Enhanced-Use Lease (EUL)

Frequently Asked Questions
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General

1. Where can I find the applicable legislative authority for VA’s EUL Program?

   38 U.S.C. Section 8161, et seq. “Enhanced-Use Leases of Real Property,” permits VA to enter into long-term leases of certain property under its jurisdiction and control.

2. How long is the average lease?

   VA is limited to a 75-year lease based on statutory authority. The typical lease is between 50 and 60 years.

Project Concept

3. What type of housing will be developed as part of the EUL project?

   Supportive housing for homeless Veterans and their families. The goal of the proposed supportive housing is to provide tenants with the rights of tenancy and links to voluntary and flexible support services for people who are experiencing or who have experienced homelessness.

4. How many housing units will be developed in an EUL project?

   It will be up to the Selected Offeror to determine the appropriate number of units to put in each building.

5. What is VA going to do to make sure that the housing is “affordable” to Veterans?

   The project must be affordable to the identified target population. Rents can be set at no more than 30% of a tenant’s adjusted gross income. This provision will be incorporated into the EUL agreement.

6. What is the maximum allowable tenant household income associated with EUL projects?

   Maximum allowable tenant household income limits (expressed as a percentage of Area Median Income (AMI)) are typically dictated by the funding sources for the project. However, VA encourages developers/lessees to develop projects that target those Veterans who are the lowest income and most in need of housing.
7. How are tenants selected? Where do they come from?

The tenant selection plan for each project (to be approved by VA and attached to the lease) will be developed by the Selected Offeror and will depend on the project’s target population(s). VA will be one source of tenant referrals for all projects.

8. What role will the local VA Medical Center have in ongoing project operations?

VA requires the selected Offeror to provide Operations and Maintenance and Tenant Selection Plans that include information on how the lessee (or their supportive/resident services provider, if different entities) intends to manage, operate and coordinate its services with other programs and service providers including VA. The selected Offeror will coordinate with the local VA Medical Center in the development of the Operations and Maintenance and Tenant Selection Plans, including a supportive services plan and budget.

9. Can VA provide a list of other completed EUL projects?

VA currently has more than 100 active awarded leases and is engaged in developing additional projects. A list of the completed EUL projects, including EUL housing projects, can be found on VA EUL website at the following link: http://www.va.gov/assetmanagement/awards.asp

EUL Terms and Conditions

10. Does Davis-Bacon apply?

As stated in the EUL, “Unless the Lessee can demonstrate to the satisfaction of the Department that the Lease or the Project is exempt therefrom, Lessee shall comply with the requirements of the Davis-Bacon Act, as amended, 40 U.S.C. Section 3141, et seq. and the relevant rules, regulations and orders of the Secretary of Labor applicable thereto.”

11. Are any taxes paid to the local municipality?

The lessee is subject to all applicable state and local taxes, fees, assessments and special assessments associated with the EUL site and improvements in accordance with the EUL statute (i.e., 38 U.S.C. § 8167). The lessee is expected to negotiate these payments or other arrangements with appropriate authorities.
12. Who will provide police and fire services to the project?

VA requires the Selected Offeror to prepare a detailed Development Plan that includes information on how the lessee intends to provide property and asset protection (e.g. security, police and fire arrangements) for the Project. In preparing the plan, the Selected Offeror with coordinate with the local VA Medical Center.

13. To what codes must the lessee design and construct the EUL project?

The lessee is responsible for obtaining all pertinent Federal, State, and local permits, licenses, and approvals necessary for construction, renovation and operation of the project. All applicable Federal, State, and local requirements must be met during construction and operation, including but not limited to, the latest version of the National Fire Protection Association (NFPA) 101 Life Safety Code; the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.); the National Historic Preservation Act of 1966 (16 U.S.C. § 470, et seq.); and the Archaeological Resources Protection Act (16 U.S.C. § 470 et. seq.).

14. How will the State Historic Preservation Office (SHPO) be involved?

Prior to conveying any rights to commence activities on the property, the Offeror must fulfill the requirements of the National Historic Preservation Act, 16 U.S.C. §§ 470, et seq. (“NHPA”) in conjunction with the proposed Development Plan, which will require the selected developer (with VA’s support) to coordinate with the applicable SHPO.

15. Is the Selected Offeror responsible for complying with the National Environmental Policy Act (NEPA)?

VA will complete the NEPA process and will utilize information provided by the Selected Offeror.

16. Are there any sustainability requirements with which the lessee must comply?

Yes. The EUL project must obtain a Leadership in Energy and Environmental Design (LEED) Silver and/or Green Building Initiative Two Green Globes certification.

17. Is alcohol use permitted in an EUL project?

VA expects lessees to operate their projects in accordance with the Housing First approach. If a Selected Offeror’s project concept does not intend to restrict alcohol use by tenants in individual housing units, the Selected Offeror should
work with the Office of Asset Enterprise Management to obtain a waiver from the local VA Medical Center Director/Associate Director with respect to 38 CFR 1.218 prior to EUL signing.

18. Is a lessee allowed to encumber its leasehold interest for purposes of obtaining financing for the EUL project?

Yes, however, any loan involving a security interest in the leasehold may not be closed until the Department has consented to the financing. It is important to note that outside financing documents shall in no way subordinate VA’s underlying fee interest in the EUL land during and after the lease, and shall at all times be subject and subordinate to the EUL itself.

Financing

19. Will VA be giving this project HUD-VA Supportive Housing (HUD-VASH) vouchers? And if so how many?

No. The selected developer will have to coordinate with HUD and GLAHCS to obtain HUD-VASH vouchers independent of the EUL solicitation process.

20. How will this project be financed?

It will be up to the selected development team to obtain financing for the project. A number of funding sources may be used to finance these projects, including federal, state and local capital, operating and supportive services funding. Examples of possible funding sources include Low Income Housing Tax Credit equity, Historic Preservation Tax Credit equity (for buildings or land parcels with historic considerations), HUD McKinney-Vento Programs for the homeless, State and local affordable housing programs, Federal Home Loan Bank funds and HUD-VASH vouchers, etc.

21. How are developers supposed to secure funding if they do not own the property?

The long-term ground lease structure has been sufficient in the past for developers to demonstrate site control to lenders/financing sources.

22. Will the developer be eligible for low-income housing tax credits?

It is up to the developers to determine if they are eligible for Low-Income Housing Tax Credits, but other projects developed under VA’s EUL Program have utilized this program.
23. Will there be cash reserve requirements to protect VA and buildings?

Cash reserves, or a funded maintenance account, are required in the EUL agreement. The specific amounts will be negotiated between VA and the selected developer.

Supportive Services

24. Is the lessee required to provide supportive services to residents of the project?

Yes. The Selected Offeror will prepare a detailed, feasible and financeable supportive services plan in coordination with the local VA Medical Center after selection. If the project will receive HUD-VASH vouchers, it is expected that the lessee (or their supportive/resident services provider, if different entities) will provide supportive services over and above what is provided by VA under the HUD-VASH Program.

25. What services does VA provide to tenants?

Tenants can receive any services provided by the local VA Medical Center, so long as they are eligible Veterans. The services provided to tenants will vary depending on the project’s target population(s) and the services available at the local VA Medical Center.

26. Are local social service providers utilized?

Local social services providers are encouraged to team with developers and property managers to submit proposals in response to the RFQ. In addition, once an Offeror team is selected, local social services providers should develop collaborative relationships with that team in order to provide and receive referrals from the project.

EUL Oversight

27. How does VA monitor to see the terms and promises are upheld by lessee?

VA has a post-transaction group that will monitor the lessee’s performance against EUL provisions to ensure the EUL is being followed. In addition, the Selected Offeror will be required to submit periodic reports to VA that track the Project’s development progress, financial viability and compliance with the terms included in project documents, including the EUL.