

**TI-925**

**Prepared:** February 14, 2002

**Short Description:**

Questions regarding leasing property in a floodplain.

**Inquiry:**

The PBS Environmental Hotline caller of February 5, 2002, inquired about the procedures to be followed in leasing where each of the alternative sites are located in a floodplain. The Hotline caller explained her situation as follows:

We have a lease expiring this fall for the Social Security Administration (SSA). As per the Competition in Contracting Act, we need to compete the lease. A market survey was done and, because of the many specific requirements of SSA, there were only 2 other buildings that could possibly meet their requirements. Both of these buildings are in the 100 year flood plain. (Most of Boulder is in the flood plain). These buildings have been flood-proofed (built up out of the floodplain). The parking lots are in the floodplain. If it were not for the flood plain issue, this action would be a CATEX.

The caller's questions were:

1. Are we still operating under order ADM 1095.2 ?
2. Was there a flood plain desk guide ever completed?
3. In our situation, what level of NEPA action is required?
4. Can we wait until we find out whether or not the agency is moving from their existing location (not in a floodplain) to take any action?
5. If we have to move the agency into the floodplain, does the Regional Administer still have the responsibility for determining that siting in the floodplain is the only practicable alternative? Can it be delegated down?
6. What form does the determination need to be in (memo to the file? official letter?) Does it still need to go to the PBS Commissioner?
7. Does the 8-step process under EO 11988 apply to our situation?

**Response:**

To date, GSA still operates with regard to floodplains under ADM 1095.2 and the Floodplain Desk Guide has not been finally issued. The Floodplain Desk Guide has been issued in Draft and it is anticipated that the final Guide will be issued this Spring upon final comments from the Federal Emergency Management Administration (FEMA). With the issuance of the final draft of the Floodplain Desk Guide, it is expected that a new administrative order regarding floodplains will be issued, as well. Until the Desk Guide is issued, GSA is directed to follow the NEPA Desk Guide and ADM 1095.2.

Generally, the action described above will likely qualify as a Checklist CATEX since the relocation of the SSA to either of the two alternative sites will not involve: 1) a substantial change in use of the sites nor significantly increase the occupancy level; 2) a use which is non-compliant with local, state and federal requirements; and 3) community controversy or unresolved environmental issues (See NEPA Desk Guide Section 5.4(b)). As described above, it appears the use at either of the alternative sites will remain the same and that the flood-proofing of the sites will resolve that environmental issue (See Section 5.9.2 of the NEPA Desk Guide for a description on how to evaluate environmental consequences of an action). If, however, it is determined that one alternative is a Checklist CATEX and one alternative requires an EA, you must perform the more rigorous of the two options for the lease action.

You should begin to complete the CATEX Checklist as early as possible to ensure that NEPA and other required environmental compliance is met before you decide to initiate an action. Therefore, it would be appropriate now to perform the Checklist on these alternative sites. However, in light of the fact that the Floodplain Desk Guide and a new Administrative Order is expected to be forth coming in the next couple of months, it may be prudent to wait until such guidance has been implemented before taking any action.

Appropriate consideration must be part of GSA/PBS's decision making process when locating in a recognized floodplain. Under the current guidance, if these alternatives do indeed qualify as Checklist

CATEXs, then only a letter to the file will be necessary. The Realty Specialist is responsible for determining, and documenting in the project file, whether the action meets the criteria for a Checklist CATEX. Checklists must be completed by, with the oversight of, or in consultation with the Regional Environmental Quality Advisor.

Finally, the 8-step process under EO 11988 is always applicable to actions in a floodplain (See Section 9.6 NEPA Desk Guide). The 8-step process parallels the NEPA review. The extent to which the 8-step process is followed depends upon the extent of the NEPA review that must be performed.

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