Thursday,
September 16, 2004

Part VI

General Services Administration

48 CFR Part 552
General Services Administration
Acquisition Regulation; Acquisition of Leasehold Interests in Real Property; Historic Preference; Final Rule
A proposed rule implementing a historic preference provision for
leasehold interests in real property was published in the Federal Register
for comments at 64 FR 35122, June 30, 1999. GSA received comments, and the
proposed rule was revised. The comments received by GSA and the
changes made to the historic preference provision are summarized as follows:
The Advisory Council on Historic Preservation recommended that the
definitions of historic property and historic district be made consistent with
other existing regulations and statutory definitions and that the hierarchical
preferences be stated more clearly. The proposed historic preference provision
has been revised to incorporate appropriate definitions from the
National Historic Preservation Act and implementing regulations in Title 36 of
the Code of Federal Regulations, and to clarify how the historic preference will
be applied. GSA also considered whether the price preference for non-
historic developed and undeveloped sites within historic districts should be
less than the price preference for historic properties within and outside of
historic districts. GSA believed that this would more appropriately reflect the
relatively higher cost of rehabilitating, altering, and maintaining existing
historic buildings as opposed to constructing and maintaining new
buildings or altering existing non-
historic buildings within an historic
district. Accordingly, the historic
preference provision has been revised to provide that historic properties within
and outside of historic districts may be eligible for a 10 percent price
preference; non-historic developed and undeveloped sites within historic
districts may be eligible for a 2.5 percent price preference. Finally, the provision
has been revised to state that the Government will compute the price evaluation preferences by reducing the
price(s) of the offerors qualifying for a price evaluation preference by the applicable percentage provided in the
historical preference provision. Because
numerous changes were made to the
proposed historic preference provision,
GSA published a second proposed rule in the Federal Register at 66 FR 35122,
October 19, 2001. No further comments were received.
This is not a significant regulatory
action and, therefore, was not subject to
review under Section 6(b) of Executive Order 12866, Regulatory Planning and
Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C.
804.

B. Regulatory Flexibility Act
The General Services Administration
certifies that this final rule will not have a significant economic impact on a
substantial number of small entities within the meaning of the Regulatory
Flexibility Act, 5 U.S.C. 601, et seq.,
because this rule implements an
existing Executive order and does not
impose any new requirements. This rule
requires the Federal Government to
utilize and maintain historic properties
and districts, wherever possible, to aid
in the revitalization of the nation’s
central cities and establishes a price
evaluation preference and order
preference for properties in these
specific areas.

C. Paperwork Reduction Act
The Paperwork Reduction Act does
not apply because the changes to the
GSAR do not impose recordkeeping or
information collection requirements, or
otherwise collect information from
offerors, contractors, or members of the
public that require approval of the
Office of Management and Budget under
44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 552
Government procurement.


David A. Drabkin,
Senior Procurement Executive,Office of the
Chief Acquisition Officer.

Therefore, GSA amends 48 CFR part
552 as set forth below:

PART 552—SOLICITATION
PROVISIONS AND CONTRACT
CLAUSES

1. The authority citation for 48 CFR part 552 continues to read as follows:
Authority: 40 U.S.C. 121(c).

2. Revise section 552.270–2 to read as follows:

552.270–2 Historic Preference.
As prescribed in 570.602, insert the following provision:

Historic Preference (SEPT. 2004)

(a) The Government will give preference to
offers of space in historic properties
following this hierarchy of consideration:
(1) Historic properties within historic
districts.
(2) Non-historic developed and non-
historic undeveloped sites within historic
districts.
(3) Historic properties outside of historic
districts.
(b) Definitions. (1) Determination of
eligibility means a decision by the
Department of the Interior that a district, site,
building, structure or object meets the
National Register criteria for evaluation

A. Background
GSA is amending the GSAR by
revising the provision on Historic Preference. Executive Order (E.O.)
13006, dated May 21, 1996, requires that the Federal Government utilize and
maintain, wherever operationally appropriate and economically prudent,
historic properties and districts in order to help revitalize the nation’s central
cities. The E.O. requires that, subject to the requirements of the Rural
Development Act and E.O. 12072, when locating Federal facilities, Federal
agencies give first consideration to historic properties within historic
districts. If no such property is suitable, then Federal agencies must consider
other developed or undeveloped sites within historic districts. Federal
agencies must then consider historic properties outside historic districts, if
no suitable site within a district exists.

Based on the requirements of E.O.
13006, the GSAR provision has been
revised to establish a hierarchy of
consideration that is facilitated by
giving a price evaluation preference to
offers of space falling within the hierarchy.

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Preservation recommended that the
definitions of historic property and
historic district be made consistent with
other existing regulations and statutory
definitions and that the hierarchal
preferences be stated more clearly. The
proposed historic preference provision
has been revised to incorporate
appropriate definitions from the
National Historic Preservation Act
and implementing regulations in Title 36 of
the Code of Federal Regulations, and to
clarify how the historic preference will
be applied. GSA also considered
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historic developed and undeveloped
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within and outside of historic districts may be eligible for a 10 percent price
preference; non-historic developed and undeveloped sites within historic
districts may be eligible for a 2.5 percent price preference. Finally, the provision
has been revised to state that the
Government will compute the price evaluation preferences by reducing the
price(s) of the offerors qualifying for a price evaluation preference by the
applicable percentage provided in the historic preference provision. Because
numerous changes were made to the
proposed historic preference provision,
GSA published a second proposed rule in the Federal Register at 66 FR 35122,
October 19, 2001. No further comments
were received.

This is not a significant regulatory
action and, therefore, was not subject to
review under Section 6(b) of Executive
Order 12866, Regulatory Planning and
Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C.
804.

SUPPLEMENTARY INFORMATION:

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Duarte, Regulatory Secretariat,
Room 4035, GS Building, Washington, DC, 20405, (202) 501–4225, for
information pertaining to status or
publication schedules. For clarification
of content, contact Ms. Julia Wise,
Procurement Analyst, at (202) 208–
1169. Please cite Amendment 2004–03; GSAR case 2002–G504.

A. Background
GSA is amending the GSAR by
revising the provision on Historic Preference. Executive Order (E.O.)
13006, dated May 21, 1996, requires that the Federal Government utilize and
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cities. The E.O. requires that, subject to the requirements of the Rural
Development Act and E.O. 12072, when locating Federal facilities, Federal
agencies give first consideration to historic properties within historic
districts. If no such property is suitable, then Federal agencies must consider
other developed or undeveloped sites within historic districts. Federal
agencies must then consider historic properties outside historic districts, if
no suitable site within a district exists.

Based on the requirements of E.O.
13006, the GSAR provision has been
revised to establish a hierarchy of
consideration that is facilitated by
giving a price evaluation preference to
offers of space falling within the hierarchy.
although the property is not formally listed in the National Register (36 CFR 60.3(c)).

(2) **Historic district** means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history (36 CFR 60.3(d)). The historic district must be included in or be determined eligible for inclusion in the National Register of Historic Places.

(3) **Historic property** means any prehistoric or historic district, site, building, structure, or object included in or been determined eligible for inclusion in the National Register of Historic Places maintained by the Secretary of the Interior (36 CFR 800.16(l)).

(4) **National Register of Historic Places** means the National Register of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering and culture that the Secretary of the Interior is authorized to expand and maintain under the National Historic Preservation Act (36 CFR 60.1).

(c) The offer of space must meet the terms and conditions of this solicitation. The Contracting Officer has discretion to accept alternatives to certain architectural characteristics and safety features defined elsewhere in this solicitation to maintain the historical integrity of an historic building, such as high ceilings and wooden floors, or to maintain the integrity of an historic district, such as setbacks, floor-to-ceiling heights, and location and appearance of parking.

(d) When award will be based on the lowest price technically acceptable source selection process, the Government will give a price evaluation preference, based on the total annual square foot (ANSI/BOMA Office Area) cost to the Government, to historic properties as follows:

(1) First to suitable historic properties within historic districts, a 10 percent price preference.

(2) If no suitable historic property within an historic district is offered, or the 10 percent preference does not result in such property being the lowest price technically acceptable offer, the Government will give a 2.5 percent price preference to suitable non-historic developed or undeveloped sites within historic districts.

(3) If no suitable non-historic developed or undeveloped site within an historic district is offered or remains in the competition, the Government will give a 10 percent price preference to suitable historic properties outside of historic districts.

(4) Finally, if no suitable historic property outside of historic districts is offered, no historic price preference will be given to any property offered.

(f) The Government will compute price evaluation preferences by reducing the price(s) of the offerors qualifying for a price evaluation preference by the applicable percentage provided in this provision. The price evaluation preference will be used for price evaluation purposes only. The Government will award a contract in the amount of the actual price(s) proposed by the successful offeror and accepted by the Government.

(g) To qualify for a price evaluation preference, offerors must provide satisfactory documentation in their offer that their property qualifies as one of the following:

(1) An historic property within an historic district.

(2) A non-historic developed or undeveloped site within an historic district.

(3) An historic property outside of an historic district.

(End of provision)

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