

41 CFR Part 101-35

[FPMR Interim Rule F-1]

RIN 3090 -AG03

RELOCATION OF FIRM PROVISIONS RELATING TO THE USE OF
GOVERNMENT TELEPHONE SYSTEMS AND GSA SERVICES AND
ASSISTANCE

AGENCY: Office of Policy, Planning and Evaluation and the
Federal Telecommunications Service, GSA.

ACTION: Interim rule with request for comments.

SUMMARY: This regulation reestablishes the Federal Property
Management Regulations (FPMR) certain telecommunications
provisions of the Federal Information Resources Management
Regulation (FIRM). These FIRM provisions will be maintained in
the FPMR after August 7, 1996. This change is precipitated by
the passage of the Information Technology Management Reform Act
of 1996, which effectively disestablishes the FIRM.

DATES: This rule is effective August 8, 1996.

Comments are solicited and are due: [Insert 60 days after
publication in the FEDERAL REGISTER] .

Expiration Date: August 8, 1998.

ADDRESSES: Comments may be mailed to General Services
Administration, Office of Policy, Planning and Evaluation,
Strategic IT Analysis Division (MKS), 18th & F Streets, NW., Room
3224, Washington, DC 20405 (for Part 101-35.1) or General
Services Administration, Federal Telecommunications Service
(TCS), 7980 Boeing Court, 4th Floor, Vienna, VA 22182-3988 (for
Parts 101-35.2 - 101-35.5) .

FOR FURTHER INFORMATION CONTACT: Doris Farmer (for Part 101-
35.1), GSA, Office of Policy, Planning and Evaluation, Strategic
IT Analysis Division (MKS), 18th & F Streets, NW., Room 3224,
Washington, DC 20405, telephone FTS/Commercial (202) 501-3194 (v)
or (202) 501-0657 (told), or Internet (doris.farmer@gsa.gov) and
James Cademartori (for Parts 101-35.2 through 101-35.5), GSA,
Federal Telecommunications Service, 7980 Boeing Court, 4th Floor,
Vienna VA, 22182-3988, telephone FTS/Commercial (703) 760-7545
(v) or (703) 760-7583 (FAX), or Internet
(james.cademartori@gsa.gov)

SUPPLEMENTARY INFORMATION: (1) Section 111 of the Federal
Property and Administrative Services Act of 1949, as amended (the
Brooks Act) (40 U.S.C. 759) was the authority for many of the
provisions in the FIRM. The passage of Pub. L. 104-106, the
Information Technology Management Reform Act of 1996, signed
February 10, 1996, repealed Section 111 and the General Services
Administration's (GSA) authority to issue Governmentwide
regulations for managing, acquiring and disposing of information
technology. As a result, the FIRM will be abolished as of 12:00

midnight on August 8, 1996. The referenced FIRMR provisions that apply to government telecommunications will be maintained in the FPMR after August 7, 1996.

(2) Most of the language now contained in sections 201-20.306, 201-21.600, 201-21.601, 201-21.602, 201-24.101, 201-24.101-1, 201-24.101-2, 201-24.101-3, 201-24.102, 201-24.106, and 201-24.203-1 of the FIRMR is being moved almost verbatim to the FPMR. A few changes were needed to correct out of date references.

(3) GSA has determined that this is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993, because it is not likely to result in any of the impacts noted in Executive Order 12866, affect the rights of specified individuals, or raise issues arising from the policies of the Administration. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of the rule; has determined that the potential benefits to society from this rule outweigh the potential costs; has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society. List of Subjects in 41 CFR Part 101-35

Archives and records, Computer technology, Telecommunications, Government procurement, Property management, Records management' and Information technology.

For the reasons set forth in the preamble, 41 CFR Chapter 101 is amended by adding subchapter F, consisting of part 101-35 to read as follows:

SUBCHAPTER F--MANAGEMENT AND USE OF TELECOMMUNICATIONS
RESOURCES

PART 101-35--TELECOMMUNICATIONS MANAGEMENT POLICY

Subpart 101-35.0--General provisions

Sec.

101-35.0 Scope of part.

101-35.1-101-35.4 [Reserved]

101-35.5 Definitions.

Subpart 101-35.1--Use of Government Telephone Systems

101-35.100 Scope of subpart.

Subpart 101-35.2--Authorized use of long distance telephone services

101-35.200 Scope of subpart.

101-35.201 Authorized use of long distance telephone services.

101-35.202 Collection for unauthorized use.

Subpart 101-35.3--The mandatory FTS long distance network

101-35.300 Scope of subpart.

101-35.301 The mandatory FTS long distance network.

101-35.301-1 General.

101-35.301-2 Policies.

101-35.301-3 Procedures.
Subpart 101-35.4--Consolidated local telecommunications
service.
101-35.400 Scope of subpart.
101-35.401 General.
101-35.402 Policies.
Subpart 101-35.5--National security and emergency preparedness
(NSEP)

101-35.500 Scope of subpart.
101-35.501 General.
101-35.502 Policy.
101-35.503 Procedures.
Subpart 101-35.6--Delegation of GSA's **multiyear** contracting
authority for telecommunications resources

101-35.600 Scope of subpart.
101-35.601 General.
AUTHORITY: 40 U.S.C. 486(c) and 1424(b) .

Subpart 101-35.0--General Provisions

§ 101-35.000 Scope of part.

This part prescribes policies and procedures about
telecommunications resources.

§§ 101-35.001-101-35.004 [Reserved]

§ 101-35.005 Definitions.

Consolidated local telecommunication service means local
telecommunications service to all Federal agencies located in a
building, complex, or geographical area.

Executive agency means any executive department or independent
establishment in the executive branch of the Government,
including any wholly owned Government corporation (see 40 U.S.C.
472(a)).

Federal Telecommunications System (FTS) means the umbrella of
local and long distance telecommunications services, including
FTS2000 long distance telecommunications services, provided,
operated, managed, or maintained by GSA for the common use of all
Federal agencies and other authorized users.

Interoperability means the ability of telecommunications
resources to provide services to and accept services from other
telecommunications resources and to use the services so exchanged
to enable them to operate effectively together.

Long distance telephone service means any service or facility
purchased with Government funds for completing telephone calls
outside of the local service area.

National security and emergency preparedness (NSEP) means those
physical, technical, and administrative characteristics of
telecommunications systems that will ensure a prescribed level of
survivability in times of national or other emergency mission
needs of the Government entities that use them.

Subpart 101-35.100--Use of Government Telephone Systems

§ 101-35.100 Scope of part.

This subpart discusses the policies and procedures for using long distance telephone service.

Subpart 101-35.2--Authorized use of long distance telephone services

§ 101-35.200 Scope of subpart.

This subpart discusses authorized use of telephone systems and facilities provided, paid for, or reimbursed by the Federal Government.

§ 101-35.201 Authorized use of long distance telephone services.

(a) Scope. This section describes policies and procedures for the use of Government-provided and commercial long distance telephone service paid for by the Government.

(b) General. Agencies should be familiar with the Office of Management and Budget (OMB) "Guidance on the Privacy Act Implications of Call Detail Programs to Manage Employees' Use of the Government's Telecommunications Systems" (52 FR 12990, April 20, 1987).

(c) Policy.

(1) Telephone calls placed over Government-provided and commercial long distance systems that will be paid for or reimbursed by the Government, shall be used to conduct official business only.

(2) To the maximum extent practicable, Federal employees shall place calls on Government-provided long distance telephone systems and services instead of using commercial toll services.

(3) In accordance with 5 CFR 2635.704, the following practices are prohibited and a willful violation may result in criminal, civil, or administrative action, including suspension or dismissal:

(i) Use of any Government system or service, or any other telephone service, where the Government pays the cost of the long distance call, for other than official business, except emergency calls and calls the agency determines are necessary in the interest of the Government.

(ii) Making an unauthorized long distance telephone call with the intent to later reimburse the Government.

(iii) Unauthorized use of telephone call detail data.

(d) Procedures. Official business calls may include emergency calls and other calls the agency determines are necessary in the interest of the Government.

(1) Telephone calls may properly be authorized when they--

(i) Do not adversely affect the performance of official duties by the employee or the employee's organization;

(ii) Are of reasonable duration and frequency; and

(iii) Could not reasonably have been made at another time; or

(iv) Are provided for in a collective bargaining agreement that is consistent with this part.

(2) Personal long distance calls that must be made during working hours may be made over the commercial long distance network if consistent with the criteria in paragraph (d) (1) of this section and are:

(i) Charged to the employee's home phone number or other non-Government number (third-number call);

(ii) Made to an 800 toll-free number;

(iii) Charged to the called party if a non-Government number (collect call); or

(iv) Charged to a personal telephone credit card.

(3) Agencies shall issue directives on using telephone facilities and services. Agencies' contractor-operated facilities shall be covered by these directives. The directives may provide further definition of calls necessary in the interest of the Government and shall include procedures for collection and reimbursement for unauthorized calls.

§ 101-35.202 Collection for unauthorized use.

(a) Agencies shall collect for any unauthorized calls if it is cost-effective to do so. Reimbursing the Government for unauthorized calls does not exempt an employee from appropriate administrative, civil, or criminal action.

(b) Agency collections shall include--

(1) The value of the call, computed on the basis of commercial long distance rates rounded to the nearest dollar; and

(2) An additional amount rounded to the nearest dollar to cover the administrative costs of determining that the call was unauthorized and processing the collection.

Subpart 101-35.3--The mandatory **FTS** long distance network

§ 101-35.300 Scope of subpart.

This subpart describes the GSA **FTS** program and contracts that are mandatory-for-use by agencies.

§ 101-35.301 The mandatory **FTS** long distance network.

S 101-35.301-I General.

(a) In accordance with section 629 of Public Law 104-52, (109 Stat. 468, 504, November 19, 1995), executive agencies **mUST** use the **FTS** long distance network.

(b) GSA will grant exceptions to the use of the **FTS** long distance network when:

(1) The agency's procurement requirements are unique and cannot be satisfied by the **FTS** long distance network; and

(2) The agency procurement would be cost-effective and would not adversely affect the cost-effectiveness of the **FTS** long distance network.

(c) The **FTS** long distance network provides Federal agencies modern up-to-date intercity telecommunications services over the life of the program. GSA will enhance existing services and add

features to the FTS long distance network to maintain technologically current services and to improve services to user agencies. GSA will make service improvements in accordance with agencies' needs, contract provisions, governing regulations and statutes.

(d) As used in this FPMR, the terms intercity and long distance have the same meaning.

S 101-35.301-2 Policies.

(a) Executive agencies shall use the FTS long distance network to satisfy intercity telecommunications requirements within the United States, Guam, Puerto Rico, or the Virgin Islands for requirements which are within the scope of the FTS long distance network voice, data, and video services as such services become available unless:

(1) The agency requests and obtains from GSA an exception to the use of the FTS long distance network based on a GSA . determination that:

(i) The agency's procurement requirements are unique and cannot be satisfied by the FTS long distance network; and

(ii) The agency procurement would be cost-effective and would not adversely affect the cost-effectiveness of the FTS long distance network;

(2) The agency requests and obtains from GSA an interim exception to the use of the FTS long distance network based on an established date for transition to the FTS long distance network; or

(3) An exception to the use of the FTS long distance network for the agency is otherwise provided by law.

(b) Unless any of the exceptions listed in paragraph (a) of this section apply to the procurement, and when overall procurement requirements include any agency long distance telecommunications requirements which are within the scope of FTS services, executive agencies shall require offerors in new awards to satisfy those requirements by using the Government furnished services of the FTS long distance network as such services become available.

(c) For ease of determining and evaluating Government costs, executive agencies also shall require offerors to unbundle FTS long distance services in their offers by separately describing and pricing the FTS services that satisfy Government requirements. However, the agency solicitation may prescribe an expected solution for the use of the FTS long distance network. Offerors would then be required to separately price the Government-furnished services of FTS only if their offers show a different use of FTS than the Government's expected solution.

(d) Notwithstanding paragraphs (a) and (b) of this section, agencies may continue to use intercity telecommunications services and facilities provided under contracts previously

authorized and awarded without obtaining an exception to the use of the FTS long distance network. However, agencies shall use available FTS long distance services that can satisfy their procurement requirements upon expiration of such contracts. Before exercising renewal options under existing contracts that will result in the provision of intercity telecommunications services, agencies shall obtain an interim exception to the use of the FTS long distance network. This interim exception will allow GSA and the agencies to plan an orderly transition to the FTS long distance network.

(e) In planning for transition to the FTS long distance network, agencies shall be responsible for determining customer premises equipment requirements to achieve efficient interfaces with the type of FTS services needed. However, agencies shall avoid duplicating FTS services. Agencies shall avoid incorporating inherently intercity features (i.e., features that can be provided only as part of an intercity network) of the FTS long distance network in agency networks. An exception to the use of the FTS long distance network is hereby provided to agencies with requirements for non-inherently intercity features to satisfy such features within a local network.

§ 101-35.301-3 Procedures.

(a) GSA will provide assistance in understanding and pricing the services available from the FTS long distance network and in developing plans for transition to the FTS long distance network. For assistance and information concerning the FTS network, agencies should contact the General Services Administration, Federal Telecommunications Service (T), 7980 Boeing Court, 4th Floor, Vienna VA, 22182-3988.

(b) Agencies seeking an exception to the use of the FTS long distance network are responsible for documenting their case. A complete agency request for an exception to the use of the FTS long distance network shall establish to the satisfaction of GSA that:

- (1) The agency's procurement requirements are unique and cannot be satisfied by the FTS long distance network;
- (2) The agency's procurement would be cost-effective; and
- (3) The agency's procurement would not adversely affect the cost-effectiveness of the FTS long distance network. (The rebuttable presumption is that, if an agency procurement requirement is unique and the resultant procurement would be cost-effective, the agency procurement would not adversely affect the cost-effectiveness of the FTS long distance network.)

(c) An agency request for an interim exception to the use of the FTS long distance network shall be based on a GSA established date for transition of agency requirements to the FTS long distance network.

(d) Any agency exception request shall be sent to the General Services Administration/Federal Telecommunications Service (T) .

(e) Agencies may conduct procurements for long distance telecommunications services and facilities without prior approval of GSA when the agency's requirements are within the scope of an exception to the use of the FTS long distance network provided by GSA.

(f) An agency may appeal a GSA denial of a request for an exception to the Office of Management and Budget (OMB) .

(g) If an agency has a requirement for long distance telecommunications within the United States, Guam, Puerto Rico, or the Virgin Islands that may be outside the scope of FTS, the requirement shall be submitted to GSA/T prior to initiating acquisition action. An exception to the mandatory use of the FTS long distance network will be given if GSA determines the service cannot be provided by the FTS.

Subpart 101-35.4--Consolidated local telecommunications service

§ 101-35.400 Scope of subpart.

This subpart discusses local telecommunications facilities and services provided to executive agencies by GSA and other agencies.

§ 101-35.401 General.

Consolidated local telecommunications service is available in most buildings occupied by concentrations of Federal employees. Local telecommunications includes any access services which provide, for a monthly fee, electronic connectivity to a larger telecommunications network and those support services which provide for the acquisition, operation and management of attached systems. Information on the use of consolidated local telecommunications services may be obtained from: GSA, Federal Telecommunications Service, Office of Regional Services (TR), 1730 M Street, NW. Suite 200, Washington, DC 20036.

§ 101-35.402 Policies.

(a) All executive agencies shall evaluate sharing Government owned or contracted local telecommunications facilities and services. Evaluation criteria and associated decisions must be documented as appropriate.

(b) Executive agencies receiving local telecommunications services from another agency, e.g., a GSA consolidated switch, must acknowledge their shared responsibility to that community of agencies in exchange for those services. Such a community shall be considered a telecommunications "Shared Resource Community." The agency primarily responsible for providing telecommunications service(s) to members of this community shall be the "Lead Agency." Lead agencies must acknowledge their responsibility(s) to provide services until an alternative arrangement has been coordinated with the community. Different agencies may take the

lead in providing different services. Memoranda of Agreement will identify responsibilities and cost-recovery mechanisms.

(c) GSA charges to agencies for consolidated local telecommunications service will cover expenses for installation, changes in service, a common distributable charge, and termination.

Subpart 101-35.5--National security and emergency preparedness
(NSEP)

§ 101-35.500 Scope of subpart.

This subpart discusses NSEP services and assistance provided by GSA to executive agencies.

§ 101-35.501 General.

Executive Order 12472, (49 FR 13471, 3 CFR, 1984 Comp., p. 193) requires that GSA ensure that the NSEP requirements of agencies are met. GSA incorporates NSEP safeguards and support features in networks and services it provides for agencies. GSA also provides emergency telecommunications for the special needs of agencies and helps agencies plan, obtain, and maintain continuity of telecommunications during wartime and non-wartime emergencies.

§ 101-35.502 Policy.

Agencies shall use available GSA telecommunications systems and services to meet their NSEP requirements.

§ 101-35.503 Procedures.

Before acquiring services or facilities to meet special NSEP requirements, agencies shall review GSA-provided services. Agencies shall coordinate their special NSEP requirements with: General Services Administration, Federal Telecommunications Service, Office of Service Delivery, NSEP Center (TOS), 18th & F Streets, NW, Washington, DC 20405.

Subpart 101-35.6--Delegation of GSA's multiyear contracting authority for telecommunications resources

§ 101-35.600 Scope of subpart.

This subpart discusses the delegation of GSA's multiyear contracting authority to executive agencies.

§ 101-35.601 General.

Executive agencies are authorized to enter into multiyear contracts for telecommunications resources subject to the following conditions:

(a) The agency shall notify GSA/T prior to using GSA's multiyear contracting authority.

(b) The contract life including options, shall not exceed 10 years.

(c) Agencies shall comply with OMB budget and accounting procedures relating to appropriated funds.

Dated: July 31, 1996