

NIH POLICY MANUAL

26101-17-2 - ACQUISITION OF REAL PROPERTY ON AN EMERGENCY BASIS

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A. Purpose and Scope:

This chapter provides procedures for the expedited acquisition of all types of space, except conference space, by the National Institutes of Health (NIH), resulting from an emergency, for a period of up to 180 days. Acquisition of such space will serve to provide a temporary, safe, and healthful workspace environment until the Institute, Center, or Division (ICD) displaced by the emergency can be relocated to permanent space.

Procedures for the acquisition of space, other than expedited procedures, are described in Manual Chapters 26101-17-1, Acquisition of Temporary Conference Space Off the NIH Reservation and 26101-18-1, Acquisition of Real Property By NIH Direct Lease or Through the General Services Administration (GSA).

B. References:

1. Federal Property Management Regulations (FPMR), 56 Federal Register, 42166-96 (August 26, 1991) (as amended) Part 101-17, Temporary Regulation D-76 (41 CFR Part 101-17)
2. Federal Acquisition Regulations (FAR) (48 CFR Chapter 1)
3. Justification for Other Than Full and Open Competition (JOFOC) Desk Guide, Dated January 2, 1992. This Desk Guide was issued by the Division of Contracts and Grants (DCG), Office of Administration (OA)

C. Policy:

It is the policy of NIH that the acquisition of space resulting from an emergency will be governed by this manual issuance and in accordance with requirements of applicable Federal laws, Executive Orders, FPMR, and FAR. The NIH will exercise its FPMR authority to acquire space only if NIH or GSA's current space inventory will not accommodate the needs of the ICD. Because of the nature of an emergency, any space determined to be suitable for occupancy and acceptable to the ICD that protects the safety and health of employees will be contracted for and will include those space changes that are absolutely necessary to make the space usable. The rent and operating support services costs, i.e., alterations and utilities, of space acquired by GSA space assignment will be funded through the Management Fund. The rent and operating

support services costs, i.e., alterations and utilities, of space acquired by NIH service contract will be funded by the ICD through a direct charge.

D. Definitions:

1. Emergency - an extraordinary event such as a fire, natural disaster, or immediate threat to the health and safety of occupants of space which renders the current space unusable and requires that it be vacated.
2. FPMR - the Government-wide real property acquisition and management regulations, issued by GSA, that govern delegated real property activities of Federal agencies.
3. JOFOC - a formal written document containing sufficient facts and rationale to justify the use of one of the seven statutory authorities permitting the acquisition of goods or services from one source or a limited field of competition.
4. Impact Statement - an explanation of why space is needed and what impact on program activities will result if the temporary space is not acquired.
5. Market Survey - a search for and physical inspection of available buildings that appear to meet minimum space requirements regarding safety, security, zoning, quality, quantity, availability, and probable cost.
6. Space - the areas in buildings, including improvements, that are occupied by and under the control of the occupant.
7. Space: GSA Space Assignment - an administrative action by GSA which authorizes the occupancy and use of space by NIH in a GSA-owned or leased building.

E. Responsibilities:

1. The ICD is responsible for: notifying the Space Acquisition Branch (SAB), Division of Space and Facility Management (DSFM), Office of Research Services (ORS), when an emergency need for space occurs; providing necessary funding documentation upon DSFM's request; providing evidence that the emergency need has the concurrence of the ICD's Executive Officer or Chief Administrative Officer; providing an Impact Statement; and working closely with DSFM, the Division of Procurement (DP), OA, and the DCG, if necessary, throughout the space acquisition process.
2. The ORS Budget Office, Office of Administrative Management, is responsible for the review of funding availability by the NIH Management Fund for the occupancy of GSA space.
3. The Division of Engineering Services (DES), ORS, is responsible for participating in the market survey and providing technical architectural and engineering (A&E) advice and guidance. The DES will concur on the space

selected for occupancy. All DES services will be on a fee-for-service basis funded by the ICD.

4. The Division of Safety (DS), ORS, is responsible for participating in market surveys and providing technical life safety advice and guidance. The DS will concur on the space selected for occupancy.
5. The Space Planning Branch (SPB), DSFM, ORS, is responsible for the development and approval of the ICD's space requirements and the coordination of the ICD's move into the space.
6. The Space Acquisition Branch (SAB), DSFM, ORS, is responsible for coordinating actions between the ICD, DP, DES, DS, and SPB; determining the availability of GSA space; coordinating the market survey and identifying acceptable locations; completing an independent estimate of acquisition costs; identifying the factors justifying the acquisition; ensuring that funding documentation has been provided by the ICD; and completing the JOFOC for submission to the DP (less than \$50,000) or the DCG (over \$50,000) citing the FAR 6.302-2.
7. The Facilities Management Branch (FMB), DSFM, ORS, is responsible for participating in the market survey.
8. The Deputy Directors, DSFM, ORS, are responsible for supervising the overall activities of DSFM's SPB, SAB, and FMB to ensure timely and complete delivery of the space.
9. The Director, DSFM, ORS, is responsible for managing the overall activities of DSFM to ensure timely and complete delivery of the space.
10. The DP, OA, is responsible for issuing a service contract for space to be acquired by NIH under FPMR authority and to participate with other responsible officials to ensure timely and accurate delivery of space.
11. The Acquisition Policy and Procedure Branch (AP&PB), DCG, OA, is responsible for reviewing and recommending for approval any JOFOC for the acquisition of space on an emergency basis, when the estimated cost of the rent is \$50,000 or more. For those acquisitions estimated to be less than \$50,000, a DP Contracting Officer may recommend and the Director, DP, may approve the JOFOC.

F. Acquisition Scheduling:

Space will be made available for occupancy by the ICD within two to five working days following DSFM being notified of an emergency.

G. Acquisition Process:

Immediately upon notification of an emergency, SAB will initiate the acquisition

process.

Step 1 - The SPB will coordinate establishing the space requirements among SAB, DES, DS, ICD, and DP, i.e., amount and type of space, length of term up to 180 days, geographic area of consideration, A&E and life safety criteria, etc.

Step 2 - The SAB will determine if the space requirements established by SPB are available through GSA.

Step 3 - If GSA space is available, SAB completes an independent estimate of the cost of the acquisition of GSA space, and SAB verbally notifies the ORS Budget Office of the requirement for an emergency acquisition and the estimated costs, and requests approval to charge the GSA rent costs to the Management Fund. A written confirmation of the verbal notification will also be submitted to the ORS Budget Office as soon as possible following the verbal notification.

Step 4 - If the ORS Budget Office determines that the GSA rent costs can be supported within the Management Fund, SAB will survey any available GSA space along with representatives of SPB, FMB, DES, DS, DP, and ICD.

Step 5 - If GSA space is acceptable, SPB will arrange for its use by the ICD.

Step 6 - If the ORS Budget Office determines that the GSA rent costs cannot be supported within the Management Fund or if the GSA space is not acceptable, SAB will inform GSA of the determination and of its intent to acquire the space under FPMR Subpart 17.203.

Step 7 - If GSA rent costs cannot be charged to the Management Fund or if no GSA space is available, the SAB will conduct a market survey of commercial buildings along with representatives of SPB, FMB, DES, DS, DP, and ICD in order to locate space acceptable for occupancy by the ICD.

Step 8 - The SAB will assemble the following documents and transmit them to the Acquisition Branch B, DP, for acquisition of space by service contract:

1. a description of the space and the term required up to 180 days;
2. an independent estimate of the cost along with the ICD's funding authorization;
3. a statement that NIH has authority to acquire space under FPMR since GSA space is not available or that available GSA space is not acceptable or has been rejected. The statement will include the name, title, office, and telephone number of the GSA person contacted;
4. the market survey information that includes the identification

and description of space(s) acceptable to SPB, SAB, DES, DS, and the ICD, for occupancy by the ICD, and the names and telephone number of space representatives or owners;

5. an Impact Statement; and
6. a JOFOC in accordance with the procedures outlined in the JOFOC Desk Guide. If the emergency is of such a compelling nature that preparation of the JOFOC prior to award of a contract would unreasonably delay the acquisition, a JOFOC may be prepared after award in accordance with FAR 6.302-2. Refer to the JOFOC Desk Guide for a discussion of the required notification to the AP&PB prior to initiation of the acquisition.

Step 9 - The DP negotiates and awards a service contract for the space identified during the market survey and JOFOC as acceptable to SPB, SAB, DES, DS, and the ICD.

Step 10 - The SPB will arrange for the ICD's move into the space.

H. Additional Information:

For further information on this chapter, contact SAB, DSFM, ORS, on (301) 402-0881 or Acquisitions Branch B, DP, OA, on (301) 496-6411.

I. Additional Copies:

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