

OGC Has Reviewed

PUBLIC BUILDINGS

1. Construction.
2. Equipment.
3. Repairs & Improvements.

175  
15 March 1945  
*File*  
*Legal*  
*Division*

MEMORANDUM

TO: [REDACTED]

STATINTL

FROM: JSA

SUBJECT: Restrictions on Construction of Buildings for Public Use in the District of Columbia

1. Reference is made to the attached memorandum to the Director from the Board of Review, dated 8 March 1945, concerning additional buildings to provide space for OSS activities. It is recommended therein that \$65,000 be allocated for the purchase and erecting of three pre-fabricated buildings together with the ground rent necessary to be paid for the land at 25th and B Streets, N. W.

2. Title 40 of the U.S.C. contains the provisions of law relating to Public Buildings.

Sec. 1 The Public Buildings Administration in the Federal Works Agency shall have the absolute control of and the allotment of all space in the several public buildings owned or buildings leased by the United States in the District of Columbia.....

Sec. 19 The Federal Works Administration shall have charge of the public buildings and grounds in the District of Columbia, under such regulations as may be prescribed by the President..... "

Sec. 214 In the selection of a site for any public building, reference shall be had to the interest and convenience of the public.....and the Federal Works Administrator shall have power, and it shall be his duty, to set aside any selection which in his opinion has not been made solely with reference thereto.

Sec. 267 No money shall be expended upon any public building until after plans, estimates, etc. have been made by him and approved by Federal Works Administration.

Sec. 206 No plan shall be approved until after the site therefor shall have been finally selected.

From the foregoing it seems that any plans for the construction or erection of buildings for public use should be submitted to Public Buildings Administration in the Federal Works Agency.

3. From the attached files it appears that Public Buildings Administration will not approve the erection of temporary buildings in the District of Columbia. (Memoranda of Services, to the Director, dated 5 May 1944 and to [redacted] dated 12 May 1944). However, recently, [redacted] has been informally advised by PBA that, though permission will not be granted for the erection of temporary buildings in the District of Columbia, this restriction does not apply in the case of pre-fabricated buildings.

4. The question of the use of .002 funds for the purchase and erection of pre-fabricated buildings and payment of ground rent should be considered. There appears to be no legal objection to such an expenditure in view of the language used in the OCS appropriation act. It should be noted that Sec. 287 of Title 40, U.S.C. relates to the expenditure of Government funds whereas Sections 1, 19, 254, 268 contain other provisions of law concerning public buildings and should be complied with. Thus, it follows that, although the buildings were to be paid for and erected with OCS funds, the PBA, under Section 1 of Title 40 U.S.C. would have absolute control of and allotment of space therein with the power to allot the buildings to an agency other than OCS.

5. In the memorandum from the Chief, Services to [redacted] dated 12 May 1944, it is stated that, in the opinion of the Bureau of the Budget, Congress clearly did not intend that .002 funds should be used to construct a building. The Board of Review makes no suggestion in its recommendation of 3 March 1945 that the proposed expenditure should be cleared with the Bureau of the Budget. This, of course, is a policy matter which is not for the decision of this office.

6. Before any funds are expended for the purchase and erection of pre-fabricated buildings or the payment of ground rent, the entire proposal, including plans, and estimates, should be submitted to the Public Buildings Administration in the Federal Works Agency for the approval of the Federal Works Administrator.

STATINTL

cc [redacted]

JSW:TL