 U.S.C. 486(c); 40 U.S.C. 490(j) (The Federal Property and Administrative Services Act of 1949, as amended, Sec. 205(c) and 210(j), 63 Stat. 390 and 86 Stat. 219; (40 U.S.C. 486(c) and 40 U.S.C. 490(j), respectively).

SOURCE: 66 FR 23169, May 8, 2001, unless otherwise noted.

### §101-21.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102-1 through 102-220.)

For information previously contained in this part, see FMR part 85 (41 CFR part 102-85).

APPENDIX TO SUBCHAPTER D—TEMPORARY REGULATIONS

[EDITORIAL NOTE: The following is a list of temporary regulations, except delegations of authority, which relate to Federal property management and are in effect as of the revision date of this volume. The full text of these temporary regulations appears following this table.]

FPMR Temp. Reg.	Subject	Expires	FR Publication
D-1 .....	Assignment and utilization of space.	.....	62 FR 42070, Aug. 5, 1997

FEDERAL PROPERTY MANAGEMENT REGULATIONS; INTERIM RULE D-1

Supplement 1

To: *Heads of Federal Agencies*

Subject: *Assignment and utilization of space*

1. *Purpose.* This interim rule, initially published in the FEDERAL REGISTER March 7, 1996, began the process of replacing part 101-17 of the Federal Property Management Regulations (FPMR). The rule repealed the outdated and superseded permanent FPMR part 101-17 and provided new guidance concerning the location of Federal facilities in urban areas. The rule expired on March 7, 1997. This supplement extends the interim rule indefinitely.

2. *Effective date.* March 8, 1997. Comments should be submitted on or before 30 calendar days following publication in the FEDERAL REGISTER.

3. *Comments.* Comments should be submitted to the General Services Administration, Public Buildings Service, Office of Property Acquisition and Realty Services (PE), Washington, DC 20405.

4. *Effect on other directives.* This interim rule amends 41 CFR part 101-17 by deleting all subparts and sections in their entirety and by adding a new §101-17.205 entitled "Location of Space."

Dated: April 21, 1992.

David J. Barram,  
*Acting Administrator of General Services*

ATTACHMENT A

"Subchapter D—Public Buildings and Space

**PART 101-17—ASSIGNMENT AND UTILIZATION OF SPACE**

**§101-17.000 Scope of part.**

For more information on location of space, see 41 CFR parts 102-71 through 102-82. To the extent that any policy statements in this part are inconsistent with the policy statement in 41 CFR parts 102-71 through 102-82, the policy statements in 41 CFR parts 102-71 through 102-82 are controlling.

**§101-17.205 Location of space**

(a) Each Federal agency is responsible for identifying its geographic service area and the delineated area within which it wishes to locate specific activities, consistent with its mission and program requirements, and in accordance with all applicable statutes, reg-

ulations and policies. Specifically, under the Rural Development Act of 1972, as amended, 42 U.S.C. §3122, agencies are required to give first priority to the location of new offices and other facilities in rural areas. When agency mission and program requirements call for location in an urban area, agencies must comply with Executive Order 12072, August 16, 1978, 3 CFR 213 (1979), which requires that first consideration be given to central business areas (CBAs) and other designated areas. The agency shall submit to GSA a written statement explaining the basis for the delineated area.

(b) GSA shall survey agencies' mission, housing, and location requirements in a community and include these considerations in community-based policies and plans. These plans shall provide for the location of federally-owned and leased facilities, and other interests in real property including purchases, at locations which represent the best overall value to the Government consistent with agency requirements.

(c) Whenever practicable and cost-effective, GSA will consolidate elements of the same agency or multiple agencies in order to achieve the economic and programmatic benefits of consolidation.

(d)(1) GSA will consult with local officials and other appropriate Government officials and consider their recommendations for, and review of, general areas of possible space or site acquisition. GSA will advise local officials of the availability of data on GSA plans and programs, and will agree upon the exchange of planning information with local officials. GSA will consult with local officials to identify CBAs.

(2) With respect to an agency's request for space in an urban area, GSA shall provide appropriate Federal, State, regional, and local officials such notice as will keep them reasonably informed about GSA's proposed space action. For all proposed space actions with delineated areas either partially or wholly outside the CBA, GSA shall consult with such officials by providing them with written notice, by affording them a proper opportunity to respond, and by considering all recommendations for and objections to the proposed space action. All contacts with such officials relating to proposed space actions must be appropriately documented in the official procurement file.

(e) GSA is responsible for reviewing an agency's delineated area to confirm that, where appropriate, there is maximum use of existing Government-controlled space and that established boundaries provide competition when acquiring leased space.

(f) In satisfying agency requirements in an urban area, GSA will review an agency requested delineated area to ensure that the area is within the CBA. If the delineated area requested is outside the CBA, in whole or part, an agency must provide written justification to GSA setting forth facts and considerations sufficient to demonstrate that first consideration has been given to the CBA and to support the determination that the agency program function(s) involved cannot be efficiently performed within the CBA.

(g) Agency justifications for locating outside CBAs must address, at a minimum, the efficient performance of the missions and programs of the agencies, the nature and function of the facilities involved, the convenience of the public served, and the maintenance and improvement of safe and healthful working conditions for employees.

(h) GSA is responsible for approving the final delineated area. As the procuring agency, GSA must conduct all acquisitions in accordance with the requirements of all applicable laws, regulations, and Executive orders. GSA will review the identified delineated area to confirm its compliance with all applicable laws, regulations, and Executive orders, including the Rural Development Act of 1972, as amended, the Competition in Contracting Act, as amended, 41 U.S.C. §§252-266, and Executive Order 12072.

(i) Executive Order 12072 provides that "space assignments shall take into account the management needs for consolidation of agencies or activities in common or adjacent space in order to improve administration and management and effect economies." Justifications that rely on consolidation or adjacency requirements will be carefully reviewed for legitimacy.

(j) Executive Order 12072 directs the Administrator of General Services to "[e]nsure, in cooperation with the heads of Executive agencies, that their essential space requirements are met in a manner that is economically feasible and prudent." Justifications that rely on budget or other fiscal restraints for locating outside the CBA will be carefully reviewed for legitimacy.

(k) Justifications based on executive or personnel preferences or other matters which do not have a material and significant adverse impact on the efficient performance of agency program functions are not acceptable.

(l) In accordance with the Competition in Contracting Act, GSA may consider whether restricting the delineated area to the CBA will provide for competition when acquiring

leased space. Where it is determined that an acquisition should not be restricted to the CBA, GSA may expand the delineated area in consultation with the requesting agency and local officials. The CBA must continue to be included in such an expanded area.

(m) If, based on its review of an agency's requested delineated area, GSA concludes that changes are appropriate, GSA will discuss its recommended changes with the requesting agency. If after discussions the requesting agency does not agree with GSA's delineated area recommendation, the agency may take the steps described below. If an agency elects to request a review of the GSA's delineated area recommendation, GSA will continue to work on the requirements development and other activities related to the requesting agency's space request. GSA will not issue a solicitation to satisfy an agency's space request until all requested reviews have been resolved.

(1) For space actions of less than 25,000 square feet, an agency may request a review of GSA's delineated area recommendation by submitting a written request to the responsible Assistant Regional Administrator for the Public Buildings Service. The request for review must state all facts and other considerations and must justify the requesting agency's proposed delineated area in light of Executive Order 12072 and other applicable statutes, regulations, and policies. The Assistant Regional Administrator will issue a decision within fifteen (15) working days. The decision of the Assistant Regional Administrator will be final and conclusive.

(2) For space actions of 25,000 square feet or greater, a requesting agency may request a review of GSA's delineated area recommendation by submitting a written request to the Commissioner of the Public Buildings Service that the matter be referred to an interagency council for decision. The interagency council will be established specifically to consider the appeal and will be comprised of the Administrator of General Services or his/her designee, the Secretary of Housing and Urban Development, or his/her designee, and such other Federal official(s) as the Administrator may appoint.

(n) The presence of the Federal Government in the National Capital Region (NCR) is such that the distribution of Federal installations will continue to be a major influence in the extent and character of development. These policies shall be applied in the GSA National Capital Region, in conjunction with regional policies established by the National Capital Planning Commission and consistent with the general purposes of the National Capital Planning Act of 1959 (66 Stat. 781), as amended. These policies shall guide the development of strategic plans for the housing of Federal agencies within the National Capital Region.

(o) Consistent with the policies cited in paragraphs (a), (b), (c) and (e) above, the use of buildings of historic architectural, or cultural significance within the meaning of section 105 of the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2505) will be considered as alternative sources for meeting Federal space needs.

(p) As used in §101-17.205, the following terms have the following meanings:

(1) "CBA" means the centralized community business area and adjacent areas of similar character, including other specific areas which may be recommended by local officials in accordance with Executive order 12072.

(2) "Delineated area" means the specific boundaries within which space will be obtained to satisfy an agency space requirement.

(3) "Rural area" means any area that (i) is within a city or town if the city or town has a population of less than 10,000 or (ii) is not within the outer boundaries of a city or town if the city or town has a population of 50,000 or more and if the adjacent urbanized and urbanizing areas have a population density of more than 100 per square mile.

(4) "Urban area" means any Metropolitan Area (MA) as defined by the Office of Management and Budget (OMB) and any non-MA that meets one of the following criteria:

(i) A geographical area within the jurisdiction of any incorporated city, town, borough, village, or other unit of general local government, except county or parish, having a population of 10,000 or more inhabitants.

(ii) That portion of the geographical area within the jurisdiction of any county, town, township, or similar governmental entity which contains no incorporated unit of general local government, but has a population density equal to or exceeding 1,500 inhabitants per square mile; or

(iii) That portion of any geographical area having a population density equal to or exceeding 1,500 inhabitants per square mile and situated adjacent to the boundary of any incorporated unit of general local government which has a population of 10,000 or more inhabitants. (Reference: Intergovernmental Cooperation Act of 1968, 40 U.S.C. 535.)

[39 FR 23196, June 27, 1974, as amended at 66 FR 5359, Jan. 18, 2001]