

BOMA Magazine

Legal-Ease: GSA's Simplified Leasing Forms Made Simple

January/February 2019 Issue

By David L. Winstead, Esq

The U.S. General Services Administration (GSA) and its Public Buildings Service have made great progress over the last five years in simplifying the federal government's lease acquisition process and leasing actions. Given the scale of GSA leasing, which stands at 187.6 million square feet in 2018, there are many opportunities for building owners who can effectively use the process.

The simplified lease acquisition process, formerly known as simplified lease acquisition threshold (SLAT), was designed by GSA to secure competitive market leases more efficiently in cases where the net annual rent is at or below \$250,000 (per Federal Acquisition Regulation 2.101). Under this process, a sole-source acquisition does not require a written justification for "Other than Full and Open Competition." However, the lease contracting officer (LCO) must document the file to explain the lack of competition. Procedural improvements to the request for lease proposal (RLP) process have been substantial in recent years, and, as a result, GSA is seeing an increase in interest from the commercial real estate industry concerning the opportunities provided by federal government tenancy.

To assess what federal tenant space opportunities exist, the GSA conducts several outreach processes to the commercial real estate market. A market survey, outlined by GSA procedures (GSAM 570.203-1), is conducted to identify a list of properties qualified to meet the federal agency's program of requirements. In addition, GSA and its contracting team can post notices of space needs using the FedBizOpps website. In managing any resulting market interest, the contracting officer can solicit offers from each building owner or broker representative identified. Next, the contracting officer or broker will provide to each qualified offeror, the following lease documents for their review, completion and submittal:

Combined FBO Advertisement/Procurement Summary;

1. GSA's Form L101-A, which is the simplified RLP;
2. Federal agency specific tenant requirements;
3. GSA Form 1364A, which outlines the lease proposal;
4. GSA Form 1364A-1, setting forth the proposal data being sought;
5. GSA Form L201-A, which constitutes the simplified lease; and
6. GSA Form 3518A, where Representations and Certifications are required.

In this simplified process, the GSA can award a lease without negotiations, and it is at the discretion of the contacting officer to do so. The basis of award is the lowest price, a technically acceptable offer; as a result, building owners and brokers must submit their best offer at the beginning of the process. The intent of GSA Form 1364A-1 is to document the rent and pricing components unique to a specific federal tenant agency's billing requirements. The leasing model is designed to be structured as a firm-fixed-price procurement. However, it is still up to the LCO to determine that all aspects of the pricing and data provided as a part of the offer are in the best interest of the government, and that the pricing is fair and reasonable.

In simplified lease acquisitions, procedural improvements to the RLP process have been substantial in recent years, and, as a result, GSA is seeing an increase in interest from the commercial real estate industry concerning the opportunities provided by federal government tenancy.

GSA's National Office of Leasing continues to improve the leasing process, and to seek ways to encourage commercial landlords to provide productive and cost-effective workplaces for more than two million federal civilian employees. With these new changes, GSA is achieving an average of 10.7 percent savings to the federal taxpayer by increasing the average firm-term of GSA leases to 9.3 years and 13.8 years overall. There also are big potential benefits to the commercial real estate industry. GSA has more than 100 million square feet of rented space that will be expiring in the next five years. This space is provided through 8,000 active leases, which equates to more than \$3 billion in annual rent payments. The near-term market opportunities are substantial.

ABOUT THE AUTHOR: David L. Winstead, Esq., is of counsel with Ballard Spahr. He also is a member of BOMA International's National Advisory Council and a former U.S. Public Buildings Commissioner.