

VA SUPPLEMENT CHAPTER 14: **LEASE ACQUISITIONS INVOLVING NEW BUILDING CONSTRUCTION**

Chapter 14

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Overview: Lease Acquisition Involving New Building Construction

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

Chapter Outline

This chapter provides supplemental guidance, not replacement guidance, to Chapters 1 and 2 of this Supplement, in addition to supplementing information to [GSA’s LDG Chapter 14](#).

Background

Due to the unique nature of U.S. Department of Veterans Affairs (VA’s) clinical lease requirements, it is not uncommon for mid-level and major lease procurements to involve new building construction.

VA’s field leasing professionals contemplating lease acquisitions involving new building construction due to lack of available properties in the market may reach out to Office of Construction and Facilities Management (CFM) Office of Real Property (ORP) Lease Execution Division (LE) for additional information or guidance related to minor leases involving new building construction, however CFM ORP approvals are not required.

Key Definitions and Concepts

Lease Construction is not uncommon for VA’s mid-level and major clinical lease procurements due to the highly specialized and unique requirements. Market research should always support this strategy and written documentation must be included in the file. VA does not require higher level approvals when utilizing this leasing solution, other than the normal pre-solicitation and pre-award reviews.

Market Driven Construction procurements also do not require higher level approvals.

VA does not use Tenant Improvement (TI) tier allowances, so Market Levelized Rent Cap is not applicable to VA.

Refer to Chapter 11 for additional information related to prospectus level leases.

Part 1: Acquisition Planning/Pre-Solicitation Requirements

Consistent with General Services Administrations (GSA’s) practices, this chapter assumes that no owned or vacant leased space is available in Public Building Service

(PBS's) inventory, in other Federal facilities nor in the required delineated area market to meet VA's space requirement.

By the time lease construction is selected as the procurement method, the leasing professional should have already checked for available space in other Federal facilities.

a. Requirements Development

The Lease Design Narrative (LDN) includes the minimum VA agency specific requirements that shall be included in all major and mid-level solicitations for Community-Based Outpatient Clinic (CBOC) and Health Care Center (HCC) leases. Additional project specific requirements can and should be added when risk assessments identify necessary additions. The LDN is recommended for minor CBOC and HCC lease solicitations for both new and existing construction with the understanding that some items/requirements may need to be adjusted as necessary depending on the scope of the lease. The LDN is available at [OCFM Technical Information Library, Leasing Criteria](#).

Refer questions to [CFM ORP, Policy and Programs Division](#).

Schedule

In addition to the milestones outlined in GSA's Leasing Desk Guide (LDG), VA leasing professionals must consider GSA delegation timelines, VA Rule of Two requirements and agency-specific review and approvals when developing schedule milestones.

b. The New Building Construction Review Process (Lease Construction and Market Driven Construction Leases)

VA does not require higher level approvals when utilizing this leasing solution, other than the normal pre-solicitation and pre-award reviews.

Preliminary Market Research

VA's "Rule of Two" requirements apply to leases involving new building construction.

National Office of Leasing (NOL) Reviews

This is a GSA specific process for new construction and is not applicable to VA, as VA does not require higher level approvals when utilizing this leasing solution, other than the normal pre-solicitation and pre-award reviews.

Regional Reviews

Refer to agency-specific review requirements or current HCA Review and Approval Process Policy for HCA review requirements, available at [Office of Real Property - Office of Construction & Facilities Management \(va.gov\)](#).

Initiating the Review Process

Refer to agency-specific review requirements or current HCA Review and Approval Process Policy for HCA review requirements, available at [Office of Real Property - Office of Construction & Facilities Management \(va.gov\)](#).

Estimating Lump Sum and RWA Needs

Reimbursable Work Authorizations (RWAs) are not used in leases that have obtain a GSA delegation of authority for the VA to procure and award. TI costs are typically funded by means of a lump sum payment. Amortization of TI costs should be avoided unless the Lease Contracting Officer (LCO) can save documentation to the contract file to prove that the increase in rental rate would not yield a capital lease or cause the lease to exceed the prospectus threshold.

If any TI's amortized in the rental rate are perceived or estimated to yield a capital lease or increase the rate above the prospectus threshold, the leasing professional should contact Office of Asset Enterprise Management (OAEM) and Office of Construction and Facilities Management (CFM), Office of Real Property (ORP) for guidance.

In accordance with [OMB-Circular A-11](#), assets that have special features or enhancements that were built or added for the Government's unique needs or special purposes need to be evaluated on a case-by case basis to ascertain whether they can be considered to be general purpose assets. If the asset is considered to be a general-purpose asset, then, as a general rule, such special features or enhancements should be paid lump sum up-front, separate from the lease rental rate. Therefore, VA typically pays for TIs via lump sum.

Occupancy Agreement

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

c. Acquisition Strategy

Because VA medical and specialty care facilities are mission-driven in location and requirements, the Lowest-Price Technically Acceptable (LPTA) procurement

methodology is not ideal for use in those projects. LPTA is best used for non-medical office space, warehouse space, and other space types that do not directly provide services to Veterans. Best value source selection procedures (tradeoff process), with technical merit approximately equal to price, is the preferred procurement method for leases with mission-related requirements, though LPTA may be used if in the best interest of the Government and Veteran patients and the file is documented per [FAR 15.101-2\(c\)](#).

Lowest Price Technically Acceptable (LPTA)

See above.

Best Value Trade-Off (BVTO)

Reserved.

Single-Phase versus Two-Phase Design Build

Reserved.

d. Lease Terms

Refer to Part 9 of this chapter for information related to purchase options.

e. Negotiation Objectives

Reserved.

Shell Component

Reserved.

Operating Expense Component

Reserved.

Tenant Improvement (TI) & Lump Sum Components

Reserved.

TI Negotiation Strategy

Reserved.

TI Allowance Process

Reserved.

Turnkey Process

Reserved.

f. Assembling the Project Team

Reserved.

g. Design Excellence

Reserved.

h. Architectural Barriers Act Accessibility Standards (ABBAAS)

Reserved.

Part 2: Market Survey Process

Reserved.

a. Advertising the Requirement

Reserved.

b. Evaluating Expressions of Interest

Reserved.

c. Scheduling and Conducting the Market Survey

Reserved.

d. Identifying and Classifying Speculative Construction

Reserved.

Part 3: Solicitation Process

Reserved.

a. Rent Cap Disclosure

Reserved.

b. Lease Projects Soliciting Listing and New Building Construction Offers (Mixed Market Driven Construction)

Reserved.

c. Applicability of RLP and Lease Requirements

Design Excellence (Lease Construction and Some Market Driven Construction Projects under Certain Conditions)

Reserved.

Davis Bacon Act (Lease, Market Driven, and Speculative Construction)

Reserved.

Green Building Rating Certification/LEED®/Green Globes® (Lease Construction if over 10K RSF; not applicable to Market Driven Construction or Spec Buildings)

Leasing professionals should ensure they are referring to the most recent set of Green Leasing requirements, as standards change over time. VA leasing policy does not dictate a portfolio-wide green building rating certification system. VA clients track sustainability standards based on their organization's program and policy, which may require different rating systems across different facilities. The determination on which green building rating certification system to use is dependent upon the project specifics and the client's mission and needs.

Energy Independence and Security Act (Lease, Market Driven, and Speculative Construction)

Reserved.

Wildland-Urban Interface (Lease Construction and Market Driven Construction)

Reserved.

Interagency Security Committee (ISC) Requirements (Lease Construction and Market Driven Construction where only offers of new building construction are received)

Reserved.

Seismic Considerations (Lease, Market Driven, or Speculative Construction)

Reserved.

Fire Protection (Lease Construction and Market Driven Construction where only offers of new building construction are received)

Reserved.

Additional Offer Submittals (Lease, Market Driven, and Speculative Construction; also, complete rehabilitation or reconstruction)

Reserved.

National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA)

Reserved.

Relocation Assistance

Reserved.

d. Schedule Submittal

Reserved.

Part 4: Pre-Negotiation/Negotiation

If an LCO determines an appraisal is warranted based on the particular circumstances to support a price reasonableness determination, establish a negotiation position or various other reasons, the LCO is required to use the approved appraisal service Performance Work Statement (PWS) available at [Office of Real Property – Appraisal and Reviews](#).

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

a. Confirming Site Control

Reserved.

b. Discussions and Clarifications with Offerors

Reserved.

c. Offerors with Multiple Sites

Reserved.

d. Offers with Multiple Site Layouts or Design Configurations

Reserved.

e. Negotiating with Rent Cap

Reserved.

f. Establishing a Real Estate Tax Base

Reserved.

g. Determining Financial Responsibility

Reserved.

h. Schedule Requirements

Reserved.

Part 5: Award Determination

Reserved.

Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed

a. Post Award Changes to Approval Project Parameters

Reserved.

Post Award Submittals

Reserved.

b. Cost Management

Reserved.

Part 7: Construction Phase

a. Construction Management

Advance Payments – VA does not make any advance payments to the lessor. The first payment made to the lessor is the lump sum payment made upon lease

acceptance, or if there is no lump sum payment, the rent payable in arrears.

b. Post Award Technical Design Reviews

Reserved.

c. Construction Schedule Management and Inspections

Reserved.

Determining the Frequency and Timing of Inspections

Reserved.

Part 8: Lease Commencement and Close-Out

Note that the lease contract file must be uploaded to electronic Contract Management System (eCMS). Additionally, leasing professionals are responsible for post-award updates in Enterprise Lease Management Tool (ELMT), GSA Real Estate Exchange (GREX), and Capital Asset Inventory (CAI).

Acceptance of the facility is documented in a Lease Amendment signed by VA and the lessor. When necessary, transferring offices should execute a custody transfer and receipt form as administration and/or occupancy of the facility is turned over.

Building Acceptance

Reserved.

As-Built Drawings

Reserved.

Part 9: Purchase Options

a. Government Assignable Site Purchase Options

At this time, VA does not pursue assignable site purchase options for its lease construction projects. Rather, VA engages in a “one-step” procurement process where offerors bring their own site to the procurement instead of VA prescribing that a particular site be used. However assignable site purchase options may be available on a case-by-case basis, please email [CFM ORP, Policy and Programs Division](#) with any questions.

b. Lease Purchase Options

VA's statutory authority was amended in 2022 to provide the authority for VA to obligate and expend funds to exercise purchase options included in **prospectus level-leases**. Leases involving new construction meeting this threshold are included in this authority.

Refer to Chapter 11 of this Supplement for additional information.

VA leasing professionals should contact [CFM ORP, Policy and Programs Division](#) for further information related to use of purchase options.

Attachment 1: NOL / Regional New Building Construction Review Flow Chart

Not Applicable to VA.

Attachment 2: Project Summary/Panel Findings and Regulation (“Project Summary”) Template

Not Applicable to VA.

Attachment 3: NOL Authorized to Proceed Approval Memo

Not Applicable to VA.

Attachment 4: Regional Authorized to Proceed Approval Memo

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