

13 July 1999

Re: NEPA Technical Inquiry 0545 - GSA Policy on the 500-Year Floodplain

Dear NEPA Call-In User:

This letter is in response to your June 18, 1999 request for guidance on GSA's existing policy regarding locating a Federal Agency in a building within the 500-year floodplain of a municipality.

SUMMARY OF FINDINGS

NEPA Call-In determined that GSA's current policy on locating a Federal Agency in a building within a floodplain is contained in GSA Order ADM 1095.2 "Consideration of Floodplains and Wetlands in Decisionmaking," and Executive Order (EO) 11988, "Floodplain Management." Federal agencies may not site structures in the 500-year floodplain if they are deemed "critical actions," or if the proposed action could indirectly support development of the 100-year floodplain, unless the agency determines it is the only practicable alternative and the agency completes the Federal Emergency Management Agency (FEMA) eight-step process. Our detailed findings are provided below.

DETAILED FINDINGS

NEPA Call-In reviewed its files and determined that GSA's current policy on locating a Federal Agency in a building within a floodplain is contained in ADM 1095.2, "Consideration of Floodplains and Wetlands in Decisionmaking" (enclosed). The GSA Environmental Quality Advisory Group (EQAG) has started revising the ADM, but has not yet issued revised guidance. Therefore, the ADM remains the current GSA-specific guidance on locating in floodplains.

ADM 1095.2, Chapter 2, "Implementing the Flood Plains and Wetlands Orders," Section 1, "Meeting goals," paragraph "a" states: "The GSA acquisition and site selection processes shall preclude the acquisition of public buildings through Federal construction, purchase, or lease within: (a) Base flood plains and wetlands; (b) Areas in which the action would adversely impact or indirectly support development of the base flood plain or wetland, and (c) Critical action flood plains, if the proposed use is considered a critical action."

Therefore, you need to determine if the proposed action is a "critical action." ADM 1095.2 states a "critical action" is an action "which should not be exposed to even a slight chance flooding." Examples of critical actions are storage of irreplaceable records; storage of volatile, toxic, or water-reactive materials; construction of hospitals and schools, the occupants of which may not be sufficiently mobile to avoid loss of life and injury; and construction of utilities and emergency services which would be inoperative if flooded. Although the Executive Office of the Courts (EOC) refuses to commit to the fact in writing, they have repeatedly advised Judges that Court locations are a "critical action" due to the statutory time limits which apply to trying criminals. If the proposed action is deemed a critical action, then GSA must follow the FEMA eight-step process to determine if the proposed action is the only practicable alternative.

If the proposed action is not a critical action, GSA should consider if the proposed action could indirectly support development of the 100-year floodplain.

If GSA determines that the proposed action could indirectly support development of the 100-year floodplain, then GSA should also follow the FEMA eight-step process to determine if the proposed action is the only practicable alternative.

If the proposed action is not a critical action and will not indirectly support development of the 100-year floodplain, then GSA's responsibilities under the EO are complete.

In addition, Executive Order (EO) 11988, "Floodplain Management" (enclosed), provide direction to Federal agencies regarding siting structures in a floodplain. NEPA Call-In reviewed the EO for additional information regarding locating a Federal Agency in a building within a 500-year floodplain. EO 11988 seeks to avoid to the extent possible the long and short-term adverse impacts associated with the occupanc and modification of floodplains and to avoid direct or indirect support of floodplai development wherever there is a practicable alternative. However, EO 11988 does not prevent ALL development in floodplains and recognizes that certain projects must be located in floodplains. The EO further states that Federal agencies may not site structures in the 500-year floodplain if they are deemed "critical actions" unless the agency determines that it is the only practicable alternative. If it is determin that there is no practicable alternative to siting in a 500-year floodplain for "cri actions" then the EO specifies steps that the agency must take. These steps are out in the FEMA guidance document "Further Advice on EO 11988 Floodplain Management," (e The NEPA Call-In Fact Sheet "When Siting in a Floodplain is the Only Practicable Alternative,"(enclosed) also provides a summary of the FEMA eight-step process.

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Sincerely,

(Original Signed)

NEPA Call-In Researcher