

Date: May 16, 2024

From: Associate Executive Director, Office of Real Property (003C7) and Head of Contracting Activity for Real Property Leasing

Subj: Office of Construction and Facilities Management Real Property Policy Memorandum 2024-02: Head of Contracting Activity Review and Approval Process (VIEWS 6476116)

To: All VA Leasing Professionals

1. The purpose of this memorandum is to establish the process for leasing professionals to submit leasing actions for Head of Contracting Activity (HCA) review and approval for VA Real Property Leasing Activities.

2. The HCA for VA Real Property Leasing Activities (HCA for Leasing) is the Associate Executive Director (AED), Office of Construction and Facilities Management (CFM), Office of Real Property (ORP).

3. Authorities requiring review and approval by AED ORP as the HCA for Leasing are included in Attachment A which also outlines the review and approval thresholds for associated leasing tasks. These tasks are not delegated further.

NOTE: Review requirements and thresholds outlined in Attachment A are current at time of policy issuance. Post issuance modifications to the matrix may be necessary due to regulatory or policy updates and will be incorporated as they occur. Lease Contracting Officers (LCO) should always access the most current version at: [Head of Contracting Activities \(HCA\) for Leasing \(sharepoint.com\)](#).

- a. Requests for HCA for Leasing review and approval will be facilitated by ORP Policy and Programs' VA Lease Program Managers.
- b. All requests will be submitted using the [HCA Review Request](#) form located on the HCA for Leasing SharePoint site in accordance with Attachment B, and must include a completed agency level contract review form along with supporting documentation.

4. To be consistent with VA policies on updating directives and handbooks, CFM ORP issued policies and procedures are subject to renewal every five years. Policies and procedures will be updated whenever substantive changes are needed, even if this precedes the five-year renewal requirement. CFM ORP issued policies are located on the VA internet at [Lease Acquisition and Management Policies and Procedures - Office of Construction & Facilities Management \(va.gov\)](#) along with other real property policies and guidance.

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5. 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.

6. Please direct questions regarding this policy to the Director, CFM ORP Policy and Programs, via email VACO003C7APolicyandProgramsTeam@va.gov.

John D. Thomas

Attachments:

Attachment A: HCA for Leasing Review & Approval Threshold Matrix

Attachment B: HCA Submission Process

Attachment A

**HCA for Leasing
Review & Approval Threshold Matrix**

NOTE: Head of Contracting Activities (HCA) Review and Approval signature requirements for Acquisition Plans and Sole Source lease actions (Justification for Other Than Full and Open Competition (JOTFOCs)) are based on lease thresholds. These review thresholds are not to be confused with warrant level thresholds which are based on the individual transaction rather than the aggregate lease value per General Services Administration Acquisition Manual (GSAM) 501.603-1. As a result, there can be instances where the signatory level required exceeds the warrant level requirement. For guidance on determining lease thresholds for HCA Review and Approval, please refer to the “Notes” column associated with the appropriate lease action below.

Task Title	FAR/GSAM/Policy Reference	Approval Levels above the LCO			Notes/Additional Procedural Reference
		One Level Above the LCO ¹	Real Property Law Group Review Requirement	HCA for Leasing Review and Approval	
Acquisition Planning - New or Replacing Lease	Federal Acquisition Regulation (FAR) 7.103; GSAM 507.103(b)	>\$5M-\$15M	>\$15M	>\$15M	Acquisition plan approvals must comply with GSAM 507.103(b), and HCA approval requests shall be submitted to the AED ORP in accordance with Attachment B of the HCA Review and Approval Process Policy. <u>Note:</u> For lease procurements over SLAT, the lease threshold for Acq. Plan approval is based on total lease contract value at award. <u>Add'l ref:</u> General Services Administration (GSA) Leasing Desk Guide (LDG) Chpt. 2; VA LDG Supplement
Acquisition Planning - Succeeding or Superseding Lease	FAR 7.103; GSAM 507.103(b)	>\$5M-\$15M	>\$15M	>\$15M	Acquisition plan approvals must comply with GSAM 507.103(b), and HCA approval requests shall be submitted to the Associate Executive Director (AED) ORP in accordance with Attachment B of the HCA Review and Approval Process Policy. <u>Note:</u> For lease procurements over SLAT, the lease threshold for Acq. Plan approval is based on total lease contract value at award. <u>Add'l ref:</u> GSAM 570.402 (succeeding); GSAM 570.404 (superseding); GSA LDG Chpt. 5; VA LDG Supplement

¹ “One level above the LCO” refers to the supervisory individual one level above the LCO.

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Acquisition Planning - Lease Extension	FAR 7.103; GSAM 507.103(b)	>\$5M-\$15M	>\$15M	>\$15M	<p>Acquisition plan approvals must comply with GSAM 507.103(b), and HCA approval requests shall be submitted to the AED ORP in accordance with Attachment B of the HCA Review and Approval Process Policy.</p> <p><u>Note:</u> The lease threshold for Acq. Plan approval is based on the value of the extension term.</p> <p><u>Add'l ref:</u> GSAM 570.405; GSA LDG Chpt. 7; VA LDG Supplement</p>
Acquisition Planning - Lease Expansion	FAR 7.103; GSAM 507.103(b)	>\$5M-\$15M	>\$15M	>\$15M	<p>Acquisition plan approvals must comply with GSAM 507.103(b), and HCA approval requests shall be submitted to the AED ORP in accordance with Attachment B of the HCA Review and Approval Process Policy.</p> <p><u>Note:</u> The lease threshold for Acq. Plan approval is based on the aggregate lease value. If an expansion amendment to a SLAT lease, results in a lease exceeding the SLAT threshold, then the total aggregate lease value must be used for Acq. Plan approval (even if the individual value of the expansion did not exceed the SLAT). LCOs must consult with local counsel to determine if expansion is within scope of lease.</p> <p><u>Add'l ref:</u> GSAM 570.403; GSA LDG Chpt. 6; VA LDG Supplement.</p>

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Acquisition Planning - Renewal Option (unevaluated)	FAR 7.103; GSAM 507.103(b)	>\$5M-\$15M	>\$15M	>\$15M	<p>Acquisition plan approvals must comply with GSAM 507.103(b), and HCA approval requests shall be submitted to the AED ORP in accordance with Attachment B of the HCA Review and Approval Process Policy.</p> <p><u>Note:</u> The lease threshold for Acq. Plan approval is based on the aggregate lease value. If the unevaluated renewal option addition amendment to a SLAT lease, results in a lease exceeding the SLAT threshold, then the total aggregate lease value must be used for Acq. Plan approval (even if the individual value of the unevaluated renewal option term did not exceed the SLAT).</p> <p><u>Add'l ref:</u> GSAM 517.207; GSAM 570.401; GSA LDG Chpt. 9; VA LDG Supplement.</p>
Approval of Warrants and Appointment of Contracting Officers	GSAM 501.603-3(a)(1)			Yes	AED ORP approves all VA real property lease warrants and appoints all VA Lease Contracting Officers (LCO.) Please refer to VALCP SharePoint site for specific processes and guidance.
Continuation of Current Contracts	FAR 9.405-1(a)(2)		Yes	Yes	In the event that a lessor or lessor's subcontractor is suspended, proposed for debarment, or debarred, the VA may continue the contracts in existence after the AED ORP makes the written determination that there are compelling reasons to do so. The LCO must submit a request for determination by the AED ORP in accordance with Attachment B of the HCA Review and Approval Process Policy which includes compelling reasons in accordance with FAR 9.405-1(a)(2).

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Exclusions in the System for Award Management (SAM) – Effect of Listing	FAR 9.405		Yes	Yes	A determination by the AED ORP must be obtained prior to soliciting, evaluating proposals, or awarding contracts to lessors with active exclusions in SAM. The LCO must submit a request for such determination by the AED ORP in accordance with Attachment B of the HCA Review and Approval Process Policy which includes a compelling reason to do so.
Prohibition on Obtaining Cost or Pricing Data	FAR 15.403-1(c)(4); GSAM 570.110(c)		Yes	Yes	The HCA may, without power of delegation, waive the requirement for submission of cost or pricing data in exceptional cases. Requests to waive the requirement for lessor-provided cost or pricing data must be submitted to the AED ORP for approval in accordance with Attachment B of the HCA Review and Approval Process Policy.
Protests – Reimbursement of Government Costs	FAR 33.102(b)(3)(ii)		Yes	Yes	If an LCO post award protest decision involves a demand for reimbursement to the Government, the LCO must obtain AED ORP review prior to issuing a final decision in accordance with Attachment B of the HCA Review and Approval Process Policy.
Protests to the Agency	FAR 33.103(d)(4); CFM Policy 003C-2024-08		Yes	Yes	If an independent review or appeal of an LCO decision is filed, the protest and pertinent documents will require submission for review and Executive Director (ED) Office of Construction and Facilities Management (CFM) approval. LCOs are to forward the protest to CFMORP@va.gov rather than following the submission process in Attachment B.
Ratification of an Unauthorized Commitment	FAR 1.602-3(b)(2)		Yes	Yes	Ratifications for unauthorized commitments for leasing require AED ORP approval and must be submitted in accordance with Attachment B of the HCA Review and Approval Process Policy. See HCA for Leasing SharePoint site for ratification of unauthorized commitment template.
Requiring Cost or Pricing Data	FAR 15.403-4(a)(2); GSAM 570.110(c)		Yes	Yes	If an LCO determines certified cost or pricing data is required for above SLAT and up to the threshold in FAR 15.403-4(a)(1), the LCO must submit their finding that a fair and reasonable determination can't be supported without certified cost and pricing data to the AED ORP for review and approval in accordance with Attachment B of the HCA Review and Approval Process Policy.

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Responsibilities under the VA Lease Contracting Officer Warrant Program	GSAM 501.603-1(c)(3)(ii)			Yes	AED ORP is responsible for all the duties listed in GSAM 501.603-1(c), including those outlined in 501.603-1(c)(3)(ii). Please refer to VALCP SharePoint site for specific guidance.
Responsibilities under VA Lease Contracting Officer Warrant Board	GSAM 501.603-2(a)(2)				AED ORP is responsible for appointing the Board members and the Chair.
Restrictions on Subcontracting	FAR 9.405-2				Prior to an LCO consenting to the lessor's use of a subcontractor who is suspended, proposed for debarment, or debarred, the LCO must first obtain a written determination of consent from the AED ORP. The LCO must submit the request for review and determination in accordance with Attachment B of the HCA Review and Approval Policy.
Sole Source – Approval of Justification for Other Than Full and Open Competition ² (JOTFOC)	FAR 6.304; GSAM 570.104	>\$750K	>\$750K	>\$750K	<p>Justifications for Other than Full and Open Competition should be submitted for AED ORP review and approval in accordance with Attachment B of the HCA Review and Approval Process Policy.</p> <p><u>Note:</u> The lease threshold for Sole Source approval is based on the anticipated total lease contract value at award (for new/replacing, succeeding, or superseding lease actions); or on the anticipated aggregate lease value (for expansions). If a sole source action for expansion results in an anticipated lease value exceeding the SLAT threshold, then the total aggregate lease value must be used for Sole Source approval (even if the individual value of the expansion did not exceed the SLAT). For lease extensions and added/unevaluated renewal options, the approval threshold is based on the anticipated value of the extension term or renewal term.</p> <p><u>Add'l ref:</u> GSA LDG Chapter 2, 5 & 7; VA LDG Supplement.</p>

² JOTFOCs are not required for non-competitive SLAT lease procurements regardless of their TLCV, however the LCO is required to document the rationale for limiting competition.

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Sole Source – Approval of Justification for Other Than Full and Open Competition (Unusual & Compelling Urgency) ³	FAR 6.302-2	>\$750K	>\$750K, or >SLAT if proposed term exceeds 1 year	\$750K, or >SLAT if proposed term exceeds 1 year	<p>Justifications for Other than Full and Open Competition (including Determinations & Finding documentation when the lease action is over SLAT and the proposed term exceeds 1 year) should be submitted for AED ORP review and approval in accordance with Attachment B of the HCA Review and Approval Process Policy.</p> <p><u>Note:</u> Leases over the SLAT, acquired using unusual and compelling urgency procedures, are limited to one year, including extensions and renewals, unless the AED ORP determines that exceptional circumstances exist. The AED ORP can sign a determination of exceptional circumstances to authorize leases with a term of more than 1 year to a maximum of 5 years.</p> <p><u>Add'l ref:</u> GSA LDG Chapter 23; VA LDG Supplement</p>
VA Rule of Two and Non-Concurrence of LCO Determination	OCFM RPPM 2021-07 VA Rule of Two and Lease Business Size Review Requirements, para 6.a.ii. and 6.b.iii. ⁴		Yes	Yes	<p><u>AT or Below SLAT:</u> In the event the small business representative does not concur with the LCO's determination and the LCO wishes to continue with the action despite the nonconcurrence, the LCO must submit the VA 2268 to AED ORP for concurrence in accordance with Attachment B of the HCA Review and Approval Process Policy.</p> <p><u>Above SLAT:</u> In the event Office of Small and Disadvantaged Business Utilization (OSDBU) does not concur with the LCO's determination and the LCO wishes to continue despite the nonconcurrence, the ORP AED shall have final review authority. The LCO shall submit to ORP AED for review all OSDBU non-concurrences in accordance with Attachment B of the HCA Review and Approval Process Policy.</p>

³ JOTFOCs are not required for non-competitive SLAT lease procurements regardless of their TLCV, however the LCO is required to document the rationale for limiting competition.

⁴ Although GSAM does not require set asides for real property leases, VA's Rule of Two is applicable when VA conducts the procurement per 38 U.S.C. § 8127(d). VA's OSDBU is responsible for reviewing procurement strategies. IAW OCFM RPPM 2021-07 and OSDBU's review policy, OSDBU reviews set-aside decisions for leasehold acquisitions over SLAT; small business representatives/liaisons review set-aside decisions at or below SLAT. HCA approval is required should either review non-concur with the LCO's decision.

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Violations or Possible Violations	FAR 3.104-7		Yes	Yes	An LCO who receives or obtains information of a violation or possible violation of the Procurement Integrity Act shall forward the information and documentation supporting a determination to AED ORP in accordance with Attachment B of the HCA Review and Approval Process Policy. For the purposes of (a)(1), the individual designated in accordance with agency procedures is AED ORP.
Voiding and Rescinding Lease Contracts	FAR 3.704(c)	Yes	Yes	Yes	If an existing lessor is convicted of an offense punishable under 41 U.S.C. 2105, the LCO shall submit documentation for AED ORP review and determination in accordance with Attachment B of the HCA Review and Approval Process Policy.

Attachment B

Submission Procedure for HCA for Leasing Review and Approval

This document outlines the process to ensure timely processing of all requests for review and approval by the Associate Executive Director (AED), Office of Construction and Facilities Management's (CFM) Office of Real Property (ORP) as Head of Contracting Activities (HCA) for VA Real Property Leasing Activities (HCA for Leasing.)

1. Submit HCA Review Request

- All requests, with the exception of Protests to the Agency¹, will be submitted using the link [HCA Review Request](#) located on the HCA for Leasing SharePoint site. The table below provides guidance for the required entries:

Column/Title	Instruction
1. Title Description	Select appropriate approval action from the drop down.
2. Leased Facility Name	Enter the name of the leased facility.
3. Lease Contract Number	Enter the lease contract number.
4. Description of Issue to Be Resolved	Provide a brief description of the activity that requires HCA for Leasing review and approval.
5. Annual Lease Dollar Amount	Enter current annual rental amount or estimated annual lease dollar amount for new lease actions.
6. Lease Contracting Officer	Enter Lease Contracting Officer's first and last name.
7. Additional Comments	Optional-use this area to enter additional details or comments.
8. Documents	Important: Submitted requests must include a completed Contract Review Form, along with any supporting documentation identified by the VA Lease Program Managers prior to initiating the request. File names must contain the lease contract number at the beginning of the file name plus document name.

2. The Review Process

- The Review Team will perform a review of the approval request package for accuracy and completeness within 2 business days, excluding federal holidays, of submission

¹ Protests to the Agency will be submitted to CFMORP@va.gov. See Attachment A for additional information.

from the Regional Procurement Office to the VA Leasing HCA SharePoint site. The agency level contract review form or the online tool will be used to document any review comments. Once the Review Team approves in the SharePoint, an automated email will alert the Real Property Law Group (RPLG) that it is time for their review and an attorney will be assigned.

- Once the assigned RPLG attorney receives the review request, the attorney will perform the legal review within 10 business days, excluding federal holidays, and take one of the following actions:
 1. Disapprove the review action. RPLG will include comments on the SharePoint submission form noting that additional details, clarification, or correction is required. An automatic email will be sent to the Review Team notifying them that the package has been returned.
 2. Approve the review action. An automatic approval email will be sent to the Review Team notifying them that the package is ready for final review by ORP's Director, Policy, and Programs.
- Once the package is transmitted to ORP's Director, Policy and Programs, a final review of the package will be performed within 1 business day, excluding federal holidays, to ensure any issues noted during the initial review were addressed. The package will then be forwarded to the HCA for Leasing with a recommendation for signature.
- Review and signature by the HCA for Leasing will occur within 2 business days, excluding holidays, from receipt of the package from ORP's Director, Policy and Programs. The Review Team will upload signed documentation to the VA Leasing HCA SharePoint site, which will automatically notify the submitter via email that the review is approved. The notification will contain a link back to the original submission which will include:
 1. The Real Property Leasing Review form submitted with the original request (updated to reflect Review Team, RPLG, and Director of ORP Policy and Programs review, and HCA approval).
 2. Documentation containing requested HCA for Leasing signature.

3. Communication

- All approval review correspondence will be conducted in the VA Leasing HCA SharePoint site and email.
- The Review Team will serve as the point of contact for submitters after review request submission and will track request to ensure timely routing and communication.