

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The text is centered within the hourglass shape.

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Location of Federal Government Offices

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July 14, 2004

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Location of Federal Government Offices

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Summary

A legislative requirement for the offices of the U.S. government to be located in the District of Columbia (DC) dates to 1790. The applicable provisions have been codified at 4 U.S.C. 71 and 72. Although no definition of “offices” is provided in Title 4, it appears that, at a minimum, the headquarters of executive departments are to be located in DC proper absent a statutory waiver of the requirement. The headquarters of the Department of Defense (DOD) and the Central Intelligence Agency (CIA) are located in Virginia, and the Nuclear Regulatory Commission (NRC) is in Maryland. All of these agencies received statutory exemptions from the location requirement. The U.S. Naval Security Station, which is located at Nebraska and Massachusetts Avenues in northwest Washington, DC, and is also known as the Nebraska Avenue complex, is the home of the Department of Homeland Security (DHS). P.L. 108-268, which was enacted on July 2, 2004, requires the Secretary of the Navy to transfer custody and control of the complex to the Administrator of the General Services for the purpose of accommodating DHS.

Background

On July 16, 1790, President George Washington signed Statute II (1 Stat. 130), which designated what is now known as Washington, DC, as the permanent seat of the United States government.¹ This statute also directed that “all offices attached to the said seat of government” be located at the permanent seat. These provisions have been codified and are found in Title 4 of the *U.S. Code* as Sections 71 and 72:

All that part of the territory of the United States included within the present limits of the District of Columbia shall be the permanent seat of government of the United States.

¹ Originally, Washington, DC, occupied a 100-square mile area that included portions of Virginia and Maryland. In 1846, the land that had formerly been part of Virginia was retroceded to the state.

All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law.

No definition of “offices” is provided in Title 4. In Chapter 1 of Title 5, which has to do with government organization, there are definitions and lists of five types of government organizations, but no definition of “offices.”² Chapter 51 of Title 5 provides a definition of agency.³ In Title 31, which involves money and finance, Section 101 also defines “agency,” but makes no mention of government “offices.” As discussed below, in practice, “offices” apparently refers to the location of the headquarters of certain types of government organizations, notably executive departments.

Federal Government Offices Located Outside of Washington, DC

History suggests that 4 U.S.C. 71 and 72 apply to executive departments, and likely independent agencies as well. Three major government entities that are located in the Washington, DC, region, but are not located in the District proper, were authorized, by statute, to locate outside of the District of Columbia.⁴

- Department of Defense (DOD), located in Arlington, Virginia. Title I, “War Department, Civil Functions, Quartermaster Corps,” P.L. 77-247 (55 Stat. 669; August 25, 1941) states that sums are appropriated “[f]or the construction by and for the use of the War Department on Government-owned land comprising the site formerly occupied by the Department of Agriculture Experimental Farm and land adjacent thereto in Arlington County, Virginia, of an office building and appurtenances thereto....”
- Central Intelligence Agency (CIA), located in Langley, Virginia. Section 401 of P.L. 84-161 (69 Stat. 324; July 15, 1955) states: “The Director of Central Intelligence is authorized to provide for a headquarters installation for the Central Intelligence Agency, in the District of Columbia or elsewhere....”
- Nuclear Regulatory Commission (NRC), located in Rockville, Maryland. P.L. 84-31 (69 Stat. 47; May 6, 1955) authorized the Atomic Energy

² In Title 5 of the *U.S. Code*, Sec. 101 lists the executive departments; Sec. 102 lists the military departments; Sec. 103 defines “government corporation”; Sec. 104 defines “independent establishment”; and Sec. 105 defines “executive agency.” None of these sections mentions “offices.”

³ 5 U.S.C. 5102(a)(1) defines “agency” as an executive agency, the Library of Congress, the Botanic Garden, the Government Printing Office, the Office of the Architect of the Capitol, and the government of Washington, DC.

⁴ These three organizations have Washington, DC, mailing addresses. However, a mailing address does not necessarily reflect the geographical location or jurisdiction of the actual location of a building or property. This quirk may be a legacy of the pre-zip code system when all federal government mail in the Washington, DC, area was sent to zone 25 for further sorting.

Commission (some of whose responsibilities were subsequently vested in the NRC) “to acquire ... a suitable site in or near the District of Columbia and ... to provide for the construction on such site ... of a modern office building ... to serve as the principal office of the Commission....”

This statutory language appears to support the interpretation of 4 U.S.C. 72 that main agency offices shall be located in the district unless a statutory exemption is granted.

Department of Homeland Security

On December 17, 2002, the General Services Administration (GSA), which is responsible for finding office space for government agencies, issued a solicitation for approximately 275,000 rentable square feet of space for the Department of Homeland Security (DHS). The deadline for submission of proposals, or offers, was 3:00 p.m. on December 23, 2002. Paragraph 1.2 of the solicitation identified the area of consideration.

All properties offered must be located within the Metropolitan Area of Washington, DC. For purposes of this solicitation, the Metropolitan Area of Washington, DC is limited to the District of Columbia, Prince Georges and Montgomery Counties of Maryland, and Alexandria City, and Fairfax, Loudoun, Arlington Counties of Virginia and their incorporated cities.

If the department’s permanent location was situated in either state, it appears that a legislative exemption from 4 U.S.C. 72 would be necessary.

During the first week of the 108th Congress, both chambers passed, and the President signed, P.L. 108-2 (H.J.Res. 1), which included a section that refers to a prospectus⁵ for leasing office space for DHS. Section 5(a) stated:

For purposes of section 3307(a) of title 40, United States Code, the prospectus of General Services Administration entitled ‘Prospectus — Lease, Department of Homeland Security, Washington, DC Metropolitan Area’, prospectus number PDC-08W03, as submitted on December 24, 2002, is deemed approved by the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the date of enactment of this Act.⁶

As reported in the *Washington Post* on January 8, 2003, and the *Washington Times* on January 9, 2003, three sites in northern Virginia (one in Chantilly, two in Tysons Corner) were, at the time, likely candidates for the new department.⁷

⁵ A prospectus “outlines the space need, scope, schedule for execution, overall projected project budget and the dollar amount requested for funding in the current fiscal year.” (Information found on the “Design and Construction Delivery Process” page at the GSA website [<http://www.gsa.gov>], visited Jan. 14, 2003.)

⁶ The President signed this act on Jan. 10, 2003.

⁷ Spencer S. Hsu and Neil Irwin, “Northern Va. Likely to Be New Homeland Security Site,” (continued...)

However, DHS chose the U.S. Naval Security Station, which is located at Nebraska and Massachusetts Avenues in the District of Columbia and which is also known as the Nebraska Avenue complex. DHS began operations at the complex on January 27, 2003.⁸

With the enactment of P.L. 108-268 (H.R. 4322) on July 2, 2004, it appears that the Nebraska Avenue complex has been selected, for the time being, as the location for the headquarters of DHS.⁹ Section 1(a) requires the Secretary of the Navy to transfer the jurisdiction, custody, and control of the Nebraska Avenue complex to the Administrator of General Services for the purpose of permitting the Administrator to use the complex to accommodate the Department of Homeland Security.¹⁰ The transfer is to be completed within nine months of the date of enactment.¹¹

⁷ (...continued)

Washington Post, Jan. 8, 2003, p. A1; and Tim Lemke, "Homeland Security Eyes Site in Chantilly," *Washington Times*, Jan. 9, 2003, p. A10.

⁸ Information provided by telephone by John Miko, Department of Homeland Security, to the author on Jan. 28, 2003. For additional reading, see Spencer S. Hus and Neil Irwin, "Homeland Security Settles on D.C.," *Washington Post*, Jan. 23, 2003, p. A1; Audrey Hudson and Tim Lemke, "Ridge's Offices Will Be in NW," *Washington Times*, Jan. 23, 2003, p. A1.

⁹ H.R. 4322, as introduced, stated in Sec. 1(a) that the Homeland Security Secretary "is authorized to establish the Nebraska Avenue Complex as the headquarters of the Department of Homeland Security for so long as the Secretary determines that the Nebraska Avenue Complex is appropriate for such purposes, or until otherwise provided by law." H.R. 4322, as amended and enacted, does not refer to the complex as the headquarters for DHS except in the opening statement. This statement reads, in part: "An Act To provide for the transfer of the Nebraska Avenue Naval Complex in the District of Columbia to facilitate the establishment of the headquarters for the Department of Homeland Security"

¹⁰ Sec. 1(a), P.L. 108-268.

¹¹ Sec. 1(c), P.L. 108-268.