

**U.S. DEPARTMENT OF VETERANS AFFAIRS  
LEASING PROGRAM  
NATIONAL HISTORIC PRESERVATION ACT ALTERNATE PROCEDURES  
REVISED WHITE PAPER**

The U.S. Department of Veterans Affairs (VA) requests that the ACHP provide input on its proposal to develop a Program Alternative to establish a more efficient process to consider the effects of leasing actions on historic properties. VA Leadership has identified leasing as one way<sup>1</sup> to meet current and future projected health care gaps and operational inefficiencies.

**Background**

VA's mission is to serve America's Veterans and their families by providing medical care, benefits, social support, and memorials. As the second largest Federal Department, this mission is accomplished through a network of service facilities administered by the Veterans Health Administration (VHA), the Veterans Benefits Administration (VBA), and the National Cemetery Administration (NCA). VA is facing a turning point in Veterans healthcare. Compared to the general population, the Veteran population is older, with more chronic health conditions, and is more likely to live in a rural area.<sup>2</sup> However, compared to their predecessors, today's Veterans are fewer in number; different in racial, gender, and socioeconomic composition; and face different health challenges.<sup>3</sup> VA therefore must be adaptable in where it provides care, what services it provides, and how that care is delivered to continuing serving older Veterans and preparing to serve the next generation.

VA expects to increasingly use leasing actions to meet the need of a geographically diverse and newly expanded Veteran population<sup>4</sup>, as well as a more efficient utilization of federal funds. VA leases space from private and federal entities, including the General Services Administration (GSA), and uses leased space to fulfill its mission by acquiring office space for administrative and benefits staff, as well as rehabilitating, renovating, and constructing new medical facilities for Veteran services. VA has projected a nearly 50% increase in the national demand for outpatient services by FY 2029, yet, more than 70% (13 of 18) Veterans Integrated Services Networks (VISNs) are projected to experience a decrease in Veteran demand for inpatient medical and surgical services by fiscal year (FY) 2029 because of recent Veteran population shifts away from urban centers in New England, California, and the Midwest.<sup>5</sup>

The scopes of VA leasing actions are internally tracked by annual rent<sup>6</sup> but can be categorized for their potential to adversely affect historic properties as move-in ready (i.e., no rehabilitation, renovation, or construction), build-out (i.e., rehabilitation or renovation of an existing space, such as the renovation of a Toys R Us into a clinic space), and build-to-suit leases, which are projects where a private developer will build the facility which VA will then lease (i.e., Community-Based Outpatient Clinic (CBOC), Community Living Center (CLC), etc.). As of March 2023, VA operated a total of 1,990 active leases nationwide; of these, 68 were classified as Majors.<sup>7</sup> Of the total active Majors, 51% (n=35) were activated within one week

<sup>1</sup> VA also identified opportunities that would not be considered an undertaking, such as compensating Veterans that seek care in the private sector, adding personnel, or extending hours of operation at existing medical centers. Ideas such as sharing health facilities would not be under the leasing program. For a summary of all recommendations, see Volume I of the AIR Commission report (<https://www.va.gov/AIRCOMMISSIONREPORT/docs/VA-Report-to-AIR-Commission-Volume-I.pdf>). The examples referenced here can be found on page 4.

<sup>2</sup> VA, AIR Commission, <https://www.va.gov/AIRCOMMISSIONREPORT/docs/VA-Report-to-AIR-Commission-Volume-I.pdf>, 2022, page v.

<sup>3</sup> AIR Commission, page 11.

<sup>4</sup> VA, AIR Commission, page v.

<sup>5</sup> VA, AIR Commission, page v.

<sup>6</sup> Major: above \$3.6M annually, Mid: \$1M-\$3.6M annually, Minor: below \$1M annually. Note: VA Central Office is responsible for Major projects.

<sup>7</sup> VA Office of Real Property, "CAI Operational Leases as of 4-8-2023."

of executing the lease; i.e., move-in ready. Of the remaining, 28 leases were activated within twelve months of executing the leases, i.e., build-out with limited modifications (41%). The final 7% (n=5) of active leases required significant build-out or were build-to-suit actions, based on project timelines.<sup>8</sup> All of these lease activities have resulted in no potential to adversely affect historic properties. The only case that was determined to have the potential to adversely affect historic properties was subsequently removed from consideration due to this finding (Fredericksburg, VA). The undertaking was relocated to another location and ultimately resulted in a finding of no adverse effect. VA's internal policy has been to not pursue lease projects that results in an adverse effect finding since the implementation of the program.

**Increases in Leasing Actions**

In 2019, VA awarded thirteen major leases to improve access to care and deliver health care facilities to Veterans. Of these, twelve were for health care buildings and one was for a research and development facility.<sup>9</sup> In contrast, VA is planning twenty-two medical leases for fiscal year 2024. The *Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022*, also known as the PACT Act, included more than thirty leases and established a simplified process for VA to award leases. For FY 25 and 26, VA anticipates awarding from 50 to 60 new medical space leases plus at least two research facilities.<sup>10</sup> In addition to medical facilities, VA will continue to lease parking lots/structures or office space. VA requires these facilities to be in operational to meet the anticipated 50% increase in need in FY 2029.

VA Medical Facilities Often Operated through Leases <sup>11</sup>	
Community-Based Outpatient Clinic (CBOC)	CBOCs are a fixed health care site with the necessary professional medical staff, access to diagnostic testing and treatment capability, and the referral arrangements needed to ensure continuity of health care for Veterans. Generally, under 100,000 sq. feet
Community Living Center (CLC)	A CLC is a VA Nursing Home, also referred to as a domiciliary. CLCs provide long-term care, short-term rehabilitation, domiciliary cottages, memory care services, short-term "respite" care, and end-of-life/hospice services. Generally, under 75,000 sq. feet
Health Care Center (HCC)	An HCC provides primary care, mental health care, on site specialty services, and performs ambulatory surgery and/or invasive procedures, which may require moderate sedation or general anesthesia. Generally, over 250,000 sq. feet
Outpatient Center (OPC)	OPCs provide primary care and specialty health services, including mental health care, physical and occupational therapy, treatment for post-traumatic stress disorder, social work, women's health services, and more. Varies by need but generally under 225,000 sq. feet
Mental Health Clinic (MHC)	MHCs provide mental health services such as therapy, treatment plans, consultations, and other related services. Generally, under 50,000 sq. feet

**Anticipated Effects to Historic Properties**

VA operates hundreds of medical and administrative facilities nationwide. As previously mentioned, VA has never had to resolve adverse effects related to the establishment of a leased space because VA has always been able to avoid adverse effects by locating clinics in areas without historic properties or

<sup>8</sup> Leasing actions were identified based on commencement and activation dates, addresses are used to assess the relationship of a lease with NR-listed historic properties, and up to date NHPA compliance data is assessed.

<sup>9</sup> VA, "VA Awards New Leases to Provide Health Care Facilities to Veterans," <https://news.va.gov/press-room/va-awards-new-leases-to-provide-health-care-facilities-to-veterans/>, October 2, 2018.

<sup>10</sup> VA ORP, Personnel communication via email with VA ORP Director, Policy & Programs, to Scout Environmental, received on February 15, 2023.

<sup>11</sup> Descriptions in VHA Directive 1229(1).

implemented appropriate design to buildings/structures that avoided adverse effects to nearby historic properties.

Given its federal security requirements, VA has difficulty establishing new medical facilities within historic districts or areas with clusters of historic properties despite a stated and advertised preference to offers of space in such areas in accordance with GSAR 552.270-2. Some security requirements that make siting in historic districts challenging include:

- Offered space cannot be located in the FEMA 100-year flood plain,
- Space will not be considered where apartment space or other living quarters are located within the same building.
- Offered space must be zoned for VA’s intended use.
- Adequate Parking facilities are required.

Once an appropriate property location has been identified, VA has established design guidelines that can be applied to identify potential adverse effects to nearby historic properties in advance of final site selection. Together, these criteria can form the base of a Program Alternative that limits the potential of any VA leasing action to adversely affect historic properties including archaeological deposits and traditional cultural practices.

#### Criteria

VA seeks a Program Alternative that would simplify reuse options (move-in-ready and build-out) and standardize the information required from build-to-suit developers to determine the potential for adverse effects. VA anticipates that outliers, such as buildings/structures over 225,000 square feet or a site of more than 25 acres in size (including parking and landscaping) would be required to follow a standard Section 106 process.

VA seeks a Program Alternative that would be in place for at least ten years. Annual reviews and reporting are anticipated.

VA envisions a Program Alternative that would exempt the following from further review:

- All move-in ready leases including storage and/or existing parking decks,
- All build-out leases without ground disturbance and not within an individual NRHP-listed or building and not in a contributing resource to a NRHD,
- All build-out leases limited to the interior of a contributing resource to a NRHD when the interior of resources is not a character-defining feature of the historic property,
- All build-out leases in buildings and/or structures less than 40 years of age.

VA envisions a Program Alternative that would authorize SOI-qualified VA personnel to make determinations of No Historic Properties Affected for build-outs and build-to-suit leases if the following conditions are documented.

- Map from the respective SHPO does not identify any NRHP-listed properties within the APE, AND
- Survey of APE by a qualified architectural historian does not identify any NRHP-eligible built resources, AND
- No federally recognized Tribes and/or NHOs responded to an annual letter notification of upcoming construction and/or Tribes or NHOs did respond but did not express concern about the specific location, AND/OR
- Location is documented as previously disturbed (pursuant to criteria established via consultation prior to PA implementation) Evidence of disturbance, such as utility maps, AND/OR
- Location is a greenspace or otherwise undisturbed (pursuant to definition established via consultation prior to PA implementation) Archaeological investigation that determines the absence of intact deposits (i.e., Phase I survey).

**Commented [VA1]:** ACHP: VA should consider how it will define ground disturbance. The recent GSA Exemption and the draft DHS NPA may have useful language.

VA: VA thanks the ACHP for its guidance and will utilize these texts when drafting its Alternative.

**Commented [VA2]:** ACHP: What about NR-eligible?

VA: Eligible properties would require additional information and is better addressed by the options below.

**Commented [VA3]:** ACHP: The draft NPS NPA for Mission 66 properties also deals with interiors as being changeable without impacting eligibility and may be a good reference.

VA: VA thanks the ACHP for its guidance and has requested a copy of the draft for review when drafting its Alternative.

**Commented [VA4]:** ACHP: The Army’s Vietnam Family Housing PC has really good wording on “previously disturbed” that went through multiple rewrites during Tribal consultation, and ultimately ended with wording the Tribes found acceptable.

VA: VA thanks the ACHP for its guidance and will utilize this text when drafting its Alternative.

VA envisions a Program Alternative that would authorize SOI-qualified VA staff would be authorized to make determinations of No Adverse Effect to Historic Properties if the following conditions are documented.

- National Register-listed or -eligible archaeological resources are present within the APE but not within the proposed footprint and/or area of proposed ground disturbance (i.e., deposits can be avoided), OR
- Archaeological deposits are present within the proposed footprint and/or area of proposed ground disturbance but have been determined not eligible for listing in the National Register, OR
- Historic built resources are present within the APE, but these historic properties will not be visually affected by the leased property, OR
- Historic built resources are present within the APE, but these historic properties will not have an impact on their integrity of association by the leased property.

If these conditions cannot be met, VA would consult either to confirm that design plans would meet the *SOI Standards for Rehabilitation* or to resolve adverse effects.

**Recent Environmental Assessments for Build-to-Suit Lease Projects**

*Information concerning NHPA is included in each of these EAs. The EAs are referenced because all information is in the public domain and reviewers may see summaries of all public comments, not just those related to NHPA.*

<i>Location</i>	<i>Proposed Action</i>	<i>Project Area (SF)</i>	<i>Determination</i>
<a href="#">Volusia County, FL</a>	Construction of new OPC	122,900	If Sites 1 or 3 (not selected) were selected, FL SHPO requested additional archaeological testing. No Historic Properties Affected for Sites 2 (selected) and 4 (not selected).
<a href="#">Alachua County, FL</a>	Construction of new OPC and MHC	OPC: 70,849 MHC: 39,932	No Historic Properties Affected
<a href="#">Spotsylvania County, VA</a>	Construction of new HCC	426,722	Potential for Adverse Effects to Historic Properties at the Gateway Site. VA executed a Programmatic Agreement. (not selected) No Historic Properties Affected for the Hood Drive (selected) or 1500 Gateway Boulevard sites.
<a href="#">Duval County, FL</a>	Construction of new OPC and CLC	OPC: 158,600 CLC: 26,900	No Historic Properties Affected
<a href="#">Wake County, NC</a>	Construction of new OPC	222,325	No Historic Properties Affected for Alternative A. (selected) Determination of Adverse Effect for Alternative B. (not selected)
<a href="#">Hernando County, FL</a>	Acquisition and renovation of CBOC	48,638	No Historic Properties Affected