

**U.S. DEPARTMENT OF VETERANS AFFAIRS (VA) SUPPLEMENT
TO
GENERAL SERVICES ADMINISTRATION (GSA) LEASING DESK GUIDE**

I. OVERVIEW

VA's Office of Construction and Facilities Management's (CFM) Office of Real Property (ORP) is the dedicated office within VA responsible for issuing policies and procedures for VA's leasing program Department-wide. VA leasing professionals are required to follow policies and procedures in GSA Public Building Service's (PBS) Leasing Desk Guide (LDG), as supplemented by this document. Additionally, VA leasing professionals are required to comply with CFM ORP issued policies, VA Directives, GSA's Acquisition Manual (GSAM), and Federal Acquisition Regulation (FAR) as applicable to real property leases.

Further, GSA Acquisition Letters, Class Deviations, PBS Lease Acquisition Circulars (LAC), PBS Realty Service Letters (RSL) and PBS Leasing Alerts (LA) applicable to delegated agency leasing activities apply to VA leasing activities, unless CFM ORP issues further clarifying guidance or VA-specific implementation instructions.

In the event policy or other guidance issued by any other VA organization pertaining to real property lease acquisitions conflicts with policy or guidance issued by CFM ORP, CFM ORP policy/guidance shall control.

Specific questions regarding leasing policy or procedure should be referred to [CFM ORP, Policy and Programs Division](#).

INTRODUCTION: GENERAL INFORMATION, LEASE AUTHORITIES, AND RESPONSIBILITIES

Introduction

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Part 1: About This Desk Guide

a. Purpose and Scope

VA's Supplement to GSA's LDG ("VA Supplement") contains VA-specific supplemental authorities, policies, technical and procedural guides, and administrative limitations governing the acquisition by lease of real property by VA leasing professionals. VA's Supplement provides official policy guidance for VA leasing professionals to follow in addition to GSA's LDG.

This supplement does not provide policy or guidance for VA's Enhanced-Use Leasing (EUL) authority. Please refer to [VA's Financial Policy, Volume V, Chapter 12](#), [VA Directive 7415 Enhanced-Use Lease Program Policies](#) or [VA Handbook 7415 Enhanced-Use Leasing Program](#) for more information regarding EULs.

b. Applicability

The requirements in VA's Supplement apply to all VA personnel engaged in the acquisition and administration of VA lease contracts.

c. Content Control and Revisions

VA's Supplement is issued and maintained by CFM ORP, Policy and Programs Division. The version available online is the most recent and authoritative.

Revisions to VA's Supplement will be issued through any of the following:

- Office of Construction & Facilities Management (OCFM) ORP Real Property Policy Memorandums (RPPM)
- OCFM ORP VA-Wide Leasing Policy Alerts

For further information, or if you have questions or suggestions, please contact [CFM ORP, Policy and Programs Division](#).

d. Special Situations

In unusual and special situations not already covered specifically by existing policy or procedures, please contact [CFM ORP, Policy and Programs Division](#).

e. Using This Desk Guide

The VA Supplement provides official guidance on real property lease policy and procedures in addition to [GSA's LDG](#) and existing VA and GSA real property policy and procedures.

User Aids

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

Appendix A defines key terminology, including VA specific terms.

Appendix C contains a link to VA specific alternative templates and forms.

Individual sections or chapters identified as “Not Applicable to VA” do not apply for the reasons stated in the section or chapter. Unless otherwise noted, other sections within the same chapter apply to VA’s leasing program.

Hyperlinks in this document link directly to online policy, authoritative guidance, and informational sites specific to VA.

Roles Referenced in This Document

Throughout this VA Supplement, the terms lease, leasing, lease contract, real property lease, leasing program are used interchangeably with the same meaning and intent. Lease Contracting Officer (LCO) and Contracting Officer (CO) are also used interchangeably with the same meaning and intent.

Where referenced in GSA’s LDG, GSA and PBS offices generally mean VA for the purposes of this VA Supplement. References to GSA’s Regional Commissioner mean VA’s Head of Contracting Activity (HCA) for VA’s Real Property Lease Program (“Leasing HCA”).

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 OAs between VA and GSA.

When client agency is used in GSA’s LDG, the general meaning for VA is the requiring or requesting organization.

VA leasing does not designate Lease Administration Managers (LAMs); however, the LAM functions described in the GSA LDG are generally undertaken by the assigned LCO, a VA Contracting Officer’s Representative (COR) or an Administrative Contracting Officer (ACO). VA’s CORs do not have warrant authority to alter terms or conditions of the lease.

Microsoft Word Settings

Reserved.

f. Systems and Tools

- eCMS – electronic Contract Management System (eCMS) is VA’s “Official Contract of Record” in paperless form, electronically accessible to support continuity of operations in the event of an emergency. Use of eCMS is mandatory when soliciting for, awarding, or administering contracts, including lease contracts.
- G-REX – GSA Real Estate Exchange (G-REX) is GSA’s approved delegation system of record. VA leasing professionals use G-REX to create, submit and track delegation requests. VA leasing professionals must also upload specific post-award files to G-REX within 30 days of lease award.
- ELMT – Enterprise Lease Management Tool (ELMT) is a SharePoint based application managed by Office of Management’s Capital Asset Management Service (CAMS) within VA’s Office of Asset Enterprise Management (OAEM). VA leasing professionals submit draft GSA delegation information and lease tracking data into ELMT for CAMS review and clearance prior to submission to GSA in G-REX. ELMT also serves as a dynamic reporting tool that helps to track lease milestones and lease processing timelines. For questions regarding ELMT please contact [OAEM Capital Asset Management Services \(CAMS\)](#).
- SCIP – The Strategic Capital Investment Planning (SCIP) process is a Department-wide annual process that integrates planning for major construction, minor construction, non-recurring maintenance (NRM) and leasing programs. The SCIP process results in two primary annual planning products: a comprehensive long-range action plan, consisting of specific capital investments necessary to address infrastructure performance gaps in safety, security, access, condition, utilization and space to improve the quality, access and cost-efficiency of the delivery of VA benefits and services over a 10-year period; and a prioritized list of projects used to create the fiscal year’s capital budget. The SCIP Automation Tool is used to facilitate the process. . For questions regarding SCIP, please contact OAEM [Capital Asset Policy, Planning and Strategy Service \(CAPPSS\)](#) or visit the [SCIP Website](#).
- FPDS – Federal Procurement Data System (FPDS). FAR 4.606(a)(1) identifies which contracting actions agencies must report to FPDS. Agencies may submit actions other than those listed in FAR 4.606(a)(1) only if they are able to be segregated from FAR-based actions and are approved in writing by the FPDS Program Office. No such approval exists for real property leasing actions, nor will approval be pursued. As a result, VA LCOs should not report real property leasing actions in FPDS.
- CAI – Capital Asset Inventory (CAI) is the authoritative database of record for

VA's real property portfolio, including all the Department's owned and leased assets. The CAI database also houses the Facility Condition Assessment (FCA) data, agreement information, and historical asset information for the portfolio. CAI data is used in many ways, including reporting and analysis for the Federal Real Property Council (FRPC), GSA, the Office of Management and Budget (OMB), the Government Accountability Office (GAO), and Congress, as well as for internal initiatives such as the SCIP process. The system is the most current, accurate and reliable real property data tool used to capture VA's asset portfolio. OAEM, CAMS manages the CAI database. Each administration and VA Central Office are responsible for maintaining the data of their real property assets within CAI. For questions regarding CAI please contact [OAEM CAMS](#).

- IFCAP – Integrated Funds Distribution Control Point Activity Accounting & Procurement (IFCAP) is the “front end” accounting system for the VA. IFCAP automates the creation, approval, forwarding, monitoring, and payment of requests for VA transactions. This is an application within the Veterans Health Information Systems & Technology Architecture (Vista).
- FMS – Financial Management System (FMS) is VA's legacy core accounting system.
- iFAMS – VA Integrated Financial and Acquisition Management System (iFAMS) is a modern Momentum-based Enterprise Resource Planning (ERP) solution configured for VA which provides increased operational efficiency, productivity, agility, and flexibility. The new solution also provides additional security, storage, and scalability. Upon full implementation, iFAMS will replace FMS, IFCAP and eCMS.

Part 2: Basis for Leasing Authority

a. Statutory Authority

VA maintains statutory authority through [38 U.S.C. § 8103](#) to lease all types of medical space, regardless of size. While VA has the authority to undertake leasing, VA does not have the authority to obligate lease funding on an annual basis, which would allow for multi-year lease contracts, nor does VA have a fund to cover potential termination costs. Both aspects are necessary for VA to undertake an effective leasing program. Therefore, VA must obtain project-specific delegations of authority from GSA or validation of appropriate use from OAEM to utilize GSA's standing categorical delegation of authority to execute lease acquisitions with lease terms not to exceed 20 years per [40 U.S.C § 585](#). The delegation allows VA to enter into multi-year lease contracts with obligations recorded on an annual basis and extends the protection of GSA's Federal Buildings Fund.

For more detailed information on VA specific statutory authorities, please see the Addendum at the end of this chapter.

b. LCOs Exclusive Authority

[VA's Lease Certification Program \(VALCP\)](#) is managed by CFM ORP and consists of two components: leasing certifications and leasing warrants. Only an individual appointed as an LCO under the provisions of current VALCP policy, acting within the scope of delegated real property leasing authority, may enter into, amend, administer, and/or terminate a lease on behalf of the assigned procurement office.

c. Land Leases

VA must obtain delegations of authority from GSA for land leases when the land is considered improved. Unimproved land leases may be leased only on a fiscal year basis (one-year funds). For assistance or questions related to land leases, please contact [CFM ORP, Policy and Programs Division](#).

d. Parking Leases

VA LCOs may acquire parking using a real property lease. **VA still needs to secure lease delegations from GSA for parking leases.**

For more information on Parking Leases, please refer to Appendix H.

e. Other Delegations of Authority

Delegation of Lease Administration Authority to VA Employees

VA LCOs may designate CORs or ACOs to perform lease management and administration with a letter of delegation outlining limitations. VA's CORs do not have authority to alter terms or conditions of the lease.

Delegation to Federal Agencies

The Federal Property and Administrative Services Act of 1949 ([40 U.S.C. §§ 101 et seq.](#)), as amended, authorizes the Administrator of GSA to acquire leasehold interests in real property for use by Federal agencies. The authority is limited to leases for buildings and improvements that bind the Government for periods not exceeding 20 years. ([48 CFR § 570.103\(a\)](#)).

Under [41 CFR § 102-72.10](#), the Administrator of GSA may delegate leasing authority to heads of Federal agencies.

The authority to lease granted by the delegations may only be exercised by a

warranted LCO who has met the experience and training requirements as specified in section 501.603 of the GSAM (as may be further revised by GSA Acquisition Letter). VALCP policies address VA specific LCO requirements and may be found at [Office of Real Property - Office of Construction & Facilities Management \(va.gov\)](#).

Agencies using GSA leasing delegations are responsible for compliance with all laws, executive orders, regulations, and OMB Circulars governing Federal space acquisition activities and warranted LCOs, as well as any specific conditions or requirements set forth in individual delegation letters. VA's Office of Management has responsibility for managing the GSA delegation process for VA.

Refer to the Addendum and Chapter 24 for additional information related to delegation requirements.

f. Legislative and Executive Impacts on the Leasing Program

Refer to the Addendum at the end of this section for additional information.

g. Procedural Limitations on Leasing Authority

Verification of Acquisition Action

VA leasing professionals must ensure executed lease actions align with the delegated lease action type and location and do not exceed the lease term, square footage, and rent (if applicable) parameters outlined in the approved GSA Delegation.

Prospectus/Major Lease Approval

The term "major lease" means the net average annual rent for the term of the lease (including option periods and excluding the cost of services) is equal to or greater than the prospectus threshold amount for the fiscal year in which award is to be made, requiring the prior submission and approval of a prospectus. The prospectus threshold for VA is the "major medical facility lease" threshold as defined in [38 U.S.C. § 8104\(a\)\(3\)\(B\)\(i\)](#)¹, excluding the cost of services. All costs that are amortized, including initial build-out/tenant improvements (TI or TIs), are to be included in the net average annual rent computation.

Contemplated leases calling for a stepped rent or a change in the base rent, must be "levelized" in accordance with Chapter 11 of GSA's LDG to determine whether a lease is above or below this threshold. A simplified spreadsheet for levelizing rent is available in [GREX Template Management System](#) for delegated

¹ [Pub. L 117-168 § 703\(b\)](#) amended VA's threshold to an average annual rent equal to or greater than GSA's threshold under [40 U.S.C. § 3307\(a\)](#), which is subject to adjustment in accordance with [40 U.S.C. § 3307\(h\)](#). GSA's annual prospectus threshold for FY2024 is \$3.613M.

agencies.

VA medical facility leases that exceed the prospectus threshold require submission of two prospectuses, one for VA's Committees and one for GSA's Committees, and are subject to approval via adopted resolutions from the Committee on Veterans' Affairs of the Senate, the Committee on Veterans' Affairs of the House of Representatives, U.S. Senate Committee on Environment and Public Works and the U.S. House Committee on Transportation and Infrastructure. Receipt of adopted resolutions from VA's and GSA's Committees are prerequisites for lease award.

VA will include SCIP approved prospectuses in VA's annual Budget Request and GSA's annual submission cycle for VA and GSA Committees to provide Resolutions. This process along with delegation from GSA can add up to a year to the lease execution timeline. CFM ORP, Veterans Health Administration (VHA), and OAEM are responsible for developing VA/GSA lease prospectus documents to support VA's annual budget request.

Facilities that anticipate needing a lease that meets or exceeds VA's prospectus lease threshold should contact CFM's Office of Facilities Planning, CFMPlanning@va.gov, as soon as identified per the annual SCIP Call memo to help develop the lease requirements and begin the required planning process.

Upon SCIP approval, facilities should submit requirements per current OCFM RPPM Submitting a Request for Land and Leasing Actions to Office of Real Property, available at [Office of Real Property – Office of Construction & Facilities Management \(va.gov\)](#).

Note: Facilities that anticipate needing a medical facility lease below VA's prospectus lease threshold but exceeding \$1 million in annual unserved rent should contact CFM's Office of Real Property per current OCFM RPPM Submitting a Request for Land and Leasing Actions to Office of Real Property.

Refer to Chapter 11 for additional information on Prospectus-Level Leases.

Part 3: Basic Policies

Reserved.

a. [Federal Management Regulation](#)

Refer to the Addendum at the end of this section for additional information on the regulations and manuals and applicability to VA's leasing program.

b. [GSA Acquisition Manual](#)

Reserved.

c. Negotiated Procurement

Reserved.

Part 4: PBS Milestones

eCMS milestone plan templates or locally produced templates should be used for tracking the lease project throughout major milestones.

Part 5: Electronic Offer Submissions

Reserved.

Part 6: General Roles and Responsibilities

Reserved.

a. Organizational Roles

The responsibility for managing VA's Leasing Program is vested in CFM's ORP. The Associate Executive Director (AED), ORP is the HCA for VA's Real Property Lease Program ("Leasing HCA") and is responsible for promulgation of facility leasing policy for VA. Actions requiring HCA approval must be submitted to ORP for Leasing HCA approval prior to execution in accordance with the current HCA Review and Approval Process outlined in current HCA Review and Approval Process Policy, available at [Office of Real Property – Office of Construction & Facilities Management \(va.gov\)](https://www.va.gov/office-of-real-property-office-of-construction-facilities-management/).

In addition to its program policy and management responsibilities, CFM ORP advises on specific lease transactions when requested by VHA, Veterans Benefits Administration (VBA) or National Cemetery Administration (NCA) regional contracting offices or as otherwise required. CFM ORP also is responsible for lease procurements for all major leases and prospectus-level leases as detailed in Chapter 11.

Responsibilities of VA's CFM Office of Real Property, Policy, and Programs Division

CFM ORP, Policy and Programs Division (PnP) includes functions considered critical, overarching real property program needs ancillary to project execution and delivery. This division consists of the following program areas:

Real Property Appraisal Program: Manages VA's Appraisal Program including providing appraisal reviews for leasing and land appraisals; providing insights to

Statements of Work (SoW) for appraisals; providing training on appraisal-related initiatives; and developing appraisal policy.

Real Property Lease Program: Manages VA's Leasing Program, including the VA Leasing HCA submission and review process; conducts internal reviews for VA's delegated leases; provides leasing oversight, provides subject matter expertise and guidance; and develops training to ensure VA's Leasing Program is compliant with VA and GSA policies and regulations.

Real Property Policy Program: Manages and provides policy and guidance for VA's real property activities, including land acquisition, land management, lease acquisition and management, per regulations, laws, GSA LDG, and GSA's Acquisition Regulation/Manual.

VA Lease Certification Program: Manages and administers VA's Lease Certification Program (VALCP) and LCO warrant program, including managing VA's LCO Warrant Board. Provides guidance and oversight for all leasing certification and warrant activities, including establishing the requisite minimum level of training and experience consistent with GSA's LCP.

Special Projects: Manages the Communities Helping Invest through Property and Improvements Needed (CHIP-IN) program, capital investment analyses and budget request documents for SCIP approved Major Construction and Major Leases.

Responsibilities of VA's CFM Office of Real Property, Lease Execution (LE) Division

CFM ORP, LE Division LCOs procure all prospectus level leases and medical space leases in excess of \$1,000,000 in annual unserviced rent (net average annual rent for the term of the lease, including option periods and excluding the cost of services).

VA LCOs at CFM ORP may procure leases for non-medical space of up to 19,999 ANSI/BOMA Occupant Area (ABOA) Square Feet when requested and approved.

Responsibilities of VA's Office of Asset Enterprise Management (OAEM)

OAEM is a directorate within VA's Office of Management. OAEM is responsible for VA's agency responses to OMB M-20-03. The Capital Asset Policy, Planning, and Strategy Service (CAPPSS) is a service within OAEM. OAEM CAPPSS manages and executes the SCIP process per VA Directive 0011 and Handbook 0011. OAEM CAPPSS develops VA's capital plan submission that is included in VA's annual budget submission.

OAEM Capital Asset Management Service (CAMS) is a service within VA's OM. OM has responsibility for budgetary treatment of leases under [OMB Circular A-11](#) and policy related thereto, including obtaining GSA's delegation for VA leases as further outlined below and Chapter 24.

OAEM CAMS manages delegation request packages through the VA's ELMT System. Upon OAEM ELMT approval, the delegation request package is submitted through GSA's approved delegation system of record, currently G-REX.

OAEM CAMS is also responsible for the compiling of the underlying Lease Data Reporting and Federal Real Property Profile (FRPP), for VA. VHA, NCA, VBA, and staff offices are responsible for gathering relevant data and ensuring its accuracy. OAEM additionally submits the Certification of Organizational Compliance Checklist for VA, in support of the Annual Agency Certification.

In addition to its delegation and reporting responsibilities OAEM provides training and current approved templates for VA's lease scoring analysis, available at [Enterprise Lease Management Tool – CO Resources - All Documents \(sharepoint.com\)](#).

The Executive Director, OAEM is designated as VA's Senior Real Property Officer (SRPO) for the purposes of FRPC. This position is responsible for developing and implementing an agency asset management planning process as required by [Executive Order 13327](#) and OMB M-18-21, which can be viewed at [M-18-21 \(whitehouse.gov\)](#).

Responsibilities of the Regional Offices

VHA

VHA regional contracting offices procure all medical lease contracts of \$1,000,000 or less in annual unserviced rent (net average annual rent for the term of the lease, including option periods and excluding the cost of services) for their respective administration, unless CFM ORP procurement support is requested and approved.

During FY2022, CFM ORP and VHA agreed to change lease administration responsibility to the lease procurement office for their respective agencies. Currently, CFM ORP and VHA are responsible for lease contract administration for delegated leases they procure upon lease commencement. As the implementation plan for lease administration is ongoing as of the date of this Supplement, any changes to roles, responsibilities and stated timelines will be communicated as they occur.

VHA regional contracting offices may procure leases for non-medical space of up

to 19,999 ANSI/BOMA ABOA Square Feet.

VBA and NCA

VBA and NCA regional contracting offices may procure leases for non-medical space of up to 19,999 ABOA Square Feet.

Administrative responsibility for CFM ORP procured leases transitions to the local or regional contracting office for the respective administration upon lease commencement and continues throughout the entire lease term.

VHA, VBA and NCA

Regardless of administration office, VHA, VBA and NCA will continue to be responsible for day-to-day lease management support (i.e., oversee and monitor lessor compliance with the lease terms and conditions), minor lease alterations, and ensuring sufficient funding and proper obligation of funds is recorded throughout the life of the lease.

Regardless of office of execution, appropriate SCIP approval, GSA delegation and funds certification are required.

For additional information, refer to VA Directive 7815 and related real property policies located at [Office of Real Property - Office of Construction & Facilities Management \(va.gov\)](#).

b. Realty Professionals

Leasing Specialists

Leasing Specialists in VA may be classified as either a GS-1170/Realty Specialist or GS-1102/Contract Specialist.

Lease Contracting Officers

LCOs in VA may be classified as either a GS-1170/Realty Specialist or GS-1102/Contract Specialist. Additionally, CFM ORP Senior Resident Engineers (SRE's) in the GS-0800 series oversee the buildout process of major leases and have limited warrant authority.

Lease Administrator/COR

VA Lease Administrators/CORs do not have warrant authority.

c. Other VA Participants

Reserved.

Brokers

VA's National Broker Indefinite Delivery Indefinite Quantity (IDIQ) Contract is a contract vehicle that can be leveraged to help VA execute Major, Mid-Level and Minor leasing actions across the Department. Refer to [National Broker IDIQ – Home \(sharepoint.com\)](#) for additional information and submission requirements.

Engineers and Architects

Local facility project and engineering departments provide facility expertise and support to both regional contracting offices and CFM ORP's Lease Delivery Division (LD) by providing facility expertise and support, including but not limited to developing requirements, attending market surveys, reviewing costs, designs, buildout, and construction inspections.

CFM ORP SRE's provide expertise and support with Mid-Level and Major leases, including but not limited to the above.

Space Planners

Reserved.

Portfolio Staff

Reserved.

Facilities Management and Service Program (Environmental)

Local environmental staff support regional contracting offices. CFM's Office of Facilities Planning supports CFM ORP.

Budget and Financial Management

Locally assigned LCOs or leasing specialists record and enter all lease obligations into the appropriate accounting system, including lump-sum and annual rental payments. An LCO warrant is not required to record lease obligations in the accounting system.

Part 7: Digital Signatures on VA Lease Documents

As VA's real property leasing program operates under GSA's delegated leasing authority, VA sought and received authorization from GSA to digitally execute lease contracts and amendments as required per GSA's Office of Leasing Policy.

VA LCOs choosing to utilize digital signatures may only use VA-issued Personal Identity Verification (PIV) card-based Public Key Infrastructure (PKI) digital certificates to electronically sign lease contract documents and amendments. Initials may be entered digitally, as applicable.

VA LCOs may accept digital signatures on lease documentation from authorized individuals with authority to legally bind the business in accordance with the proof of signatory authority outlined in the lease. Acceptance of digital signatures may only be made after validation through the use of Adobe Acrobat digital signature validation procedures, available at: https://helpx.adobe.com/acrobat/using/validating-digital-signatures.html#validate_a_digital_signature. If signature validation is unsuccessful, the LCO should reject the digitally signed document and instruct the authorized signer to provide a manual, or wet, signature.

VA LCOs are required to comply with all applicable federal laws and regulations regardless of whether digital or manual signatures are utilized.

Addendum: Laws, Statutes, Executive Orders, and Regulations Governing VA Lease Acquisitions

VA's Real Property Leasing Program is guided by a number of Federal statutes, executive orders, agency regulations, directives, and policies. Decisions by the Civilian Board of Contract Appeals, the Department of Justice, the Comptroller General, and other Federal agencies and courts also provide guidance. This addendum outlines the primary laws, regulations, and executive orders that define the statutory environment in which VA's real property leasing program is implemented.

To the extent the following laws, regulations, and executive orders apply to a particular lease procurement, the leasing professional should complete a checklist prior to lease award to be saved to the contract file to memorialize compliance. More detail on the lease award process can be found in the "Lease Award" Chapter in this Manual.

A. Federal Statutes

Note: VA specific statutes and Federal Management Regulation (FMR) requirements are listed first, with the remaining in alphabetical order.

1. 38 U.S.C. § 8101.

This section provides the definitions for "Construct" and "Alter", as well as "Medical Facility" as they apply to VA's authority to procure and dispose of medical space, for which VA has the authority to conduct its own lease actions.

The terms "Construct" and "Alter", with respect to a medical facility, include such engineering, architectural, legal, fiscal, and economic investigations and studies

and such surveys, designs, plans, construction documents, specifications, procedures, and other similar actions as are necessary for the construction or alteration, as the case may be, of such medical facility and as are carried out after the completion of the advanced planning (including the development of project requirements and design development) for such facility.

“Medical Facility” means any facility or part thereof which is, or will be, under the jurisdiction of the Secretary of VA for the provision of health-care services (including hospital, nursing home, domiciliary care, or medical services), including any necessary building and auxiliary structure, garage, parking facility, mechanical equipment, trackage facilities leading thereto, abutting sidewalks, accommodations for attending personnel, and recreation facilities associated therewith.

2. 38 U.S.C. § 8103, as amended. (See also item 41)

This section grants the Secretary of VA the authority to lease as necessary for use as a medical facility.

In 2022, [Public Law 117-168 § 704](#) amended the statute to add subsection (h) which provides the authority to enter into non-competitive procurements with an academic affiliate or covered entity to acquire space for the purpose of providing health-care resources to Veterans. When using this authority, the following criteria must be met:

- The proposed lessor is an academic affiliate institution or organization as described in [38 U.S.C. § 7302\(d\)](#) or a covered entity;
 - Academic affiliate institutions include schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions; other institutions of higher learning; medical centers; academic health centers; hospitals; or such other public or nonprofit agencies, institutions, or organizations as the Secretary considers appropriate, including medical practice groups and other entities associated with such academic institution.
 - A covered entity is a unit or subdivision of a State, local, or municipal government, public or nonprofit agency, institution, or organization, or other institution or organization as the Secretary considers appropriate that owns property controlled by an academic affiliate to be leased under this subsection.
- The academic affiliate is either included in the Office of Academic Affiliations (OAA) current Graduate Medical Education listing at: [GME Signed Affiliation Agreement by Specific Facility \(va.gov\)](#) or OAA confirmed the entity is a VA academic affiliate eligible for the procurement;
- The health-care resource being provided under the proposed lease meets the criteria in [38 U.S.C. 8103\(h\)\(2\)\(C\)](#);
- The space included within the proposed lease meets the criteria in [38 U.S.C.](#)

- [8103\(h\)\(2\)\(D\)](#) and is owned or controlled by an academic affiliate;
- Entering into a non-competitive lease for space with an academic affiliate or covered entity for the purpose of providing health-care resources to Veterans is in the best interest of the VA.

VA leasing professionals are required to include a Justification for Other than Full and Open Competition (JOTFOC) in the file for lease procurements exceeding Simplified Lease Acquisition Threshold (SLAT), or a SLAT-level memo for SLAT leases. Approved templates can be found at [VA Real Property Policy Program - Office of Construction & Facilities Management](#) with macro-enabled versions available on the [Office of Construction and Facilities Management, Office of Real Property, Policy & Programs Service \(003C7A\) - Templates - All \(sharepoint.com\)](#) and [Enterprise Lease Management Tool - CO Resources - All Documents \(sharepoint.com\)](#) or requested directly from [CFM ORP, Policy and Programs Division](#).

3. 38 U.S.C. § 8104, as amended. (See also item 41)

This section requires the Secretary of VA (00) to submit to Congress a prospectus for any "new major medical facility lease" having an average annual unserviced rent meeting or exceeding the dollar threshold outlined in [38 U.S.C. § 8104](#). Such a lease is called a "prospectus-level lease".

Several amendments to VA's statutory authority were enacted by 2022's [Public Law 117-168 § 703](#), most notably raising VA's prospectus threshold to align with GSA's prospectus threshold, replacing Congressional authorization with Committee Resolutions for prospectus level leases, adding interim leasing and purchase options to prospectus level leases, excerpts from (a), (i) and (j) as follows:

(a)(3)(B) The term "major medical facility lease"-

(i) means a lease for space for use as a new medical facility approved through the General Services Administration under section 3307(a) of title 40 at an average annual rent equal to or greater than the appropriate dollar threshold described in such section, which shall be subject to annual adjustment in accordance with section 3307(h) of such title; and

(ii) does not include a lease for space for use as a shared Federal medical facility for which the Department's estimated share of the lease costs does not exceed such dollar threshold.

(i)(1) Notwithstanding subsection (a)(2)(B), the Secretary may carry out interim leasing actions as the Secretary considers necessary for the following leases:

(A) Major medical facility leases (as defined in subsection (a)(3)(B)) approved pursuant to this section and for which a prospectus for a replacement lease has been submitted to Congress pursuant to subsection (b)(2).

(B) Replacement leases that do not require approval under this section and for

which a prospectus has been submitted to Congress pursuant to subsection (b)(2)

(j) The Secretary may obligate and expend funds to exercise a purchase option Included in any major medical facility lease (as defined in subsection (a)(3)(B)).

Refer to Appendix A for updated definitions for Major Level, Mid-Level and Minor level leases created following the statutory changes to ensure clarity and consistency with lease execution offices and thresholds.

4. 38 U.S.C. § 8109.

This section authorizes the Secretary of VA to lease parking facilities for employees, visitors, and other individuals having business at VA medical facilities.

Refer to Appendix H for further information related to parking leases.

5. 38 U.S.C. § 8111B.

This section authorizes the Secretary of VA and Department of Defense to enter into agreements for planning, design, and construction, or the leasing, of facilities to be operated as shared medical facilities.²

Shared medical facility is defined as:

(1) a building or buildings, or a campus, intended to be used by both the Department of Veterans Affairs and the Department of Defense for the provision of health care services, whether under the jurisdiction of the Secretary of Veterans Affairs or the Secretary of Defense, and whether or not located on a military installation or on real property under the jurisdiction of the Secretary of Veterans Affairs; and

(2) includes any necessary building and auxiliary structure, garage, parking facility, mechanical equipment, abutting and covered sidewalks, and accommodations for attending personnel.

To use this authority, SCIP approval is required, and VA's share of the lease costs may not exceed the amount specified in [38 U.S.C. § 8104\(a\)\(3\)\(B\)\(i\)](#)³ (i.e., less than VA's prospectus threshold). Further, if VA acts as the lead agency for the lease procurement, GSA delegation is required, and VA's procurement must comply with VA's Rule of Two.

² [Pub. L 117-168 § 706](#) amended the statute to include leasing.

³ [Pub. L 117-168 § 703\(b\)](#) amended VA's threshold to an average annual rent equal to or greater than GSA's threshold under [40 U.S.C. § 3307\(a\)](#), which is subject to adjustment in accordance with [40 U.S.C. § 3307\(h\)](#). GSA's annual prospectus threshold for FY2024 is \$3.613M.

6. FMR Bulletin C-2

This established general conditions for all lease delegations from GSA. In addition, in accordance with [FMR Bulletin C-2](#), VA must submit a delegation request to GSA through the G-REX delegation management system that includes:

- Detailed narrative, including cost estimates, describing why the request is in the best interests of the Government and how the Agency's delegation is cost effective for the Government.
- Name of the warranted LCO and copies of warrants and certifications.
- Acquisition Plan for the procurement in accordance with General Services Administration Acquisition Regulation (GSAR) 507.1.
- Justification for the Delineated Area in accordance with applicable laws and executive orders.
- A Floodplain check in accordance with [Executive Order 11988](#).
- An organizational structure and staffing plan to support the delegation.
- A plan for meeting or exceeding GSA's performance measures for the cost of leased space relative to industry market rates.
- The total amount of space required, any special requirements, and parking requirements.
- Certification that the proposed space action is consistent with the OMB "Freeze the Footprint" policy.

Within 30 days after lease award, VA must submit the following into G-REX:

- The fully executed lease document and all attachments.
- The Request for Lease Proposal (RLP) and any modifications issued during the procurement.
- The RLP ad posted on SAM.gov or in a local publication.
- If a sole source contract over the SLAT as defined in [GSAM 570.102](#), a JOTFOC in accordance with [section 6.303](#) of the FAR;
- If a sole source contract under the SLAT as defined in [GSAM 570.102](#), lease file documentation explaining the lack of competition may be submitted in lieu of a JOTFOC in accordance with GSAM section [570.203-2](#).
- The market survey data identifying properties considered in connection with the space need, including historic buildings considered in accordance with [Executive Order 13006](#), as amended by [Executive Order 13946](#).
- Documentation of compliance with the National Environmental Policy Act of 1969 (NEPA), as amended in accordance with [40 CFR §1508.9](#).
- Documentation that vending facilities will be assessed in accordance with the Randolph-Sheppard Act; VHA's Office of Capital Asset Management does the assessment and notification to State Licensing Agents, if applicable.
- The final scoring evaluation in accordance with [OMB Circular A-11](#) (2012).
- The Price Negotiation Memorandum, prepared in accordance with GSAM

section.

- [570.307](#) and section [15.406-3](#) of the FAR.
- Documentation that the building is in compliance with all applicable fire and life safety requirements (GSA Form 12000 or a Certificate of Occupancy).
- Documentation that the building is in compliance with the seismic requirements of the RLP (seismic certification and representation or exemptions).
- Documentation of compliance with the floodplain management requirements of [Executive Order 11988](#).
- Copy of the Post-Award Synopsis posted in [SAM.gov](#).
- The small business subcontracting plan, if required, in accordance with section [19.702](#) of the FAR.
- Documentation that the Excluded Parties List (also known as the Debarred Bidders List) was checked via [SAM.gov](#).
- The pre-occupancy final inspection report verifying measurement of the demised space as shown on a computer-aided design floorplan, correction of deficiencies and punch-list items.
- A Certified Funding Document signed prior to lease award by a budget official with the requesting agency.
- Documentation that the negotiated rental rate is within the prevailing market rental rate for the class of building leased in the delegated action. If the negotiated rental rate exceeds the market range, provide information as to why the market rate was exceeded.

7. Anti-Kickback Act of 1986 (41 U.S.C. §§ 8701-8704).

This Act prohibits a contractor from soliciting or receiving kickbacks from subcontractors in return for subcontract awards. The requirements of this Act are not applicable to contracts below the SLAT. See the summary for the Federal Acquisition Streamlining Act of 1994 (FASA) ([P.L. 103-355, October 13, 1994](#)) for a description of the SLAT. Language on this Act appears in the GSA General Clauses in Form 3517B, so no additional action is necessary on the part of the leasing professional as long as this form is attached to the lease contract.

8. Anti-Lobbying (18 U.S.C. § 1913).

This statute prohibits the use of appropriated funds to lobby Congress. A certification to this effect is included in GSA Form 3518 Representations and Certifications. If this form is signed by the lessor and attached to the lease contract, then the lease is in compliance.

9. Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151-4157).

This Act requires that buildings financed with Federal funds are so designed and constructed as to be accessible to everyone. This law requires all construction, renovation, or leasing with Federal funds to meet minimum accessibility

standards as implemented through the Architectural Barriers Act Uniform Federal Accessibility Standard. This requirement is set forth in the GSA Lease Template (L100), so no additional action is necessary on the part of the leasing professional as long as this language has not been altered or removed from these templates.

10. Assignment of Claims Act of 1940 (31 U.S.C. §§ 3727).

This Act allows contractors to assign rights to payment, including rent, to established financing institutions. Language on this Act appears in the GSA General Clauses in Form 3517B, so no additional action is necessary on the part of the leasing professional as long as this form is attached to the lease contract.

11. Balanced Budget Act of 1997 (2 U.S.C. §§ 900 et seq.).

This Act implements budget sequestration. Leasing professionals should ensure they are working closely with the customer budget and finance offices to ensure funding for each project is within sequestration limitations.

12. Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.).

This Act requires each Federal agency conducting or supporting activities directly affecting a designated coastal zone to conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs. This Act is not referenced in GSA's LDG or contract documents. The leasing professional should determine whether the delineated area lies within a National Oceanic and Atmospheric Administration (NOAA) designated coastal zone and, if so, contact the State for further information.

13. Competition in Contracting Act of 1984 (CICA) (41 U.S.C. §§ 3101 et seq.).

This Act requires that procurements be achieved through full and open competition unless an exception can be justified. This Act must be followed when acquiring leasehold interests in real property. Exceptions must be justified in writing, prepared pursuant to [FAR 6.303](#), and signed in accordance with CFM ORP policy. VA's leasing process and policies automatically align with CICA. As long as the leasing professional has undertaken all required procurement steps and followed VA leasing policy, the requirements under CICA should be automatically satisfied.

14. Construction Wage Rate Requirements, formerly known as the Davis-Bacon Act (40 U.S.C. §§ 3141-3148).

This Act establishes wage determination and payment procedures for laborers

and mechanics on construction, alteration, or repair of a public building or public work when the cost of such action is anticipated to be \$2,000 or more.

It has been determined that VA leased space qualifies as a “public building or public work” within the scope of this Act. The Act is applicable to lease acquisitions when an offeror proposes to satisfy requirements through new construction or the complete rehabilitation or reconstruction of an existing building, and the Government will be the sole or predominant tenant of the facility such that any other use of the building will be functionally or quantitatively incidental to the Government’s use and occupancy. Further, this Act applies to any post-occupancy alternation, repair, or improvement anticipated to cost \$2,000 or more made within VA occupied space, regardless of the amount of space occupied. The leasing professional must obtain current rates for the project’s geographical area from the Department of Labor and must include them with the RLP. This Act is referenced in FAR 52.222 and specifically included in the lease templates and/or attachments, so no additional action is necessary on the part of the leasing professional as long as this language has not been altered or removed from these templates.

15. Contract Disputes Act of 1978 (41 U.S.C. §§ 7101-7108).

This Act requires disputes arising from Federal contracts to be adjudicated by established process and procedures. Language on this Act appears in the GSA General Clauses in Form 3517B, so no additional action is necessary on the part of the leasing professional as long as this form is attached to the lease contract.

16. Contract Work Hours and Safety Standards Act of 1962 (40 U.S.C. §§ 3701- 3708).

This Act imposes a 40-hour workweek and time-and-a-half overtime requirements on certain contracts. This Act is potentially applicable to lease acquisitions when an Offeror proposes to construct a building or completely reconstruct or rehabilitate an existing building for the predominant use of the Government. The Act does not apply to contracts below the SLAT. This Act is referenced in [FAR 52.222-4](#) and included in the GSA L100, so no additional action is necessary on the part of the leasing professional if this language has not been altered or removed from these templates.

17. Copeland Act of 1934 (18 U.S.C. § 874; 40 U.S.C. § 3145(a)).

This Act makes it unlawful for a contractor to force a kickback from any person employed in the construction or repair of a public building or public work. The Act also requires contractors and subcontractors to furnish compliance statements with respect to wages paid to employees. This Act is potentially applicable to lease acquisitions when an Offeror proposes to construct a building or completely reconstruct or rehabilitate an existing building for the predominant use of the

Government. This Act is referenced in [FAR 52.222-6](#) and included in the GSA L100, so no additional action is necessary on the part of the leasing professional if this language has not been altered or removed from these templates.

18. Covenant Against Contingent Fees (41 U.S.C. § 3901(a)).

This covenant requires that no individuals other than full-time bona fide employees or established bona fide agents maintained by the contractor have been retained to solicit or obtain a federal contract. This requirement is not applicable to contracts below the SLAT. Language on this Act appears in the GSA General Clauses in Form 3517B, so no additional action is necessary on the part of the leasing professional as long as this form is attached to the lease contract.

19. Debt Collection Improvement Act of 1996 (P.L. 104-134, April 26, 1996).

This Act requires payments be made by electronic funds transfer. As long as the leasing professional ensures that language requiring electronic funds transfer for payments made to the lessor is included in the lease contract, then the contract is compliant.

20. Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106).

This Act requires contractors to make certifications regarding actions taken to reduce the possibility of drug use at the site of the performance of work. The requirements of the Act do not apply to contracts below the SLAT. Language on this Act appears in the GSA General Clauses in Form 3517B, so no additional action is necessary on the part of the leasing professional as long as this form is attached to the lease contract.

21. Earthquake Hazards Reduction Act of 1977 (42 U.S.C. §§ 7701 -7706).

This Act requires adoption of standards for assessing the seismic safety of existing buildings, constructed for, or leased by the Government, which were designed and constructed without adequate seismic design and construction standards. Refer to Appendix G of VA's Supplement and GSA's LDG for additional information.

22. Energy Independence and Security Act of 2007 (EISA) (42 U.S.C. § 17091).

This Act reinforces the important energy reduction goals for all Federal agencies put forth in [Executive Order 13423](#). It requires that buildings leased by the Federal government are energy efficient and promote the use of renewable energy sources.

Section 438 requires Federal agencies to reduce storm water runoff from federal development and redevelopment projects to protect water resources. Storm water management must comply with Environmental Protection Agency (EPA) publication “Technical Guidance on Implementing Runoff Requirements for Federal Projects under Section 438 of the Energy Independence and Security Act (EISA).” EISA also requires reporting of Federal facility project-level energy data in accordance with Section 432. Refer to [VA Directive 0012](#), “VA Investments in Energy and Water Efficiency and Renewable Energy,” (July 6, 2015) for additional information. As long as the leasing professional complies with GSA’s sustainability requirements for leased buildings in preparation of the solicitation and procurement of the lease and utilizes the sustainability language in the GSA L100, then no additional action is necessary.

23. Energy Policy Act of 1992 (42 U.S.C. § 8253).

This Act requires Federal agencies to implement programs that reduce energy consumption in Federal facilities. This includes Federally leased space. As long as the leasing professional complies with GSA’s sustainability requirements for leased buildings in preparation of the solicitation and procurement of the lease and utilizes the sustainability language in the GSA L100, then no additional action is necessary.

24. Energy Policy Act of 2005 (P.L. 109-58, August 8, 2005).

This Act amended the Energy Policy Act of 1992, creating new energy performance standards for Federal buildings and requiring sustainable design principles to be applied to the design and construction of all new and replacement buildings. As long as the leasing professional complies with GSA’s sustainability requirements for leased buildings in preparation of the solicitation and procurement of the lease and utilizes the sustainability language in the GSA L100, then no additional action is necessary.

25. Examination of Records (41 U.S.C. § 4706).

This statute authorizes the head of an agency and the Comptroller General to inspect records of Federal contractors. This authority is not applicable to contracts below the SLAT. Language on this Act appears in the GSA General Clauses in Form 3517B, so no additional action is necessary on the part of the leasing professional as long as this form is attached to the lease contract.

26. Federal Acquisition Streamlining Act of 1994 (FASA) (P.L. 103-355, October 13, 1994).

This Act provides Federal Executive agencies with increased simplicity and greater flexibility in the procurement of supplies and services including leasehold interests in real property. This Act, as implemented in GSAR Change 65,

accomplishes the following:

- Eliminates the small purchase threshold of \$25,000 total contract value and establishes a simplified acquisition threshold (SAT) of \$100,000. For real property lease acquisitions, the SLAT is based on the SAT in [FAR 2.101](#), which as of March 2023 is \$250,000.
- Grants greater flexibility when using over 30 GSAR clauses and provisions.
- Raises the threshold for cost or pricing data.
- Redefines competition for leases that fall within SLAT.
- Grants COs flexibility with regard to promoting competition for leases within SLAT.
- Replaces the Expedited Procedures of August 26, 1991.

The use of FASA for VA lease acquisitions is discouraged due to its restrictions. Although FASA grants the authority to execute lease contracts for up to five (5) years without a project specific delegation from GSA, the total contract value of the lease, including costs for termination, must be obligated up-front from a single appropriation year. LCOs must work with the Office of General Counsel and OAEM CAMS to ensure the appropriate use of FASA and compliance with its provisions. Additionally, the LCO must document the file with a determination that supports the use of FASA in lieu of a GSA delegated authority (general purpose, categorical, or special purpose).

27. Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. §§ 101 et seq.).

This Act authorizes GSA to acquire, by purchase, condemnation, or otherwise, real estate and interests therein and to enter into leases of real property not exceeding 20 years' duration and to repair, alter and improve rented premises, to condemn interests in real estate, and to assign and reassign space in leased buildings to other Federal tenants. GSA delegates relevant aspects of this authority to VA leasing professionals on a project-by-project basis. As long as leasing professionals procure space within the conditions and limitations set forth in the GSA delegation, they will be in compliance with this Act.

28. Federal Urban Land Use Act (40 U.S.C. §§ 900 et seq.).

This Act provides for consultation with planning agencies and local elected officials to coordinate Federal projects, such as leases with development plans of the state, region, and local community. During the market research and market survey process, leasing professionals should contact and/or meet with local government officials to inform them of VA's planned project, particularly regarding the size, scope, and delineated area. By making this contact, leasing professionals are in compliance with this Act.

29. Federal Water Pollution Control Act of 1972 (Clean Water Act), as

amended. (33 U.S.C. §§ 1251-1263 and elsewhere).

This Act requires Federal agencies to develop a comprehensive program for the control of pollutants to water. Federal agencies must consider the environmental impact of their actions so as to avoid water pollution. As long as the leasing professional complies with NEPA requirements and undertakes the proper level of NEPA review, the lease contract will be in compliance with this Act.

30. Fire Administration Authorization Act of 1992 (15 U.S.C. §§ 2227).

This Act requires that an entire building be sprinklered or an equivalent level of life safety be provided when Federal funds are used to lease 35,000 square feet or more of space in a building (under one or more leases) **and** some portion of the leased space is on or above the 6th floor. It also requires that all hazardous areas be sprinklered in all Government leased space. The requirements in this Act are addressed in the GSA L100. Leasing professionals using the GSA L100 will be in compliance with the Act. For build-to-suit leases, the leasing professional should consult with the project team as to whether the proposed lease triggers the requirements under the Act, and if so, language from the GSA L100 should be incorporated as appropriate to achieve compliance.

31. Intergovernmental Cooperation Act 1968 (40 U.S.C. §§ 901-905).

Requires VA to consult with planning agencies and local elected officials and to coordinate Federal projects (usually large projects requiring congressional prospectus approval) with development plans and programs of the State, region, and locality where the project is to be located. During the market research and market survey process, leasing professionals should contact and/or meet with local government officials to inform them of VA's planned project, particularly regarding the size, scope, and delineated area. By making this contact, leasing professionals are in compliance with this Act.

32. Javits-Wagner-O'Day (JWOD) Act (41 U.S.C. §§ 8501-8506).

This Act requires that all federal agencies purchase specified supplies and services from nonprofit agencies employing persons who are blind or have other severe disabilities. The U.S. AbilityOne Commission is the operating name for the Committee for Purchase from People Who Are Blind or Severely Disabled. The AbilityOne Commission's Procurement List includes supplies and services the Committee has determined suitable for purchase by the Government under 41 U.S.C. Chapter 85, referred to as covered supplies and services.

To be a covered service for VA, the service must have been included on the Procurement List on or before December 22, 2006; or

- Is a replacement for such a service;

- Is essentially the same and meets the same requirement as the service being replaced; or
- The CO determines the services meets the quality standards and delivery schedule of VA.

NOTE: The size of the leased facility is not a factor in determining whether a service is a replacement for a covered service. The analysis applies to the covered service itself, not the location in which the covered service is to be provided. If the performance work statement/scope of work for janitorial services is essentially the same for a 10K RSF facility lease as what would be needed for a 35K RSF facility lease, then the janitorial services are considered a replacement service. The janitorial services would meet the same requirement in the larger leased space. If other conditions of performance are affected, the contracting activity is required to notify the nonprofit agency performing the services at least 90 days prior to the date the changed conditions, or changes in statement of work, are required. This notice is not for an exception or confirmation of applicability; rather it is to allow the nonprofit agency to make recommended changes and the contracting activity is required to work with the nonprofit to implement.

If services (e.g., janitorial or landscape services) to be included in a proposed real property lease are considered a covered service per above, leasing professionals must proceed with one of the following alternatives:

- Remove the services from the lease and require the services to be procured separately with the organization designated by AbilityOne;
- Require the proposed lessor to contract with the organization designated by AbilityOne consistent with [41 CFR § 51-5.2\(e\) Mandatory source requirement](#); or
- Seek guidance from CFM ORP and OGC RPLG on whether services can be removed from the lease and performed by VA staff.

An exception to the above alternatives is if a contract for a covered service was awarded to an eligible/certified SDVOSB or VOSB and was in effect as of August 7, 2020. The requirement would continue as an SDVOSB or VOSB, as applicable, and be procured separate from the lease.

For specific questions related to compliance with this Act, please contact [CFM ORP Policy and Programs Division](#).

33. Leasing Authority (40 U.S.C. § 585).

This statute authorizes the Administrator of General Services to enter into lease agreements to accommodate Federal agencies in buildings (or improvements) that are existing or will be constructed by the Lessor. The lease agreement may not bind the Government for more than 20 years. The Administrator may further

delegate this leasing authority. The Administrator has delegated leasing authority to GSA Regional Commissioners, who, as Heads of Contracting Activities, further delegate the authority by issuing warrants to LCOs.

The Administrator may also delegate leasing authority to the head of a federal agency or designee. Agency heads are required to exercise the delegated authority per all applicable laws, executive orders, regulations, OMB circulars and other GSA policy, as established in the GSA PBS Desk Guide and other policy documents. GSA delegates relevant aspects of this authority to VA leasing professionals on a project-by-project basis. As long as leasing professionals procure space within the conditions and limitations set forth in the GSA delegation, they will be in compliance with this Act.

34. The National Defense Authorization Act for Fiscal Year 2008, Section 844 (P.L. 110-181, January 28, 2008), relevant sections of which are codified at 41 U.S.C. § 253(j)(1)(A).

This Act requires the head of an Executive agency to make certain that justification and approval documents relating to the use of noncompetitive procedures in contracting are publicly available within 14 days of the contract award on the website of the agency and on a government-wide website. In the event a leasing professional awards a lease contract using a noncompetitive procedure, publishing the award notice using “original award notice” type in [SAM.gov](https://sam.gov) and including the redacted justification and approval document within the mandated timeframe should satisfy this notification requirement.

35. National Environmental Policy Act of 1969 (NEPA), as amended, (42 U.S.C. §§ 4321 et seq.).

This Act requires Federal agencies to consider the effects of all actions on the environment, to consider alternatives that reduce impacts, and to prepare detailed statements for public and Federal agency review where significant impacts may occur. Real estate actions, such as leasing, are among the actions that must be reviewed. Leasing professionals must take the necessary steps to undertake analysis of the proposed leasing action either by issuing a Categorical Exclusion (CATEX), conducting an Environmental Assessment (EA), and issuing a Finding of No Significant Impact (FONSI), or conducting an Environmental Impact Statement (EIS) and issuing a Record of Decision. A vast majority of VA leasing actions can be assessed through the CATEX process. Saving the CATEX or final EA and FONSI to the contract file evidence the leasing professional’s compliance with NEPA.

More VA specific guidance can be found at [CFM Environmental Program Office](#).

36. National Historic Preservation Act (NHPA) of 1966, as amended, (16 U.S.C. §§ 470-470w-6).

This Act requires Federal agencies to manage historic properties under their jurisdiction or control. Historic properties include buildings, structures, districts, sites, and objects included or eligible for inclusion in the National Register of Historic Places. It also requires Federal agencies to consider the effects of their actions, including real estate actions, on such properties regardless of ownership. To the extent the leasing professional conducts a Phase 1 Cultural Resource Study and engages in consultation with the State Historic Preservation Officer (SHPO), and takes any required actions to mitigate adverse impacts, the analysis required under NHPA is complete. This would be considered a mandatory step in a NEPA Environmental Assessment, which is standard for leases of 75,000 gross square feet (GSF) or more. For leases under 75,000 GSF, where a CATEX is contemplated, leasing professionals must, at minimum, perform preliminary research into whether the project is likely to impact historic properties. If so, leasing professionals must engage in an official “Section 106 Consultation” with the SHPO to ensure the analysis required under NHPA has been conducted.

37. Occupational Safety and Health Act of 1970 (OSHA) (29 U.S.C. §§ 651-678).

This Act requires VA to ensure that space leased and assigned to the agency provides safe and healthful working conditions, including building features such as lighting, guardrails, indoor air quality, fire-safety conditions, and emergency elevator requirements. GSA’s L100 contains language on OSHA. As long as OSHA requirements are not deleted or substantively edited, inclusion of this language should satisfy the requirements of the Act by requiring the Lessor’s performance.

38. Officials Not to Benefit (41 U.S.C. § 6306).

This section prohibits any member of Congress from receiving any benefit arising from a Federal contract. A certification to this effect is included in GSA Form 3518 Representations and Certifications. If this form is signed by the lessor and attached to the lease contract, then the lease is in compliance.

39. Prohibitions on Use of Appropriated Funds to Influence Federal Contracting (31 U.S.C. § 1352).

These prohibitions require certifications from contractors that funds have not and will not be paid to any person to influence the award of a federal contract. A certification to this effect is included in GSA Form 3518 Representations and Certifications. If this form is signed by the lessor and attached to the lease contract, then the lease is in compliance.

40. Prompt Payment Act (31 U.S.C. §§ 3901-3907).

This Act requires Federal payments to contractors to be made in an expeditious manner, provides penalties for late payment by the Government, and requires that the Government be entitled to discounts for early payment. As long as payments are made to the Lessor according to the timelines set forth in the Act in the acceptance process and lease administration as outlined in the lease, then the leasing professional has complied with the Act.

41. Prospectus Authority (GSA) (40 U.S.C. § 3307).

This Act requires Congressional approval of any proposed project to construct, alter or acquire any building which involves a total expenditure over the Prospectus Threshold established. The current GSA Annual Prospectus Threshold is available at the following website: [GSA Annual Prospectus Thresholds](#). In order for VA to receive a delegation of authority from GSA to pursue a VA lease that is over GSA's Prospectus Threshold, GSA must first obtain resolutions from its House and Senate committees.

42. Prospectus Authority (VA) (38 U.S.C. § 8103-8104).

This Act requires adopted resolutions from the Committee on Veteran's Affairs of the Senate and the Committee on Veteran's Affairs of the House of Representatives approving major medical facility leases, exceeding the dollar threshold as defined in [38 U.S.C. § 8104](#). VA leasing professionals may undertake planning activities like solicitation development and conceptual design once prospectuses are published in VA's budget request. Pre-solicitation notices can be posted once resolutions are transmitted by GSA to GSA's Committees. GSA delegation must be received prior to issuance of the RLP. In addition to the requirements of this Act, GSA committee resolution approval must be adopted prior to award. Additionally, only VA's CFM ORP undertakes prospectus-level lease procurements.

This Act also requires that VA provide notification to the Committees on Veterans' Affairs of the Senate and House of Representatives no less than thirty (30) days before obligation of funds for award of a prospectus-level medical facility lease. Notifications must include (A) notice of the Secretary's intention to enter into the lease; (B) a detailed summary of the proposed lease; (C) a description and analysis of any differences between the prospectus submitted and the proposed lease; and (D) a scoring analysis demonstrating that the proposed lease fully complies with Office of Management and Budget [Circular A-11](#). Should the terms of the lease change between the notification and lease award, VA has thirty (30) days after the lease award to notify the Congressional committees of those changes.

43. Public Buildings Act of 1959, as amended, (40 U.S.C. §§ 601-619).

This Act requires Congressional committee approval of leases with a certain annual rental, excluding services and utilities. Until FY22, this annual rental was considerably higher for GSA than VA, however [Public Law 117-168](#) increased VA's threshold defined in [38 U.S.C. § 8104](#), as amended, to equal GSA's. Both are now indexed to change every fiscal year. This Act also places limits on GSA's ability to lease space for computers or courtrooms and imposes certain rules for buildings constructed for lease to the United States, including the use of detailed construction specifications and the use of competitive procedures for lease and construction projects.

44. Public Buildings Cooperative Use Act of 1979 (40 U.S.C. §§ 490(a)(16)-(19) 601a and 612a).

This Act authorizes GSA to enter into leases of certain space in public buildings with persons, firms, or organizations engaged in commercial, cultural, education, or recreational activities or to make such space available on an occasional (temporary) basis (or by lease) to persons, firms, or organizations engaged in cultural, education, or recreational activities. This Act also encourages GSA to acquire and use buildings of historic, architectural, and cultural significance. Unless the requirement to comply with this act is enumerated in a delegation of authority from GSA, VA leasing professionals should endeavor to comply with the spirit of the Act as they engage in leasing projects and lease administration, especially with Veteran-focused or Veteran-owned/run organizations. GSA delegations do not typically enumerate this requirement.

45. Randolph-Sheppard Act, as amended (20 U.S.C. §§ 107 et seq.).

This Act requires that priority be given to licensed blind vendors to operate vending facilities on any Federal property, including leased buildings. The Act requires the Secretary of the Department of Education to promulgate regulations establishing a national program to place visually impaired vendors in vending operations within facilities owned by the Federal government, as described in the following paragraphs. The Secretary must also designate an agency in each state to license blind vendors to operate vending machines on Federal properties. These are referred to as state licensing agencies.

Under the Act, priority is given to such licensed blind vendors (including assignment of vending machine income pursuant to section 107d-3 of this title to achieve and protect such priority), and one or more vending facilities are to be established on all Federal properties to the extent that any such facility or facilities would not adversely affect the interests of the United States. Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified. A determination made by the Secretary pursuant to the provisions of the Randolph-Sheppard Act shall be

binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination, along with supporting documentation, in the Federal Register.

Provisions of the Randolph-Sheppard Act are applicable on leases of greater than 15,000 square feet wherein there will be more than 100 Federal employees during normal working hours. The Randolph-Sheppard Act does NOT apply under the following circumstances:

- When the Secretary and the state licensing agency determine that the number of people using the property is or will be insufficient to support a vending facility, or
- To any privately owned building, any part of which is leased by any department, agency, or instrumentality of the U.S. and in which, (i) prior to the execution of such lease, the Lessor or any of his tenants had in operation a restaurant or other food facility in a part of the building not included in such lease, and (ii) the operation of such a vending facility by a blind person would be in proximate and substantial direct competition with such restaurant or other food facility except that each such department, agency, and instrumentality shall make every effort to lease property in privately owned buildings capable of accommodating a vending facility.

VA should coordinate with state licensing agencies whenever VA plans to occupy, acquire, relocate, or substantially renovate or alter a building so that a satisfactory site for the location and operation of a vending facility can be made available for use by a blind vendor. For further information, refer to [VA Directive 7632](#), "Compliance with Randolph-Sheppard Act," located at VA's official [publication site](#).

46. Reorganization Plan No. 18 of 1950 (40 U.S.C. §§ 490 note).

This plan transferred all functions with respect to acquiring space in buildings by lease and all functions with respect to assigning and reassigning space in buildings to GSA. VA achieves compliance with this Act by means of us obtaining delegations of authority from GSA on a project-by-project basis.

47. Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 690).

This law established guidelines for the proper management of hazardous and non-hazardous solid waste materials. The GSA L100 includes sustainability requirements that the lessor must meet, which puts them in compliance with the Act. The leasing professional should be in compliance as long as this language is not deleted or substantively altered.

48. Rural Development Act of 1972 (7 U.S.C. § 2204b-1).

This Act requires Federal agencies to give first priority to rural areas in locating facilities. See also Executive Order 12072 regarding the location of Federal facilities in urban areas. The location of VA leased medical facilities is mission-based. VA complies with the Act and Executive Order 12702 by making a significant effort to improve access to VA services for Veterans living in rural areas. VA gives the highest priority in locating its new facilities to areas where Veterans requiring health care services are currently underserved. These determinations are made through demographic studies and VA's access guidelines (which establish maximum travel time and distance goals for Veterans to obtain healthcare). The leasing professional should include a memo to be saved to the lease contract file that contains this explanation, and the same explanation is required by GSA as part of the delegation request process. VA leasing professionals should utilize the standard template available in the [CO Resources of the ELMT site](#).

49. Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.).

This Act establishes standards for drinking water quality and regulates activities affecting drinking water supplies. The GSA L100 includes the requirement that the lessor comply with the Environmental Protection Agency's drinking water standards. As long as this language is not deleted or substantively altered, the leasing professional should be in compliance with the Act.

50. Small Business Act, as amended, (15 U.S.C. §§ 631 et seq.).

This Act requires a positive effort by Federal contractors to place subcontracts with small and small disadvantaged business concerns. The Act also requires publication of Federal procurement requirements, requires large businesses to submit small business subcontracting plans, and provides for liquidated damages for failure to meet subcontracting plan goals.

51. Telecommunications Act of 1996 (47 U.S.C. §§ 332 note).

This Act authorizes, to the extent that it does not interfere with Federal agency programs or missions or security issues, Federal agencies to make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services and authorizes agencies to charge reasonable fees for the use of such property, rights-of-way, or easements. This Act allows VA to provide its own telecommunications services and wiring in a leased facility, including the installation of antennas and other devices on the facility roof. GSA's L100 includes language that can be utilized for telecommunications. The VA LCO can adjust this language if VA desires to include its own telecommunications infrastructure.

52. Toxic Substance Control Act (15 U.S.C. §§ 2601 et seq.).

This Act regulates specific chemical substances, including polychlorinated biphenyls (PCBs) and asbestos, and requires labeling, notice, and/or remediation if there is a danger to public safety. The lessor is required to comply with the Act regardless of VA's involvement in the project, so no affirmative action is required on the leasing professional's part to ensure compliance.

53. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. §§ 4651-4655).

This Act requires the payment of relocation benefits to persons displaced as a result of Federal actions. This Act is potentially applicable to persons displaced as a result of VA's lease-construction projects on sites designated by the Government. The GSA L100 include requirements related to the Act, which puts them in compliance with the Act. The leasing professional should be in compliance as long as this language is not deleted or substantively altered.

54. Veterans First Contracting Program (38 U.S.C. §§ 8127-8128).

Under [38 U.S.C. § 8127\(d\)](#), VA must set aside procurements for competition among Veteran-owned small businesses (Service-Disabled Veteran-Owned Small Businesses (SDVOSBs) or Veteran-Owned Small Businesses (VOSBs)) when a contracting officer has a reasonable expectation, based on market research, that two or more firms listed as verified in SBA's [Veteran Small Business Certification \(sba.gov\)](#) database are likely to submit offers and an award can be made at a fair and reasonable price that offers best value to the United States. This is known as the "VA Rule of Two." The two exceptions referenced in the statute ([8127 subsections \(b\) and \(c\)](#)) allow VA to make sole source awards to Veteran-owned companies under certain circumstances. This requirement was reinforced through the June 16, 2016, decision of the U.S. Supreme Court in *Kingdomware Technologies, Inc. v. United States* (Kingdomware). VA Rule of Two is applicable when VA conducts the procurement per [38 U.S.C. § 8127\(d\)](#). For procurements conducted by other governmental entities on VA's behalf, [38 U.S.C. § 8127\(i\)](#) applies and limits the application of the rule to the acquisition of goods or services.

Leasing professionals are required to comply with the VA Rule of Two and the procedures outlined in Appendix I, "VA Rule of Two and Lease Business Size Review Requirements" to ensure appropriate Veteran engagement on real property lease procurements.

B. Executive Orders

1. Executive Order 11375 – Equal Employment Opportunity.

This executive order amended Executive Order 11246 and prohibited contractors from engaging in employment discrimination on the basis of race, color, religion, national origin, or sex. VA is committed to maintaining a diverse and inclusive environment and complies with applicable federal laws, regulations and policies regarding nondiscrimination when occupying space in GSA and non-GSA buildings.

Additionally, VA adheres to the August 18, 2016, bulletin issued by GSA through a Federal Register notice, FMR: Nondiscrimination Clarification in the Federal Workplace. That bulletin clarified that GSA's nondiscrimination requirement in the FMR includes gender identity as a prohibited basis of discrimination for any facility under the jurisdiction, custody, or control of GSA. Equal Opportunity language is included by reference in GSA Form 3517B. Therefore, leasing professionals are in compliance as long as this form is attached to the lease contract.

2. Executive Order 11738 – Implementation of the Clean Air Act and Federal Water Pollution Act.

This executive order requires that each Federal agency empowered to enter into contracts undertake such procurement in a manner that will result in effective enforcement of the Clean Air Act and the Federal Water Pollution Control Act. Requirements should be coordinated with the local Engineering Service. The GSA L100 includes environmental and sustainability requirements. As long as this language is not deleted or substantively altered, the leasing professional should be in compliance with this executive order.

3. Executive Order 11988 – Flood Plain Management.

This executive order requires that each agency provides leadership and takes action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating and licensing activities.

Agencies are further directed to avoid leasing space in buildings located within a 100-year flood plain or 500-year flood plain for “critical actions” unless there is no practical alternative. Examples of critical actions as defined in this executive order include, but are not limited to, irreplaceable records storage facilities, medical facilities, and childcare facilities. Leasing professionals should require that sites and existing buildings offered in lease procurements are not located in the 100-year flood plain or 500-year flood plain for “critical actions” unless there

is no practicable alternative. Where there is no practicable alternative to a site or building located within the applicable flood plain, the leasing professional is required to include additional file documentation to be compliant with this executive order. Documentation of compliance with this executive order is required as part of the GSA delegation request process.

4. Executive Order 11990 – Protection of Wetlands.

According to this executive order, all Federal agencies shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities. This executive order requires that the Government avoid leasing space in buildings located within wetland areas unless there is no practical alternative outside of the wetlands. Efforts to locate any practical alternatives should be documented in the lease file. Leasing professionals should coordinate with their working group's environmental engineers and/or Green Environmental Management Systems (GEMS) coordinators on this requirement.

5. Executive Order 12072 - Federal Space Management.

This executive order requires that Federal agencies implement a space management plan, and associated controls and monitoring to promote effective management of resources. This executive order requires that first consideration be given to locating Federal facilities in central business districts within urban areas. GSA procedure calls for giving due consideration to agency needs with respect to location (see Executive Order 13006 which furthers this policy). The location of VA leased medical facilities is mission-based. VA complies with this executive order by ensuring that Veterans in urban areas are provided with needed services. VA gives the highest priority in locating its new facilities to areas where Veterans requiring health care services are currently underserved. These determinations are made through demographic studies and VA's access guidelines (which establish maximum travel time and distance goals for Veterans to obtain healthcare). The leasing professional should fill out the Acquisition Plan Template accordingly and include a memo to be saved to the lease contract file that contains this explanation, the same explanation is required by GSA as part of the delegation request process. VA leasing professionals should utilize the standard template available in the [CO Resources of the ELMT site](#).

6. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction.

This executive order requires new buildings constructed for lease to the Government be designed and constructed in accordance with appropriate seismic design and construction standards. As long as the leasing professional complies with GSA's seismic requirements for leased buildings in preparation of the solicitation and procurement of the lease, then no additional action is necessary. Refer to Appendix G of VA's Supplement and [GSA's LDG](#) for additional information.

7. Executive Order 12902 - Energy Efficiency and Water Conservation at Federal Facilities.

This executive order requires that appropriate consideration be given to building efficiencies in the leasing process. GSA's L100 includes environmental and sustainability requirements. As long as this language is not deleted or substantively altered, the leasing professional should be in compliance with this executive order.

8. Executive Order 12941 – Seismic Safety of Existing Federally Owned or Leased Buildings.

This executive order adopts the standards of the Interagency Committee on Seismic Safety in Construction (ICSSC) as the minimum level acceptable for use by Federal departments and agencies and requires buildings leased to the Federal Government to meet those seismic safety standards. Refer to Appendix G of VA's Supplement and [GSA's LDG](#) for additional information.

9. Executive Order 12977 – Interagency Security Committee, as amended by Executive Order 13286 – Amendment of Executive Orders, and Other Actions, in Connection with the Transfer of Certain Functions to the Secretary of Homeland Security.

This executive order established the Interagency Security Committee to establish policies for security in and protection of Federal facilities. Both VA and GSA rely on ISC standards for aspects of physical security in leased facilities. VA specific requirements and guidance can be found in the [CFM OSP Interagency Security Committee Risk Evaluation Policy for All Delegated Leases](#). Templates can be found at [Office of Construction and Facilities Management \(CFM\), Office of Real Property \(ORP\) SharePoint](#), under the Templates Tab.

10. Executive Order 13006 – Locating Federal Facilities in Historic Properties in Our Nation's Central Cities.

Subject to the Rural Development Act and Executive Order 12072, this executive order encourages Federal agencies to locate Federal facilities on historic properties in our Nation's central cities, which furthers the intent of Executive Order 12072 for locating Federal facilities in Central Business Areas. [41 CFR §](#)

[102-83](#) provides guidance concerning the location of Federal facilities in urban areas. The location of VA leased medical facilities is mission-based. VA gives the highest priority in locating its new facilities in areas where Veterans requiring health care services are currently underserved. These determinations are made through demographic studies and VA's access guidelines (which establish maximum travel time and distance goals for Veterans to obtain healthcare). The leasing professional should include a memo to be saved to the lease contract file that contains this explanation, and the same explanation is required by GSA as part of the delegation request process. VA leasing professionals should utilize the standard template available in the [CO Resources of the ELMT site](#).

11. Executive Order 13327 – Federal Real Property Asset Management.

This executive order promotes the efficient and economical use of Federal Real Property resources and requires Federal agencies to establish performance measures regarding cost, value, and efficiency of all acquisitions, within the scope of an overall Agency Asset Management Plan. This executive order also required designation of a SRPO responsible for developing and implementing the Agency Asset Management Plan. VA's SRPO is the Executive Director, OAEM. No affirmative action is required on the part of the leasing professional.

12. Executive Order 13423 – Strengthening Federal, Environmental, Energy and Transportation Management.

This executive order promotes increased efficiency in energy use. It requires that new construction and major renovations of government buildings comply with the Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings and seeks to ensure that half of statutory required renewable energy consumption by the agency comes from renewable sources. (More detail is provided on this executive order in Appendix B: Executive Order 13423). [NOTE: This executive order Revokes Executive Orders 13101, 13123, 13134, 13148, 13149.] GSA's L100 includes environmental and sustainability requirements. As long as this language is not deleted or substantively altered, the leasing professional should be in compliance with this executive order.

13. Executive Order 13514 – Federal Leadership in Environmental, Energy, and Economic Performance.

This executive order requires that Federal agencies planning for new Federal facilities or new leases include consideration of sites that are pedestrian friendly, near existing employment centers, near center cities and population centers, and accessible to public transit. In addition, it requires agencies to implement high performance sustainable Federal building design, construction, operation and management, maintenance, and deconstruction by: (i) beginning in 2020 and thereafter, ensuring that all new Federal buildings that enter the planning process are designed to achieve zero-net-energy by 2030; (ii) ensuring that all new

construction, major renovation, or repair and alteration of Federal buildings complies with the “Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings;” (iii) ensuring that at least 15 percent of the agency’s existing buildings (above 5,000 gross square feet) and building leases (above 5,000 gross square feet) meet the Guiding Principles by fiscal year 2015 and that the agency makes annual progress toward 100-percent conformance with the Guiding Principles for its building inventory; (iv) pursuing cost-effective, innovative strategies, such as highly reflective and vegetated roofs, to minimize consumption of energy, water, and materials; (v) managing existing building systems to reduce the consumption of energy, water, and materials, and identifying alternatives to renovation that reduce existing assets’ deferred maintenance costs; (vi) when adding assets to the agency’s real property inventory, identifying opportunities to consolidate and dispose of existing assets, optimize the performance of the agency’s real-property portfolio, and reduce associated environmental impacts; and (vii) ensuring that rehabilitation of federally owned historic buildings utilizes best practices and technologies in retrofitting to promote long-term viability of the buildings. GSA’s L100 includes environmental and sustainability requirements. As long as this language is not deleted or substantively altered, the leasing professional should be in compliance with this executive order.

14. Executive Order 13576 – Delivering Efficient, Effective, and Accountable Government.

This executive order established additional oversight to facilitate earlier mandates to improve transparency of Federal spending and streamline and cut waste. VA leasing professionals should strive to be as transparent as possible while complying with confidentiality requirements pertaining to procurement-sensitive information.

15. Executive Order 13658 – Establishing a Minimum Wage for Contractors.

This executive order requires that contractors not be paid less than minimum wage. The minimum wage shall be adjusted each time the Secretary of Labor’s annual determination of the applicable minimum wage under section 2(a) (ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the executive order minimum wage under section 2(a) (ii) of Executive Order 13658 will be effective for all workers subject to the executive order beginning January 1 of the following year. If appropriate, the contracting officer, or other agency official overseeing this contract shall ensure the contractor is compensated only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on www.dol.gov (or any successor Web site). GSA’s L100 includes this requirement so no further action should be

necessary as long as the language has not been deleted or substantively edited.

16. Executive Order 14026 – Increasing the Minimum Wage for Federal Contractors.

This executive order raises the minimum wage paid by those contractors to workers performing work on or in connection with covered federal contracts to \$15.00 per hour, beginning January 30, 2022; and beginning January 1, 2023, and annually thereafter, an amount determined by the Secretary of Labor (Secretary). This final rule establishes standards and procedures for implementing and enforcing the minimum wage protections of Executive Order 14026 and is effective on January 30, 2022. This executive order minimum wage generally applies to workers performing work on or in connection with federal contracts that are entered into, renewed, or extended (pursuant to an option or otherwise) on or after January 30, 2022, in the following four categories:

- Procurement contracts for construction covered by the DBA;
- Service contracts covered by the SCA;
- Concessions contracts, including any concessions contract excluded from the SCA by the Department’s regulations at 29 CFR 4.133(b); and
- Contracts in connection with federal property or lands and related to offering services for federal employees, their dependents, or the general public.

Contracts in the four categories described above that were entered into, extended, or renewed prior to January 30, 2022, are generally subject to a lower minimum wage rate established by Executive Order 13658, “Establishing a Minimum Wage for Contractors.” The minimum wage for Federal Contractors and Subcontractors GSA’s L100 includes this requirement so no further action should be necessary as long as the language has not been deleted or substantively edited.

17. Executive Order 13690 – Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input.

This executive order amended Executive Order 11988, Floodplain Management and established a Federal Flood Risk Management Standard (FFRMS). The amendments require federal agencies to use natural systems, ecosystem processes, and nature-based approaches to identify alternatives and require federal agency regulations or procedures to be consistent with the FFRMS. The FFRMS provides 3 approaches federal agencies can use to establish the flood elevation and hazard area for consideration in their decision making for federally funded projects: climate-informed science approach, freeboard approach (adding 2-3 feet of elevation to the 100-year floodplain) and using the 500-year floodplain. Leasing professionals should require that sites and existing buildings

offered in lease procurements are not located in the 100-year flood plain unless there is no practicable alternative (for instance, if the entire delineated area lies within the 100-year flood plain), or the 500-year floodplain for “critical actions” defined under Executive Order 11988. Examples of such critical actions include irreplaceable records storage facilities, medical facilities, and childcare facilities. Since critical actions require a more stringent floodplain standard, it is very important to determine whether or not a lease requirement is considered “critical”, and if the delineated area contains properties within the 500-year floodplain.

Where there is no practicable alternative to a site in a floodplain, the leasing professional is required to include additional file documentation to be compliant.

18. Executive Order 14042 – Ensuring Adequate COVID⁴ Safety Protocols for Federal Contractors (REVOKED - May 9, 2023).

This executive order promotes economy and efficiency in Federal procurement by ensuring that contractors and subcontractors that contract with the Federal Government provide adequate COVID-19 safeguards. The executive order directs the Safer Federal Workforce Taskforce to issue guidance to provide implementation details and the FAR Council to establish a new clause to be included in solicitations and contract and contract-like instruments.

The Safer Federal Workforce Task Force issued guidance on September 24, 2021, at [saferfederalworkforce.gov](https://www.saferfederalworkforce.gov) which requires:

- Vaccination of covered contractor employees, except in limited circumstances where an employee is legally entitled to an accommodation;
- Requirements related to masking and physical distancing while in covered contractor workplaces;
- Designation by covered contractors of a person or persons to coordinate COVID-19 workplace safety efforts at covered contractor workplaces.

On September 30, 2021, the Civilian Agency Acquisition Council (CAAC) issued CAAC Letter 2021-03 regarding implementation of Executive Order 14042, which authorized agencies to issue their own class deviations. Contemporaneously, GSA issued FAR Class Deviation – Implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors (CD_2021-13), which includes instructions and implementation timelines.

On October 28, 2021, CFM ORP issued OCFM RPPM 2022-03 Implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for

⁴ COVID refers to the outbreak of the new coronavirus disease identified in 2019 (COVID-19) which the World Health Organization declared a pandemic in March 2020.

Federal Contractors to provide VA leasing professionals agency specific implementation guidance.

On December 7, 2021, a preliminary injunction was issued halting enforcement of the vaccine mandate for contractors and subcontractors nationwide. CFM ORP issued CFM's, ORPs VA-Wide Leasing Policy Alert 2022-1 – Preliminary Injunction Related to Executive Order 14042 for Federal Contractors on December 20, 2021 providing additional information related to the injunction.

On May 9, 2023 [Executive Order \(EO\) 14099, Moving Beyond COVID-19 Vaccination Requirements for Federal Workers](#) was issued revoking Executive Order 14042. CFM ORP then issued OCFM RPPM 2023-05 rescinding OCFM RPPM 2022-03 dated October 28, 2021, and VA-Wide Leasing Policy Alert - Preliminary Injunction Related to EO 14042 for Federal Contractors, dated December 20, 2021.

Information is provided for awareness and historical purposes. No further action should be necessary.

19. Executive Order 14057 – Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability.

This executive order requires the Federal Government to achieve a carbon pollution-free electricity sector by 2035 and net-zero emissions economy-wide by no later than 2050. Specific to lease contracts, GSA is required to develop guidelines for Federal green leases and update as necessary thereafter. Each agency must ensure that all new (including new/replacing, succeeding, and superseding) leases entered into after September 30, 2023, for at least 25,000 rentable square feet in a building where the Federal Government leases at least 75 percent of the total building square footage are green leases. Such green leases must require the lessor to report to the agency annual data on facility greenhouse gas emissions, energy consumption, water consumption, and waste generation. New leases greater than 25,000 rentable square feet entered into after September 30, 2030, must be in net-zero emissions buildings.

Some implementing instructions and guidelines are still pending as of the date of this Supplement. GSA's updated RLP/lease templates incorporating revised green leasing requirements related to green products and practices were released in October 2022. Additional green lease requirements related to green products, practices, and site/environmental conditions will be released by GSA through issuance of leasing alerts or updates to the LDG.

C. Regulations

The following are Federal regulations that pertain to VA's leasing program. They are listed in order of importance and level of authority over VA leasing actions.

Note that as a condition of its acceptance of delegation of authority from GSA, VA is required to comply with applicable GSAR and FAR requirements in procuring leasehold interests in real property.

1. General Services Administration Acquisition Manual (GSAM), including General Services Administration Acquisition Regulation (GSAR) (48 CFR Chapter 5).

[Chapter 5 of Title 48 CFR](#) sets forth the GSAR. The GSAR incorporates many FAR requirements and clauses but is a stand-alone regulation that governs leasing activities. [GSAM Part 570](#) describes procedures and policies regarding the acquisition of leasehold interests in real property. GSA created this part of the GSAM due to the unique aspects of procuring leasehold interests in real property. GSAM covers subject matter other than leasing, so leasing professionals should ensure that the sections they are referencing are lease specific. GSAR Rules and GSAM Provisions applicable to acquisitions of leasehold interests in real property are outlined in [GSAM 570.101](#). Other provisions of GSAR do not apply to leases of real property unless specifically cross-referenced in [GSAM Part 570](#).

The FAR does not apply to leasehold acquisitions of real property. Where referenced in [GSAM 570](#), FAR provisions have been adopted based on a statutory requirement applicable to such lease acquisitions or as a matter of policy, including, but not limited to “Federal agency procurement” as defined at [FAR 3.104](#).

2. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1).

[Title 48](#) of the Code of Federal Regulations (CFR) sets forth the FAR to codify and publish uniform acquisition policies and procedures for procurements of supplies and services by all executive agencies. The FAR is prepared, issued, and maintained jointly by the Secretary of Defense, the Administrator of GSA, and the Administrator of the National Aeronautics and Space Administration. Specific agency procurement regulations are found in subsequent chapters of [Title 48](#) of the CFR. For example, the procurement regulations specific to GSA are contained in Chapter 5, while procedures and policies unique to VA are found in Chapter 8. Policies and procedures not specifically covered under agency regulations may be governed by other sections of the FAR or the CFR. The FAR deliberately excludes the acquisition of land or interests in land from the definition of “supplies.” Consequently, leases are not defined as “acquisitions” in the FAR and the FAR is only applicable to lease acquisitions to the extent that FAR regulations are cited within the GSAR. Please note, however, that the FAR does apply to service contracts that are undertaken to support of leasing activities (for instance, broker and architectural engineering contracts).

The FAR does not apply to leasehold acquisitions of real property. Where

referenced in [GSAM 570](#), FAR provisions have been adopted based on a statutory requirement applicable to such lease acquisitions or as a matter of policy, including, but not limited to “Federal agency procurement” as defined at [FAR 3.104](#).

3. Federal Management Regulations (FMR) (41 CFR, Chapter 102).

[FMR Part 102-73](#) contains the regulatory policy applicable to the acquisition of leasehold interests in real property for all Federal agencies operating under or subject to the authorities of the Administrator of General Services. To the extent leasing professionals have questions regarding leasing policy that are not specifically covered in the GSAR/GSAM, FAR or other leasing policies issued by CFM ORP, the FMR can serve as a useful tool. Leasing professionals should note that not all of the policies and procedures described in the FMR are applicable to VA’s leasing policies and procedures, or compatible with VA’s mission.

If leasing professionals have questions regarding the content of the FMR or applicability of a regulation or manual section, they should email [CFM ORP, Policy and Programs Division](#).

D. Policies

1. Comprehensive Procurement Guideline for Products Containing Recovered Materials (40 CFR Chapter 1 Part 247).

RLP templates include requirements for products containing recovered materials. As long as this language is not deleted or substantively altered, the leasing professional should be in compliance with this executive order.

2. Office of Management and Budget (OMB) Circular A-11, Appendix B (Budgetary Treatment of Leases).

This OMB circular established a requirement for Federal agencies to evaluate individual leases to determine budgetary treatment. Leases are to be classified as a lease-purchase, capital lease, or operating lease. As a matter of VA policy, all leases that use GSA’s delegated authority must achieve scoring as operating leases. Evaluation of a lease requires performing a calculation of the present value of the minimum contractually required payments over the life of the lease to ensure that the payments do not exceed 90 percent of the fair market value of the leased asset at the beginning of the lease term. Leasing professionals are required to complete a capital lease checklist as well as an OMB scoring workbook at minimum of three times (requirements development, upon submission of the prospectus, and pre-award), for Prospectus-level leases and at least twice (requirements development and pre-award) for below-prospectus leases with a term over five years prior to lease award. It is strongly

recommended to rescore at other major procurement milestones (receipt of initial offers and proposal revisions). These artifacts must be saved to the contract file to document compliance.

3. Office of Management and Budget (OMB) Memorandum M-20-03, “Implementation of Agency-wide Real Property Capital Planning”. This memorandum provides heads of executive departments and agencies with capital planning requirements for real property, in accordance with the Federal Property Management Reform Act of 2016 (FPMRA), 40 U.S.C. § 621, to ensure that agencies consistently implement sound capital planning practices to optimize their portfolio in order to cost-effectively achieve the agency's mission. M-20-03 requires that agencies demonstrate that capital planning and programming processes are aligned with mission and further requires that they identify, plan for, and allocate resources in the annual budget formulation process to eliminate gaps. This memorandum provides detailed guidance for agencies to implement the Capital Programming Guide in OMB Circular A-11. VA’s responses to M-20-03 are based on the outputs of the annual SCIP process, which includes the long-range 10-year action plan and prioritized project lists, used to formulate VA’s annual capital requests.

4. Office of Management and Budget (OMB) Memorandum M-12-12, “Promoting Efficient Spending to Support Agency Operations,” OMB Management Procedures Memorandum No. 2013-02 “Implementation of OMB Memorandum M-12-12 Section 3: Freeze the Footprint,” Office of Management and Budget (OMB) Management Procedures Memorandum 2015-01, “Implementation of OMB Memorandum M-12-12 Section 3: Reduce the Footprint.”

[OMB Memorandum M-12-12 Section 3: Freeze the Footprint](#) created a baseline of total square footage of office and warehouse space owned and leased by Federal agencies in fiscal year 2012. Agencies may not initiate any lease actions that would result in a net increase of office and warehouse space over this FY 2012 baseline.

[OMB Management Procedures Memorandum 2015-01](#) requires all Federal agencies take steps to actively reduce the amount of square footage of owned and leased real property, by disposing of surplus properties held by the Federal Government, making more efficient use of the government’s real property assets, and reducing the total square footage of their domestic office and warehouse inventory relative to the FY 2012 baseline. VA has implemented this Memorandum for its administrative office and warehouse space, but at this time it does not apply to leased medical or research space. The leasing professional should save a statement from the Veterans Integrated Service Network (VISN) Capital Asset Manager (CAM) to the contract file as to whether this Memorandum applies to a particular leasing action, and if so, the offset/reduction

activities being undertaken, to document compliance.

Per [OMB M-20-03](#), the Reduce the Footprint (RTF) policy remains in effect, and agencies must continue to submit annual reduction targets for office, warehouse, and owned property. Office and warehouse targets and actual reductions will be assessed against the 2015 RTF office and warehouse baseline. These results will continue to be posted on performance.gov. VA Capital Planning submission [M-20-03](#) includes the space reduction target for Office/Warehouse, Leased/Owned buildings (Appendix A). Agencies are no longer required to submit a narrative RTF policy Real Property Efficiency Plan as they have done for the last five years. This action is taken so agencies do not have to submit two real property plans during the year, allowing agencies to dedicate resources for capital planning implementation per [M-20-03](#). Agency completion of the real property capital plan will also fulfill the requirement for a real property management plan template under [Section 623\(e\) \(1\) Public Law 114-318](#), the Federal Property Management Reform Act of 2016.

5. Federal Management Regulation (FMR) Bulletin C-2.

This Bulletin replaced FMR Bulletin 2008-B1, re-established the repeal of delegated leasing authority for the acquisition of General-Purpose space, and established certain procedures for the longstanding delegations for Categorical and agency-specific Special Purpose space as provided in [41 CFR part 102-73](#). Since 2014, VA leasing professionals have been required to obtain delegations of authority from GSA on a project-by-project basis. An approved delegation must be received before VA can issue the RLP.

6. General Services Administration, Public Building Service (PBS) Leasing Desk Guide (LDG).

This GSA publication is the procedural guide for the acquisition and management of leasehold interests in real property in accordance with the laws, regulation and policy governing the Federal leasing process. While VA does closely follow GSA procedures for some aspects of lease procurements, it does diverge in some procedures, as discussed throughout this Supplement. If a leasing professional has any uncertainty as to whether a GSA procedure should be followed for a particular action, one should contact [CFM ORP, Policy and Programs Division](#).

7. General Services Administration, Public Building Service, Leasing Alerts.

These GSA publications communicate lease policy changes to Federal agencies and leasing professionals operating under or subject to the authorities of the Administrator of General Services. For the most part, these updates and circulars apply to VA leasing actions, particularly because VA is operating under delegated authority. Unless otherwise informed or supplemental guidance is

issued by the ORP, VA leasing professionals are required to comply with GSA's Leasing Alerts reflecting applicability to delegated agencies. If leasing professionals have any questions as to applicability of a certain item, one should contact [CFM ORP, Policy and Programs Division](#).

8. Office of Construction and Facilities Management, Office of Real Property issued policy updates, real property policy memorandums and alerts, including VA's Supplement to GSA's LDG.

Leasing professionals are encouraged to contact [CFM ORP, Policy and Programs Division](#) with any questions regarding leasing policy or applicability to VA's lease program.