

VA SUPPLEMENT CHAPTER 5: **SUCCEEDING LEASE, SUPERSEDING LEASE**

Chapter 5

Part 1: Overview	5-3
Part 2: Definitions and Applicability	5-3
a. Succeeding Lease	5-3
b. Superseding Lease	5-3
Part 3: Statutory Authority	5-3
Part 4: Timing and Leverage	5-3
Part 5: Acquisition Planning Analysis	5-3
a. Issues to Consider.....	5-3
b. Succeeding/Superseding Lease Analysis Tool.....	5-4
c. Touring the Existing Location	5-4
Part 6: Occupancy Agreement	5-4
Part 7: SAM.gov Contract Opportunities Posting and Newspaper Advertisements	5-4
a. SAM.gov Posting for Succeeding Lease	5-4
b. “Intent to Award” Advertisement	5-4
c. Superseding Lease Advertisement.....	5-5
Part 8: Market Survey	5-5
Part 9: Cost-Benefit Analysis	5-6
a. How to Establish Costs.....	5-6
b. Tools and Templates	5-6
Part 10: Justification for Other Than Full and Open Competition (JOTFOC)	5-6
Part 11: Request for Lease Proposals (RLP) Package and Offer Forms	5-7
a. Seismic Requirements.....	5-7
b. Security Requirements	5-7
c. Historic Preservation Act Review Process.....	5-7
d. National Environmental Policy Act (NEPA) Review	5-7
e. Energy Independence and Security Act (EISA) Requirements.....	5-7
Part 12: Negotiations and Fair and Reasonable Determination	5-7
a. Negotiation Objectives.....	5-8

- b. Conducting Negotiations 5-8
- Part 13: Final Certification of Funds 5-8**
- Part 14: Posting of Redacted Justifications on SAM.gov 5-8**
- Part 15: Space Acceptance and Rent Commencement 5-8**
 - a. Space Acceptance and Rent Commencement Process 5-8
 - b. Imminent Lease Expiration 5-8
- Part 16: Final Tips 5-8**
- Attachment 1: Sample Justification for Other Than Full and Open Competition, Succeeding Lease 5-8**
- Attachment 2: Prospectus Level Justification for Other Than Full and Open Competition Office of Leasing Review/Submittal Guidance 5-9**
- Attachment 3: Sample Redactions in Justification 5-9**

Part 1: Overview

The acquisition planning stage for lease procurement begins with the requesting services' submission of a procurement request package through the Electronic Contract Management System (ECMS) Planning Module or successor contract system.

VA requires legal review on **ALL** proposed lease contract awards, including succeeding and superseding leases.

When used throughout this VA Supplement Chapter, "Reserved" means the information in [GSA's LDG](#) applies to VA's leasing program without further supplemental information.

Part 2: Definitions and Applicability

a. Succeeding Lease

Reserved.

b. Superseding Lease

Reserved.

Examples of Potential Superseding Lease Scenarios

Reserved.

Part 3: Statutory Authority

Reserved.

Part 4: Timing and Leverage

Reserved.

Part 5: Acquisition Planning Analysis

Reserved.

a. Issues to Consider

Reserved.

Agency Requirements

Reserved.

Suitability of Location

Lease Administration Managers (LAMs) are not applicable to VA – Refer to Introduction for details.

RLP and Lease Technical Requirements

Reserved.

Competitive Advantage

Lease Administration Managers (LAMs) are not applicable to VA – Refer to Introduction for details.

b. Succeeding/Superseding Lease Analysis Tool

Reserved.

c. Touring the Existing Location

Reserved.

Part 6: Occupancy Agreement

Occupancy Agreements (OA) are not used by VA in directly procured leases. Therefore, OAs are not covered by this Supplement. Please refer to VA's Financial Policy, [Volume V, Chapter 11](#) and [Volume VI](#) and [VA Directive](#) and [Handbook 7816, Lease and OA Management Procedures](#) for information regarding Occupancy Agreements between VA and GSA.

Part 7: SAM.gov Contract Opportunities Posting and Newspaper Advertisements

Reserved.

a. SAM.gov Posting for Succeeding Lease

Reserved.

b. "Intent to Award" Advertisement

Note: In cases of sole source lease acquisitions where the decision to limit competition is mission-driven, not cost-benefit driven, the LCO must post an Intent to Award advertisement on [SAM.gov](#) (posted under "special notice" type). Follow

the example provided in Chapter 20 of the GSA LDG.

There is no requirement to post a redacted JOTFOC at this stage of the procurement, however, after award, the LCO must post the redacted JOTFOC as an attachment to the post-award synopsis (posted under the “award notice” type).

c. Superseding Lease Advertisement

Reserved.

Part 8: Market Survey

In accordance with this section of GSA LDG the results of the sources sought advertisement using the succeeding lease language in section Part 7.a. of this Chapter and market research utilizing CoStar, LoopNet, and calls to listing brokers determines the next steps required by the LCO:

Scenario	Next Steps
No potentially acceptable locations are identified through the advertisement and market research.	No Cost Benefit Analysis (CBA) is required. The LCO may proceed with preparing a Justification for Other Than Full and Open Competition (JOTFOC)* to negotiate directly with the current lessor. See GSAM 570.402-4
Potentially acceptable locations are identified through the advertisement and/or market research.	A formal CBA is required using GSA’s Succeeding Lease Analysis Tool. LCO must determine if the Government will recover costs of relocation and replication of Tenant Improvements (TI) costs and take one of the following actions. See GSAM 570.402-5 : <ul style="list-style-type: none"> • If the CBA shows that cost <u>cannot be recovered</u> through competition, the LCO should prepare a JOTFOC* based on the results of the CB. • If the CBA shows that costs <u>can be recovered</u> through competition, the LCO must cancel the succeeding lease project and initiate a competitive replacing lease project using full and open competition.

*Per [GSAM 570.203-2\(b\)](#) and [570.402-1\(a\)](#), sole source actions at or below the Simplified Lease Acquisition Threshold (SLAT) do not require a formal JOTFOC. A SLAT Competition Memo to explain the lack of competition is sufficient.

*Please refer to current HCA Review and Approval Process Policy for HCA Review and Submission Process on JOTFOCs.

Part 9: Cost-Benefit Analysis

Please refer to Part 8 above to determine whether a formal CBA is required. When a CBA is required, LCOs must utilize GSAs Succeeding Lease Analysis tool ensuring both the “Formal CB Analysis” Tab and “Other Considerations” Tabs are completed.

a. How to Establish Costs

Reserved.

b. Tools and Templates

Reserved.

Part 10: Justification for Other Than Full and Open Competition (JOTFOC)

In cases where an Acquisition Plan and GSA Delegation package has already been submitted to GSA as a full and open competition procurement method, and a sole source has been identified after the submission, the LCO must amend the acquisition plan and GSA delegation request and submit the updated documentation including the Justification for Other than Full and Open Competition (JOTFOC) or Lack of Competition – Memo to File explaining the lack of competition.

VA Leasing Thresholds for Review, Concurrence and Approvals

Threshold (including all options)	Approving Official(s)
At or below the SLAT as defined in GSAM Part 570.102	A formal JOTFOC is not required; however, the LCO must document the lease file to explain the lack of competition.
Above SLAT up to and including \$750K in total lease contract value	Formal JOTFOC is required with the following approvals: <ul style="list-style-type: none"> • LCO • One level above LCO
Greater than \$750K in total lease contract value	Formal JOTFOC is required with the following approvals: <ul style="list-style-type: none"> • LCO • One level above LCO • Head of Contracting Activity for Leasing

Legal Concurrence

Real Property Law Group (RPLG) concurrence is required on all Justifications for Other Than Full and Open Competition above \$750,000 prior to review by the Head of Contracting Activity in accordance with the HCA Review and Approval Policy.

Post-Award Publication of Justifications for Other Than Full and Open Competition (JOTFOC)

Note: The redacted JOTFOC should be included as an attachment to the required post-award synopsis in [SAM.gov](https://sam.gov) (posted under the “original award notice” type).

Part 11: Request for Lease Proposals (RLP) Package and Offer Forms

Reserved.

a. Seismic Requirements

Reserved.

b. Security Requirements

Reserved.

c. Historic Preservation Act Review Process

Reserved.

d. National Environmental Policy Act (NEPA) Review

Reserved.

e. Energy Independence and Security Act (EISA) Requirements

Reserved.

Part 12: Negotiations and Fair and Reasonable Determination

Typically, if the LCO can determine and document that the price is fair and reasonable through competition, Co-Star, LoopNet, or other market rate data, the extra time and cost to obtain an appraisal is not beneficial. If an LCO determines an appraisal is warranted based on the particular circumstances to support a price reasonableness determination, establish a negotiation position or various other reasons, the LCO is required to use the approved appraisal service Performance Work Statement (PWS) available at [Office of Real Property – Appraisal and Reviews](#).

Questions related to appraisal services and PWS reviews prior to solicitation should be directed to the [Chief Appraiser](#).

a. Negotiation Objectives

Reserved.

b. Conducting Negotiations

Reserved.

Part 13: Final Certification of Funds

VA leasing professional must receive a certified funding document prior to execution of the lease amendment. Certification of funds is completed and signed by an authorized official in accordance with VA financial policies and procedures.

Part 14: Posting of Redacted Justifications on SAM.gov

Reserved.

Part 15: Space Acceptance and Rent Commencement

Documentation of the acceptance decision shall be recorded on the Final Inspection Report at [Office of Construction and Facilities Management \(CFM\), Office of Real Property \(ORP\) SharePoint](#), under the Templates Tab. The form is optional for field leasing professionals if they have a locally produced version meeting the necessary acceptance criteria or use a form from the [G-REX Template Manager](#).

a. Space Acceptance and Rent Commencement Process

The procuring contracting activity is responsible for documentation of space acceptance, the lease commencement amendment, and related activities.

b. Imminent Lease Expiration

Reserved.

Part 16: Final Tips

Reserved.

Attachment 1: Sample Justification for Other Than Full and Open Competition, Succeeding Lease

Reserved.

Attachment 2: Prospectus Level Justification for Other Than Full and Open Competition Office of Leasing Review/Submittal Guidance

All VA Prospectus Level leases are executed in CFM ORP. Please see current HCA Review and Approval Process Policy, available at [Office of Real Property - Office of Construction & Facilities Management \(va.gov\)](#).

Attachment 3: Sample Redactions in Justification

Reserved.