

The acceptance or retention of any payment as aforesaid shall also constitute an offense against the United States punishable by a fine of not more than \$5,000 or imprisonment for not more than 2 years, or both, and any person who shall be convicted of such offense shall thenceforth be entitled to no benefits under the Act or the regulations in this Part 101-15.

**Subparts 101-15.2—101-15.48  
[Reserved]**

**Subpart 101-15.49—Forms**

**§ 101-15.4900 Scope of subpart.**

This subpart illustrates forms available for use in connection with the Lead and Zinc Stabilization Program prescribed in Part 101-15.

§ 101-15.4901 GSA Form 1776, Application for Participation in the Lead and Zinc Mining Stabilization Program.

§ 101-15.4902 GSA Form 1777, Certificate of Participation in the Lead and Zinc Mining Stabilization Program.

§ 101-15.4903 GSA Form 1778, Request for Payment in the Lead and Zinc Mining Stabilization Program.

NOTE: The forms in §§ 101-15.4901, 101-15.4902, 101-15.4903 are filed as part of the original document. Copies of these forms may be obtained from the General Services Administration, Defense Materials Service, Industry Materials Division, Washington, D.C. 20405.

**PART 101-16—[RESERVED]**

**SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE**

**PART 101-17—CONSTRUCTION AND ALTERATION OF PUBLIC BUILDINGS**

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101-17.4801 Memorandum of Understanding between the Department of Housing and Urban Development and the General Services Administration concerning low and moderate income housing.

**AUTHORITY:** The provisions of this Part 101-17 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), unless otherwise noted. Subpart 101-17.7 also issued under secs. 1-6, 82 Stat. 718, 42 U.S.C. 4151-4156.

**SOURCE:** The provisions of this Part 101-17 appear at 29 F.R. 15605, Nov. 20, 1964, unless otherwise noted.

### § 101-17.000 Scope of part.

This part prescribes policies and procedures for the construction and alteration of public buildings in the United States.

### § 101-17.001 Authority.

This Part 101-17 implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended; the Public Buildings Act of 1959 (40 U.S.C. 601-615); Public Law 90-480, approved August 12, 1968, 82 Stat. 718 (42 U.S.C. 4151-4156); the Clean Air Act (42 U.S.C. 1857-1858); the Federal Water Pollution Control Act (33 U.S.C. 1151-1175); the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201-4244; 40 U.S.C. 531-535); the Agricultural Act of 1970, 84 Stat. 1358; Executive Order 11507 of February 4, 1970 (35 F.R. 2573); Executive Order 11508 of February 10, 1970 (35 F.R. 2855); Executive Order 11512 of February 27, 1970 (35 F.R. 3979); and title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601).

[37 F.R. 11323, June 7, 1972]

## Subpart 101-17.1—General

### § 101-17.101 Definition of terms.

For the purposes of this Part 101-17 the following terms shall have the meanings set forth in this section.

#### § 101-17.101-1 Alter.

"Alter" means repairing, remodeling, improving, extending, or otherwise changing a public building. The term includes preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary for the alteration of a public building.

#### § 101-17.101-2 Alteration project.

"Alteration project" means a project to alter a public building which is estimated to cost in excess of \$200,000 and which specifies any of the following:

(a) Alterations estimated to be completed in five years for the continued use and occupancy of the building.

(b) Alterations to a building and/or its equipment occasioned by a space reassignment.

(c) Alterations occasioned by an emergency.

(d) Alterations to a building financed in whole or in part by another agency's funds, except the Postal Modernization Fund.

### § 101-17.101-3 Construct.

"Construct" means to build a public building. The term includes preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary for the construction of a public building.

### § 101-17.101-4 Executive agency.

"Executive agency" means any executive department or independent establishment in the executive branch of the Government including any wholly owned Government corporation and including the Central Bank for Cooperatives and the regional banks for cooperatives, Federal land banks, Federal intermediate credit banks, Federal home loan banks, Federal Deposit Insurance Corporation, and The Federal National Mortgage Association.

### § 101-17.101-5 Prospectus.

"Prospectus" means the statement of the proposed project, required by section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) including a description, its location, estimated maximum cost, a comprehensive plan for providing space for all Government officers and employees in the locality of the proposed project, a statement by the Administrator of General Services that suitable space owned by the Government is not available and that suitable rental space is not available at a price commensurate with that to be afforded through the proposed action and a statement of rents and other housing costs currently being paid by the Government for Federal agencies to be housed in the proposed project.

### § 101-17.101-6 Public building.

(a) The term "public building" means any building, whether for single or

multi-tenant occupancy, its grounds, approaches, and appurtenances, which is generally suitable for office or storage space or both for the use of one or more Federal agencies or mixed ownership corporations, and shall include: Federal office buildings, post offices, custom-houses, courthouses, appraisers stores, border inspection facilities, warehouses, record centers, relocation facilities, similar Federal facilities, and any other buildings or construction projects the inclusion of which the President may deem, from time to time hereafter, to be justified in the public interest; but shall not include any such buildings and construction projects: (1) on the public domain (including that reserved for national forests and other purposes), (2) on properties of the United States in foreign countries, (3) on Indian and native Eskimo properties held in trust by the United States, (4) on lands used in connection with Federal programs for agricultural, recreational, and conservation purposes, including research in connection therewith, (5) on or used in connection with river, harbor, flood control reclamation or power projects, or for chemical manufacturing or development projects or for nuclear production, research, or development projects, (6) on or used in connection with housing and residential projects, (7) on military installations (including any fort, camp, post, naval training station, airfield, proving ground, military supply depot, military school, or any similar facility of the Department of Defense), (8) on Veterans Administration installations used for hospital or domiciliary purposes, and (9) the exclusion of which the President may deem, from time to time hereafter, to be justified in the public interest.

(b) Buildings leased by the Government are not "public buildings" within the meaning of the Public Buildings Act of 1959.

#### § 101-17.101-7 United States.

"United States," when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

[34 F.R. 12828, Aug. 7, 1969]

#### § 101-17.102 Basic policy.

(a) In the process of developing building projects, the following policies will be observed:

(1) Material consideration will be given to the efficient performance of the missions and programs of the executive agencies and the nature and function of the facilities involved with due regard for the convenience of the public served and the maintenance and improvement of safe and healthful working conditions for employees;

(2) Consideration will be given in the delineation of areas and the selection of sites for the development of Federal facilities to the need for development and redevelopment of areas and the development of new communities and the impact a selection will have on improving social and economic conditions in the area. In determining these conditions, the Administrator of General Services will consult with and receive advice from the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and others, as appropriate;

(3) Maximum use will be made of existing Government-owned permanent buildings which are adequate or economically adaptable to the space needs of executive agencies;

(4) Suitable privately owned space will be acquired only when satisfactory Government-owned space is not available and only at rental charges which are consistent with prevailing rates in the community for comparable facilities;

(5) Space planning and assignments will take into account the objective of consolidating agencies and constituent parts thereof in common or adjacent space for the purpose of improving management and administration;

(6) Availability of low and moderate income housing for employees without discrimination because of race, color, religion, or national origin; nondiscrimination in the sale and rental of housing; adequate access from other areas of the urban center; and adequacy of parking will be considered; and

(7) Proposed developments will be, to the greatest extent practicable, consistent with State, regional, and local plans and programs; and Governors, local elected officials, and regional comprehensive planning agencies will be consulted in the planning of such developments.

(b) In accordance with the provisions of section 901(b) of the Agricultural Act of 1970 (84 Stat. 1358), insofar as practicable, new offices and other facilities

will be located in areas or communities of low population density in preference to areas or communities of high population density, due consideration being given to the provisions of section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)), and Executive Order 11512 of February 27, 1970 (35 F.R. 3979).

(c) GSA will plan the construction and alteration of Federal facilities at a rate that will reduce the total amount of rental space, provide for Federal operations to be housed in Government-owned space, and replace Government-owned facilities becoming obsolete with modern functional structures that meet present-day requirements for efficient and economical operation.

(d) GSA will provide technical services and guidance to other Federal agencies in the formulation and development of their programs for construction and alteration of special facilities.

(e) Excess properties transferred to GSA will be renovated and altered whenever practical to meet Government space needs.

(f) In selecting sites for public buildings, consideration will also be given to:

(1) Maximum utilization of Government-owned land (including excess land) whenever it is adequate, economically adaptable to requirements and properly located, where such use is consistent with the provisions of Executive Order 11508 of February 10, 1970, and Subpart 101-47.8;

(2) A site adjacent to or in the proximity of an existing Federal building which is well located and is to be retained for long-term occupancy; and

(3) Suitable sites in established civic or redevelopment centers which are well planned and properly financed with development initiated and insured.

(g) The design of new buildings shall provide requisite and adequate facilities in an architectural style and form which is distinguished and reflects the dignity, enterprise, vigor, and stability of the U.S. Government. Major emphasis shall be placed on designs that embody the finest contemporary American architectural thought. Specific attention shall be paid to the possibilities of incorporating into such designs qualities which reflect the regional architectural traditions of the part of the Nation in which the buildings will be located.

(h) In the alteration of existing buildings, GSA will maintain architectural in-

tegrity and compatibility with existing structures.

(i) In the design of new public buildings, and to the extent feasible in the alteration of existing public buildings, GSA will (1) insure that such buildings and attendant facilities will be accessible to and usable by the physically handicapped (42 U.S.C. 4151-4156) and (2) utilize, to the maximum extent, modern methods and techniques for the control of air and water pollution (Clean Air Act 42 U.S.C. 1857-1858; Federal Water Pollution Control Act, 33 U.S.C. 1151-1175).

(j) In the siting and locating of buildings on selected sites, GSA representatives will work directly with local officials in seeking to conform as closely as possible to local zoning regulations.

(k) In the design of new public buildings and alterations to public buildings, locally approved and/or nationally recognized building and performance codes, standards, and specifications will be followed as minimum requirements.

(l) Parking for Government-owned, visitors', and employees' vehicles will be provided in the planning of public buildings with due regard to the needs of the Federal agencies to be housed in each building, local zoning and parking regulations, availability of public transportation, and availability of planned and existing public and privately owned parking facilities in the locality.

(m) Fine arts, as appropriate, will be incorporated in the design of selected new public buildings. Fine arts, including painting, sculpture, and artistic work in other mediums, will reflect the national cultural heritage and emphasize the work of living American artists.

[37 F.R. 11323, June 7, 1972; 37 F.R. 12312, June 22, 1972]

#### § 101-17.103 Intergovernmental consultation on Federal projects.

(a) As used in this section, the following terms will have the meanings defined herein:

(1) *Planning agencies.* Planning agencies are defined as the Governor of a State or, if there is one, the appropriate planning and development clearinghouse of the State, region, or metropolitan area, and the appropriate local, county, metropolitan, regional, and State planning authorities.

(2) *Federal projects.* Federal projects are defined as public buildings construction projects and lease construction projects required to be authorized in ac-

cordance with, or in the manner provided by, the provisions of the Public Buildings Act of 1959, as amended; and projects involving a significant change in the use of federally owned property or property to be acquired by exchange in connection with a public buildings project authorized under the provisions of the Public Buildings Act of 1959, as amended, or the Federal Property and Administrative Services Act of 1949, as amended.

(b) GSA will consult with planning agencies and local elected officials for the purpose of coordinating Federal projects with development plans and programs of the State, region, and locality in which the project is to be located to insure that all viewpoints, national, regional, State, and local, are fully considered and taken into account to the extent possible in planning Federal projects.

(c) The consultation and coordination pursuant to paragraph (b) of this section will be initiated by the GSA Regional Administrator of the region in which the Federal project is located, and the manner in which such consultation and coordination will be effected is set forth below:

(1) The GSA Regional Administrator will notify the planning agencies at least 60 calendar days prior to the initiation of any survey of a community conducted for the purpose of ascertaining the space needs of Federal agencies and developing a plan for satisfying those needs. Notifications of less than 60 days are authorized if GSA program requirements so dictate. The notification will specify the approximate date(s) on which the survey will be conducted and request that the GSA Regional Administrator be provided as soon as practicable with all pertinent planning and development information which shall be considered in connection with the space plan for the community. This information will include, but not be limited to, city, county, State, and regional plans for land use and development, model cities and urban renewal, mass transit, highways, and flood and pollution control.

(2) Within 30 calendar days following his approval of a community plan, the GSA Regional Administrator will submit to the Commissioner, PBS, the approved plan and a proposed letter that will inform the previously notified planning agencies of the results of the survey. Particular reference will be made to the need, if any, for a new Federal building within a 10-year period or a

major lease consolidation which could result in new commercial construction in the community. The letter of notification, issued only with the approval of the Commissioner, PBS, will request that the GSA Regional Administrator be advised of all changes or refinements in the planning information initially provided, and set forth the following minimum data relative to the proposed Federal project:

(i) Area or city in which the project will be located;

(ii) Type of building (office building, post office, courthouse, etc.);

(iii) Approximate size of building;

(iv) Specific site location requirements;

(v) Estimated building population; and

(vi) Estimated total project cost.

(3) When GSA is to conduct a site investigation, propose a significant change in the use of a federally owned property, or acquire property by exchange in connection with the construction of a public building, or proposes to issue a solicitation for offers in connection with a lease construction project as described in paragraph (a)(2) of this section, the GSA Regional Administrator will notify the planning agencies and the principal elected official(s) of the community where the proposed action will take place, not less than 30 calendar days in advance of the initiation of such action. The organizations and officials so notified will have the 30-day notice period in which to consult with the GSA Regional Administrator and provide him with data and comments pertinent to the proposed action. Notifications of less than 30 calendar days are authorized if GSA program requirements so require.

(4) When GSA takes action pursuant to § 101-47.203-7 of this chapter for the transfer of federally owned real property for a direct project requirement which involves a substantial change in the character of its use, the views of the planning agencies and the principal elected official(s) will be obtained and considered by the GSA Regional Administrator, and these views will be included on GSA Form 1334, Request for Transfer of Excess Real Property and Related Personal Property.

(5) When property is transferred for exchange purposes, the views of the planning agencies and the principal elected official(s) will be considered prior to consummation of the exchange.

(d) The provisions of paragraph (c) of this § 101-17.103 shall not be applied when the Administrator of General Services deems that the application thereof would adversely affect the best interest of the Government.

(e) If GSA has determined that any Federal project under its jurisdiction may significantly affect the quality of the human environment, prior to a final decision concerning that project, GSA will provide Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved, and planning agencies which are authorized to develop and enforce environmental standards, and others as appropriate, with an adequate opportunity to review such projects pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the regulations of the Council on Environmental Quality (CEQ).

(f) The Federal agencies, planning agencies, and others referred to in paragraph (e) of this § 101-17.103 will be notified as follows concerning Federal projects under GSA jurisdiction that are determined to have a significant effect on the human environment:

(1) GSA will transmit copies of the draft environmental statement, prepared in accordance with the provisions of section 102(2)(C) of the National Environmental Policy Act and the regulations of the Council on Environmental Quality to the CEQ and to the Governor of the State, the U.S. Senators of the State, and the U.S. Representative from the congressional district of the State where the project will be located.

(2) Thereafter, GSA will submit copies of the draft statement to the appropriate city mayor and to the Federal, State, and local agencies for comment. The allowable period for comment shall be 30 calendar days, except that the Environmental Protection Agency (EPA) shall have 45 calendar days to submit comments. If requests for extension are made, a maximum period of 15 calendar days may be granted, except for EPA which shall be held to its 45-day review period.

(3) Comments received from the Federal agencies, planning agencies, and others will be reconciled through coordination with the Federal and State agencies concerned. The environmental statement may be revised to reflect the additional data and comments obtained. In any event, a discussion of problems

and objections by Federal agencies and State and local entities in the review process and the recommended disposition of the issues involved will be appended to the final text of the environmental statement.

(4) Copies of the final environmental statement will be transmitted to the Council on Environmental Quality.

[35 F.R. 8486, June 2, 1970, as amended at 37 F.R. 78, Jan. 5, 1972]

#### § 101-17.104 Application of socioeconomic considerations.

The purpose of this section is to provide an effective systematic arrangement to insure the availability of low and moderate income housing for Federal employees without discrimination because of race, color, religion, or national origin and to influence the improvement in social and economic conditions in the area of Federal buildings.

[37 F.R. 11324, June 7, 1972]

#### § 101-17.104-1 Location of buildings.

(a) GSA, in all its determinations with respect to the location of federally constructed buildings and the acquisition of leased buildings, will consider to the maximum possible extent the availability of low and moderate income housing for employees without discrimination because of race, color, religion, or national origin and will affirmatively further the purposes of title VIII of the Civil Rights Act of 1968.

(b) Final decisions of the Administrator of General Services will be based on the determination that such decisions will improve the management and administration of governmental activities and services and will foster the programs and policies of the Federal Government.

[37 F.R. 11324, June 7, 1972]

#### § 101-17.104-2 Agreement with Secretary of Housing and Urban Development.

(a) The Administrator of General Services has entered into an agreement with the Secretary of Housing and Urban Development to utilize the Department of Housing and Urban Development (HUD) to investigate, determine, and report to GSA findings on the availability of low and moderate income housing on a nondiscriminatory basis with respect to proposed locations for a federally constructed building or major lease action having a significant socioeconomic impact on a community.

(b) HUD shall advise GSA and other Federal agencies with respect to actions which would increase the availability of low and moderate income housing on a nondiscriminatory basis, after a site has been selected for a federally constructed building or a lease executed for space and shall assist in increasing the availability of such housing through its own programs.

(c) The text of the HUD-GSA agreement is located at § 101-17.4801.

[37 F.R. 11324, June 7, 1972]

#### § 101-17.104-3 Consultation with HUD.

(a) In the initial selection of a city or delineation of a general area for location of public buildings or leased buildings, GSA will provide the earliest possible notice to HUD of information with respect to such decisions. Regional offices of HUD, as identified by the Secretary of Housing and Urban Development, and local planning and housing authorities will be consulted concerning the present and planned availability of low and moderate income housing on a nondiscriminatory basis in the area where the project is to be located during the project development investigation.

(b) Regional office representatives of HUD, as designated by the Secretary of Housing and Urban Development, will participate in site investigations for the purpose of providing a report to GSA on the availability of low and moderate income housing on a nondiscriminatory basis in the area of the investigation.

(c) The HUD Regional Administrator will transmit to the Regional Director, PBS, his evaluation of the sites being considered. In any case in which a proposed site is deemed inadequate on one or more grounds; i.e., supply of low and moderate income housing on a nondiscriminatory basis, nondiscrimination in the sale and rental of housing on the basis of race, color, religion, or national origin, or availability of transportation from housing to site, the HUD Regional Administrator shall include an outline of corrective actions which, in his judgment, will be required to overcome the inadequacies noted.

(d) The actions described in § 101-17.104-3(d) are subject to the provisions of the HUD/GSA Memorandum of Understanding:

(1) All project development investigations.

(2) Site selections for public buildings (or leased space in buildings to be

erected by the lessor) in which 100 or more low- or moderate-income employees are excepted to be employed in the new building.

(3) GSA requests HUD review in actions of special importance not covered by (2).

(e) The Regional Director, PBS, shall promptly notify the HUD Regional Administrator after reaching a decision on the sites to be recommended for a facility and their priority. In the event any of the preferred sites are identified by HUD as inadequate on one or more of the grounds set forth in (c), the HUD Regional Administrator shall so advise the Assistant Secretary for Equal Opportunity. The Assistant Secretary will notify the Commissioner, Public Buildings Service, GSA, of HUD's concerns within 5 workdays after notification by the HUD Regional Administrator and agree on the time required to properly present HUD's view.

(f) GSA will provide a written explanation when, after headquarters' review, a location is selected which HUD reported inadequate with respect to one or more of the grounds set forth in (c), in accordance with the HUD-GSA Memorandum of Understanding.

[37 F.R. 11324, June 7, 1972]

#### § 101-17.104-4 Affirmative action plan.

(a) Prior to the announcement of a site selected contrary to the recommendation of HUD, the involved Federal agency, GSA, HUD, and the community in which the proposed site is located will utilize the items indicated in the report of the HUD Regional Administrator as a basis for developing a written Affirmative Action Plan. The Affirmative Action Plan will insure that an adequate supply of low- and moderate-income housing will be available on a nondiscriminatory basis, and that there is adequate transportation from housing to the site, before the building or space is to be occupied or within a period of 6 months thereafter. Such a plan will also contain appropriate provisions designed affirmatively to further nondiscrimination in the sale and rental of housing on the basis of race, color, religion, or national origin. The Affirmative Action Plan will be prepared in accordance with section 9(g) of the HUD-GSA Memorandum of Understanding, and will include, but not be limited to, the following points:

(1) The corrective actions specified by HUD under § 101-17.104-3(c).

(2) Assurance of the relocating agency that, when the old and new facilities are within the same metropolitan area, transportation will be provided for their low- and moderate-income employees between the old facility or other suitable location and the new facility at the beginning and end of the scheduled work-day until sufficient new housing is built accessible to the new facility, as provided in the affirmative action plan.

(3) All agreements which constitute an affirmative action plan will be set forth in writing and will be signed by the appropriate representatives of HUD, GSA, the Federal agency involved, community bodies and agencies, and other interests whose cooperation and/or participation will be necessary to fulfill the requirements of the plan.

(b) The contents of the affirmative action plan will be made public after the site selection decision has been made by GSA.

(c) The HUD Regional Administrator shall be responsible for monitoring compliance with the written affirmative action plan. In the event of noncompliance HUD and GSA shall undertake appropriate action to secure compliance. The plan should provide for commitments from the community involved to initiate and carry out all feasible efforts to obtain a sufficient quantity of low- and moderate-income housing available to the agency's personnel on a nondiscriminatory basis with adequate access to the location of the building or space. It should include commitments by the local officials having the authority to remove obstacles to the provision of such housing, when such obstacles exist, and to take effective steps to insure its provision. The plan should also set forth the steps proposed by the agency to develop and implement a counseling and referral service to seek out and assist its personnel to obtain such housing. As part of any plan, during as well as after its development, HUD will give priority consideration to applications for assistance under its housing programs for the housing proposed to be provided in accordance with the plan.

[37 F.R. 11325, June 7, 1972]

#### § 101-17.104-5 Agency compliance.

(a) Agencies shall cooperate with the Administrator of General Services and provide such information as may be nec-

essary to effectively comply with these regulations and to cooperate with the Secretary of Housing and Urban Development to affirmatively further the purposes of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601).

(b) As a minimum, agencies shall determine the number of positions by grade and an estimate of the number of employees whose jobs are being moved. Further details, such as family income and size, minority status, present home location, and status as head-of-household, may also be required depending upon the type, scope, and circumstances of the relocation. GSA will inform agencies concerning specific situations.

(c) Federal agencies who will relocate shall provide counseling and referral service to assist their personnel in obtaining housing. GSA and HUD will cooperate in this effort.

[37 F.R. 11325, June 7, 1972]

### Subpart 101-17.2—Selection and Approval of Projects

#### § 101-17.201 Determination of need.

Construction and alteration projects will be selected by the Administrator of General Services based on a continuing investigation and survey of the public building needs of the Federal Government.

#### § 101-17.202 Priority of projects.

Projects shall be equitably distributed throughout the United States with due regard for the comparative urgency of the need for each project as determined by the Administrator of General Services.

#### § 101-17.203 Approval of projects.

(a) All projects other than Postal Modernization Fund projects, for the construction of buildings involving an expenditure in excess of \$100,000 and all projects for the alteration of buildings involving an expenditure in excess of \$200,000 shall require approval by the Committees on Public Works of the Senate and House of Representatives.

(b) Federal agencies identifying a need for construction or alteration of a public building shall provide the necessary information, including description of the work, location, estimated maximum cost, and justification to the Administrator of General Services.

(c) The Administrator of General Services shall submit prospectuses for approval of projects to the Committees on Public Works of the Congress.

**§ 101-17.204 Cooperation and assistance of Federal agencies.**

(a) Federal agencies shall advise and cooperate in the compilation of information supporting a project. Such information shall include, but not be limited to:

(1) A statement of net space occupied in public buildings by the Federal agency in the community for which the project is intended, together with an itemization of area in square feet allocated to each specific agency function.

(2) A firm statement of entire space and facility requirements.

(3) Detailed information on space requiring special structural or mechanical facilities. Special use facilities for special purpose needs such as built-in and fixed equipment for laboratory, clinical, and other special use purposes must be incorporated into the project prior to submission of the prospectus.

(4) Locations where space should be retained in preference to inclusion in the proposed project shall be identified.

(b) Space requirements shall be based on currently authorized personnel and program activities including information on major changes anticipated within the next five years.

(c) Requested information shall be submitted within sixty days of the receipt of a request for such information.

(d) Agencies will not be permitted to make changes in approved space layout drawings submitted to GSA for new buildings, following established terminal dates, except where subsequent unusual and compelling agency developments make changes necessary. Requests for such changes will be submitted, over the signature of the head of the department or agency, to the Administrator of General Services for consideration.

**Subpart 101-17.3—Alteration Projects**

**§ 101-17.301 Emergency alteration projects.**

Necessary measures to insure the immediate protection of personnel and facilities and for the preservation of life and the avoidance of further property damage may be taken in an emergency prior to the submission of an alteration project prospectus.

**§ 101-17.302 Prospectuses for reimbursable alteration projects.**

Reimbursable alteration project prospectuses will be prepared on an "as re-

quested" basis. A project which is to be financed in whole or in part from funds appropriated to the requesting agency may be performed without the approval of the committees when the agency appropriation from which payment is to be made is certified by that agency to be available without regard to the provisions of section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) and the GSA's portion of the estimated cost, if any, does not exceed \$200,000.

**§ 101-17.303 Prospectuses for joint alteration projects with the Post Office Department.**

Postal Modernization Fund projects are exempted from the operation of the Public Buildings Act of 1959 (40 U.S.C. 601-615). Therefore, no prospectuses are required for elements of costs financed from the Postal Modernization Fund. However, a prospectus will be required when GSA's portion of a joint alteration project is in excess of \$200,000.

**Subpart 101-17.4—Construction Projects**

**§ 101-17.401 Contracting for construction.**

Contracting for construction services by GSA will be in accordance with Chapter 1 (FPR) and Chapter 5 (GSPR) of this title. The method used will be that most advantageous to the Government.

**§ 101-17.402 Architectural and engineering services.**

(a) GSA will develop or acquire, by contract, designs and specifications for suitable buildings that will provide space that can be economically utilized and operated, and which are in harmony with surrounding structures in the community.

(b) The contract services of qualified private architects or engineers will be utilized to the fullest extent compatible with the public interest in the performance of architectural or engineering services in connection with the preparation of drawings and specifications for GSA construction projects.

(c) Executive agencies may contract for professional engineering, architectural, and landscape architectural services for projects which fall within the definition of a "public building" contained in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612) only when the Administrator of General Serv-

ices has delegated his responsibilities and authorities pursuant to section 15 of that Act (40 U.S.C. 614). (See § 101-17.501 regarding delegations of authority.) [29 F.R. 15605, Nov. 20, 1964, as amended at 31 F.R. 8117, June 9, 1966]

### Subpart 101-17.5—Delegation of Authority

#### § 101-17.501 Conditions justifying delegation.

The authorities and responsibilities of the Administrator of General Services under the provisions of the Public Buildings Act of 1959 (40 U.S.C. 601-615) shall, except for the authority in section 4 of that Act, upon request, be delegated to the appropriate executive agency where the estimated cost of the project does not exceed \$100,000 and may, in the Administrator's discretion, be delegated in cases exceeding that amount (see sec. 15 of the Act). When the estimated cost of the project exceeds \$100,000, the following criteria will be applied in determining whether a delegation will be made:

(a) The staff capability of the requesting agency to negotiate and administer contracts for the various types of work involved; and

(b) Whether such a delegation will promote efficiency and economy. See § 101-17.402(c) regarding contracts for professional engineering and architectural services.

[31 F.R. 8117, June 9, 1966]

#### § 101-17.502 Exercise of delegation.

Delegated work shall be performed according to standards established by the Administrator of General Services. No such delegation of authority shall exempt the person to whom it is made, or the exercise of such authority, from any provision of the Public Buildings Act of 1959 (40 U.S.C. 601-615).

### Subpart 101-17.6—Funding Projects

#### § 101-17.601 GSA funding responsibility.

(a) Projects for the construction or alteration of public buildings for which the Administrator of General Services is responsible will be financed by direct appropriation of funds requested under the regular appropriations.

(b) When exigencies warrant, the Administrator of General Services may consider the submission of supplemental requests for funds for special projects.

#### § 101-17.602 Other agencies funding responsibilities.

(a) A department or agency may request an appropriation to cover the cost of the construction or acquisition of a single occupancy facility when the Administrator of General Services has secured the approval thereof and when the Administrator concurs with the request and it has been approved by the Bureau of the Budget. The construction or acquisition of the facility shall be performed by GSA.

(b) GSA shall, upon the request of a department or agency, construct, alter, or acquire buildings other than public buildings as defined in § 101-17.101-6 which are normally financed by agencies other than GSA upon condition that funds to cover the cost of the work shall be transferred or reimbursement made.

(c) Each Federal agency shall be responsible for the financing of special use facilities not contemplated in the approved project.

### Subpart 101-17.7—Accommodations for the Physically Handicapped

SOURCE: The provisions of this Subpart 101-17.7 appear at 34 F.R. 12823, Aug. 7, 1969, unless otherwise noted.

#### § 101-17.700 Scope.

This subpart prescribes standards for the design, construction, and alteration of buildings to ensure that physically handicapped persons will have ready access to, and use of, such buildings; and recordkeeping requirements related thereto.

#### § 101-17.701 Authority and applicability.

This subpart implements Public Law 90-480, approved August 12, 1968, as amended by Public Law 91-205, approved March 5, 1970. The standards prescribed apply to all Federal agencies and instrumentalities, and to non-Federal organizations to the extent provided in the Act. [35 F.R. 10954, July 8, 1970]

#### § 101-17.702 Definitions.

The following definitions shall apply to this Subpart 101-17.7:

(a) "Building" means any building or facility (other than (a) residential structures; (b) buildings, structures, and facilities of the Department of Defense; and (c) any other building or facility on a military reservation designed and constructed primarily for use by able-bodied military personnel) the intended use for

which either will require that such building or facility be accessible to the public or may result in the employment therein of physically handicapped persons, which is to be:

(1) Constructed or altered by or on behalf of the United States;

(2) Leased in whole or in part by the United States after August 12, 1968, if constructed or altered in accordance with plans and specifications of the United States;

(3) Financed in whole or in part by a grant or a loan made by the United States after August 12, 1968, if such building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan; or

(4) Constructed under authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or title III of the Washington Metropolitan Area Transit Regulation Compact.

(b) "Alteration" means repairing, improving, remodeling, extending, or otherwise changing a building.

[35 F.R. 10954, July 8, 1970]

#### § 101-17.703 Standards.

Except as otherwise provided in § 101-17.704, every building designed, constructed, or altered after September 2, 1969, shall be designed, constructed, or altered in accordance with the minimum standards contained in the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped, Number A117.1—1961," approved by the American Standards Association, Inc. (subsequently changed to American National Standards Institute, Inc.).

[35 F.R. 4814, Mar. 20, 1970]

#### § 101-17.704 Exceptions.

The standards established in § 101-17.703 shall not apply to:

(a) The design, construction, or alteration of any portion of a building which need not, because of its intended use, be made accessible to, or usable by, the public or by physically handicapped persons;

(b) The alteration of an existing building if the alteration does not involve the installation of, or work on, existing stairs, doors, elevators, toilets, entrances, drinking fountains, floors, telephone locations, curbs, parking

areas, or any other facilities susceptible of installation or improvements to accommodate the physically handicapped;

(c) The alteration of an existing building, or of such portions thereof, to which application of the standards is not structurally possible; and

(d) The construction or alteration of a building for which bids have already been solicited or plans and specifications have been completed or substantially completed on or before September 2, 1969, provided, however, that any building defined in § 101-17.702(a)(4) shall be designed, constructed, or altered in accordance with the standards prescribed in § 101-17.703 regardless of design status or bid solicitation as of September 2, 1969.

[34 F.R. 12828, Aug. 7, 1969, as amended at 35 F.R. 10954, July 8, 1970]

#### § 101-17.705 Waiver or modification of standards.

The applicability of the standards set forth in this subpart may be modified or waived on a case-by-case basis, upon application to GSA made by the head of the department, agency, or instrumentality of the United States concerned, only if the Administrator of General Services determines that such waiver or modification is clearly necessary.

#### § 101-17.706 Recordkeeping.

The administering agency's file on each contract or grant for the design, construction, or alteration of a building as defined in § 101-17.702 shall be documented with a statement either: (a) that the standards are applicable to and have been or will be incorporated in the design, the construction, or the alteration, as the case may be; (b) that the grant has been or will be made subject to a requirement that the standards will be incorporated in the design, the construction, or the alteration, as the case may be; (c) that the standards have been waived by the Administrator of General Services (in which event the justification for waiver shall be stated); (d) that the project is within one of the exceptions set out in § 101-17.704 (the specific exception being identified); or (e) such other statements as may be appropriate with respect to application of the standards to the contract or grant. The head of each agency shall be responsible for implementing the file documentation requirement by regulation or other appropriate means. The

documentation shall be made available to the Administrator of General Services upon request.

**Subparts 101-17.8—101-17.47**  
**[Reserved]**

**Subpart 101-17.48—Exhibits**

SOURCE: 37 F.R. 11325, June 7, 1972, unless otherwise noted.

**§ 101-17.4800 Scope of subpart.**

This Subpart 101-17.48 illustrates information referred to in the text of Part 101-17 but not suitable for inclusion elsewhere in that part.

**§ 101-17.4801 Memorandum of understanding between the Department of Housing and Urban Development and the General Services Administration concerning low and moderate income housing.**

**MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE GENERAL SERVICES ADMINISTRATION CONCERNING LOW- AND MODERATE-INCOME HOUSING**

*Purpose.* The purpose of the memorandum of understanding is to provide an effective, systematic arrangement under which the Federal Government, acting through HUD and GSA, will fulfill its responsibilities under law, and, as a major employer, in accordance with the concepts of good management, to assure for its employees the availability of low- and moderate-income housing without discrimination because of race, color, religion, or national origin, and to consider the need for development and redevelopment of areas and the development of new communities and the impact on improving social and economic conditions in the area, whenever Federal Government facilities locate or relocate at new sites, and to use its resources and authority to aid in the achievement of these objectives.

1. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601) states, in section 801, that "It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States." Section 808(a) places the authority and responsibility for administering the Act in the Secretary of Housing and Urban Development. Section 808(d) requires all executive departments and agencies to administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of title VIII (fair housing) and to cooperate with the Secretary to further such purposes. Section 808(e) (5) provides that the Secretary of HUD shall administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of title VIII.

2. Section 2 of the Housing Act of 1949 (42 U.S.C. 1441) declares the national policy of \* \* \* "the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family \* \* \*." This goal was reaffirmed in the Housing and Urban Development Act of 1968 (sections 2 and 1601; 12 U.S.C. 1701t and 42 U.S.C. 1441a).

3. By virtue of the Public Buildings Act of 1959, as amended; the Federal Property and Administrative Services Act of 1949, as amended; and Reorganization Plan No. 18 of 1950, the Administrator of General Services is given certain authority and responsibility in connection with planning, developing, and constructing Government-owned public buildings for housing Federal agencies, and for acquiring leased space for Federal agency use.

4. Executive Order No. 11512, February 27, 1970, sets forth the policies by which the Administrator of General Services and the heads of executive agencies will be guided in the acquisition of both federally owned and leased office buildings and space.

5. While Executive Order No. 11512 provides that material consideration will be given to the efficient performance of the missions and programs of the executive agencies and the nature and functions of the facilities involved, there are six other guidelines set forth, including:

The need for development and redevelopment of areas and the development of new communities, and the impact a selection will have on improving social and economic conditions in the area; and

The availability of adequate low- and moderate-income housing, adequate access from other areas of the urban center, and adequacy of parking.

6. General Services Administration (GSA) recognizes its responsibility, in all its determinations with respect to the construction of Federal buildings and the acquisition of leased space, to consider to the maximum possible extent the availability of low- and moderate-income housing without discrimination because of race, color, religion, or national origin, in accordance with its duty affirmatively to further the purposes of title VIII of the Civil Rights Act of 1968 and with the authorities referred to in paragraph 2 above, and the guidelines referred to in paragraph 5 above, and consistent with the authorities cited in paragraphs 3 and 4 above. In connection with the foregoing statement, it is recognized that all the guidelines must be considered in each case, with the ultimate decision to be made by the Administrator of General Services upon his determination that such decision will improve the management and administration of governmental activities and services, and will foster the programs and policies of the Federal Government.

7. In addition to its fair housing responsibilities, the responsibilities of HUD include assisting in the development of the Nation's housing supply through programs of mort-

gage insurance, home ownership and rental housing assistance, rent supplements, below market interest rates, and low-rent public housing. Additional HUD program responsibilities which relate or impinge upon housing and community development include comprehensive planning assistance, metropolitan area planning coordination, new communities, relocation, urban renewal, model cities, rehabilitation loans and grants, neighborhood facilities grants, water and sewer grants, open space, public facilities loans, Operation BREAKTHROUGH, code enforcement, workable programs, and others.

8. In view of its responsibilities described in paragraphs 1 and 7 above, HUD possesses the necessary expertise to investigate, determine, and report to GSA on the availability of low and moderate income housing on a nondiscriminatory basis and to make findings as to such availability with respect to proposed locations for a federally-constructed building or leased space which would be consistent with such reports. HUD also possesses the necessary expertise to advise GSA and other Federal agencies with respect to actions which would increase the availability of low and moderate income housing on a nondiscriminatory basis, once a site has been selected for a federally-constructed building or a lease executed for space, as well as to assist in increasing the availability of such housing through its own programs such as those described in paragraph 7 above.

9. HUD and GSA agree that:

(a) GSA will pursue the achievement of low and moderate income housing objectives and fair housing objectives, in accordance with its responsibilities recognized in paragraph 6 above, in all determinations, tentative and final, with respect to the location of both federally constructed buildings and leased buildings and space, and will make all reasonable efforts to make this policy known to all persons, organizations, agencies and others concerned with federally-owned and leased buildings and space in a manner which will aid in achieving such objectives.

(b) In view of the importance to the achievement of the objectives of this memorandum of agreement of the initial selection of a city or delineation of a general area for location of public buildings or leased space, GSA will provide the earliest possible notice to HUD of information with respect to such decisions so that HUD can carry out its responsibilities under this memorandum of agreement as effectively as possible.

(c) Government-owned Public Buildings Projects:

(1) In the planning for each new public buildings project under the Public Buildings Act of 1959, during the survey preliminary to the preparation and submission of a project development report, representatives of the regional office of GSA in which the project is proposed will consult with, and receive advice from, the regional office of HUD, and local planning and housing authorities concerning the present and planned availability

of low and moderate income housing on a nondiscriminatory basis in the area where the project is to be located. Such advice will constitute the principal basis for GSA's consideration of the availability of such housing in accordance with paragraphs 6 and 9(a). A copy of the prospectus for each project which is authorized by the Committees on Public Works of the Congress in accordance with the requirements of section 7(a) of the Public Buildings Act of 1959, will be provided to HUD.

(2) When a site investigation for an authorized public buildings project is conducted by regional representatives of GSA to identify a site on which the public building will be constructed, a representative from the regional office of HUD will participate in the site investigation for the purposes of providing a report on the availability of low and moderate income housing on a nondiscriminatory basis in the area of the investigation. Such report will constitute the principal basis for GSA's consideration of the availability of such housing in accordance with paragraphs 6 and 9(a).

(d) Major lease actions having a significant socioeconomic impact on a community: At the time GSA and the agencies who will occupy the space have tentatively delineated the general area in which the leased space must be located in order that the agencies may effectively perform their missions and programs, the regional representative of HUD will be consulted by the regional representative of GSA who is responsible for the leasing action to obtain advice from HUD concerning the availability of low and moderate income housing on a nondiscriminatory basis to the delineated area. Such advice will constitute the principal basis for GSA's consideration of the availability of such housing in accordance with paragraphs 6 and 9(a). Copies of lease-construction prospectuses approved by the Committees on Public Works of the Congress in conformity with the provisions of the Independent Offices and Department of Housing and Urban Development appropriation acts, will be provided to HUD.

(e) GSA and HUD will each issue internal operating procedures to implement this memorandum of understanding within a reasonable time after its execution. These procedures shall recognize the right of HUD, in the event of a disagreement between HUD and GSA representatives at the area or regional level, to bring such disagreement to the attention of GSA officials at headquarters in sufficient time to assure full consideration of HUD's views, prior to the making of a determination by GSA.

(f) In the event a decision is made by GSA as to the location of a federally constructed building or leased space, and HUD has made findings, expressed in the advice given or a report made to GSA, that the availability to such location of low and moderate income housing on a nondiscriminatory

basis is inadequate, the GSA shall provide the DHUD with a written explanation why the location was selected.

(g) Whenever the advice or report provided by HUD in accordance with paragraph 9(c)(1), 9(c)(2), or 9(d) with respect to an area or site indicates that the supply of low- and moderate-income housing on a non-discriminatory basis is inadequate to meet the needs of the personnel of the agency involved, GSA and HUD will develop an affirmative action plan designed to insure that an adequate supply of such housing will be available before the building or space is to be occupied or within a period of 6 months thereafter. The plan should provide for commitments from the community involved to initiate and carry out all feasible efforts to obtain a sufficient quantity of low- and moderate-income housing available to the agency's personnel on a nondiscriminatory basis with adequate access to the location of the building or space. It should include commitments by the local officials having the authority to remove obstacles to the provision of such housing, when such obstacles exist, and to take effective steps to assure its provision. The plan should also set forth the steps proposed by the agency to develop and implement a counseling and referral service to seek out and assist its personnel to obtain such housing. As part of any plan during, as well as after its development, HUD agrees to give priority consideration to applications for assistance under its housing programs for the housing proposed to be provided in accordance with the plan.

10. This memorandum will be reviewed at the end of 1 year, and modified to incorporate any provision necessary to improve its effectiveness in light of actual experience.

**PART 101-18—ACQUISITION OF REAL PROPERTY**

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 101-18.000 Scope of part

**Subpart 101-18.1—Acquisition by Lease**

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 101-18.101 Authorities of subpart.  
 101-18.102 Basic policy.  
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**Subpart 101-18.2—Acquisition By Purchase or Condemnation**

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 101-18.307 Multiple occupancy.  
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 101-18.309 Replacement housing payments.  
 101-18.309-1 Eligibility.  
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