

VA Office of Inspector General

OFFICE OF AUDITS AND EVALUATIONS



Department of Veterans Affairs

*Review of
Land Purchase for the
Replacement Hospital in
Louisville, Kentucky*

September 17, 2015
14-02666-456

ACRONYMS

CFR	Code of Federal Regulations
HVAC	House Committee on Veterans' Affairs
OALC	Office of Acquisition, Logistics, and Construction
OIG	Office of Inspector General
RPS	Real Property Service
VA	Department of Veterans Affairs

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Report Highlights: Review of VA's Land Purchase for the Replacement Hospital in Louisville, KY

Why We Did This Review

The Office of Inspector General (OIG) received a request from Congressman John Yarmuth to review the appraisals used to support the Department of Veterans Affairs (VA) purchase of land for a replacement hospital in Louisville, KY. Our objective was to determine whether the Department of Veterans Affairs (VA) followed proper appraisal procedures to ensure responsible use of taxpayer dollars. The House Committee on Veterans' Affairs (HVAC) requested the same information from the VA.

What We Found

We determined that the Office of Acquisition, Logistics, and Construction (OALC) conducted two appraisals of property in Louisville, KY, in December 2010 and in February 2012. The first appraisal valued the property at \$9,850,000. The second appraisal valued the property at \$12,905,000. However, OALC did not obtain a required review appraisal for determining the appropriateness of the two appraisals prior to purchasing the land for \$12,905,000. VA did obtain a review appraisal in April 2014, nearly two years after the property was purchased and at a cost of \$2,447. Spending \$2,447 for the review appraisal was a waste of the taxpayers' money because the timing of the review appraisal was useless in determining whether VA paid just compensation for the property.

OALC did not obtain a review appraisal prior to purchasing the property because VA policies were not clear as to when to obtain a review appraisal. As a result, VA lacks

assurance the purchase price paid was reasonable, and VA may have overpaid more than \$3 million for this property.

Furthermore, OALC misrepresented information provided to the HVAC regarding the 31 percent increase in the property's market value over a 14-month period, December 2010 to February 2012. OALC stated the analysis of highest and best use of the property was revised from residential to mixed-use development. This was contrary to our findings, as both appraisals state that the highest and best use of the property would be for mixed-use development. With effective oversight, OALC leadership could have avoided the possible overpayment and put this money to better use.

What We Recommended

We recommended the OALC Principal Executive Director establish formal policy and procedures; and an internal review board to enforce compliance with Federal laws and VA policies governing VA's land purchases. In addition, OALC needs to determine the appropriate administrative actions to take for noncompliance with Federal regulations.

Agency Comments

The Principal Executive Director concurred with our recommendations and provided corrective actions. The Director also provided general and technical comments.

Handwritten signature of Linda A. Halliday in blue ink.

LINDA A. HALLIDAY
Deputy Inspector General

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INTRODUCTION

Objective Our objective was to determine whether the Department of Veterans Affairs (VA) followed proper appraisal procedures to support the acquisition of 36.23 acres at 4906 Brownsboro Road in Louisville, KY.

What We Did The Office of Inspector General (OIG) conducted this review from February through June 2015. We reviewed applicable laws and regulations and determined that an appraisal and review appraisal are required for the purchase of land for Federal use. We reviewed the program files and interviewed various VA officials, which allowed us to conclude that a review appraisal was not completed prior to the land purchase.

Background In 2004, the Capital Asset Realignment for Enhanced Services Commission recommended a replacement VA medical facility be built in Louisville, KY, and that it be co-located with the University of Louisville Hospital. VA conducted a follow-on study prior to concurring with the Capital Asset Realignment for Enhanced Services Commission recommendations. In 2006, as a result of this follow-on study, VA Secretary James Nicholson announced that VA would construct a replacement hospital in Louisville, KY. The Office of Acquisitions, Logistics, and Construction (OALC) initiated procedures to select the site.

Prior to the selection, OALC's Office of Construction and Facilities Management contracted for an appraiser through its national real estate broker, Carpenter Robbins Commercial Real Estate, who hired Galloway Appraisal to conduct appraisals on several properties. On December 10, 2010, Galloway Appraisal issued an appraisal report indicating that the market value of the 4906 Brownsboro Road property was \$9,850,000 "AS IS." In June 2011, after review of appraisals of several property sites, VA Secretary Eric Shinseki selected the 4906 Brownsboro Road property as the new location of the replacement VA medical facility.

Due to the passage of time (14 months) and to comply with the Uniform Appraisal Standards for Federal Land Acquisitions, an updated second appraisal was conducted. On February 29, 2012, Galloway Appraisal issued an updated appraisal report for this property. This report indicated that the market value of the property was \$12,905,000 "AS IS." In July 2012, OALC, Real Property Service Division (RPS) purchased the parcel of land for \$12,905,000, from Midlands-Louisville, LLC.

On February 27, 2014, the OIG received a request from Congressman John Yarmuth to review the appraisals used to support the VA purchase of land at 4906 Brownsboro Road in Louisville, KY. Congress raised concerns that VA may have paid an excessive amount for the property. It requested that the OIG investigate the appraisal process to determine whether all proper

procedures were followed to ensure responsible use of taxpayer dollars. The House Committee on Veterans' Affairs (HVA) also requested the same detailed information from the VA. The Principal Executive Director's letter to the HVA Subcommittee on Oversight and Investigations is attached as Appendix A.

RESULTS AND RECOMMENDATION

Finding **VA Did Not Engage the Services of a Review Appraiser as Required Prior To Purchasing the Land in Louisville, KY**

What We Found

VA conducted two appraisals of property in Louisville, KY, in December 2010 and in February 2012. The first appraisal valued the property at \$9,850,000. The second appraisal valued the property at \$12,905,000. However, OALC's Real Property Service (RPS) Division did not engage the services of a required review appraiser to determine the appropriateness of the two appraisals prior to purchasing the land for \$12,905,000. VA did obtain a review appraisal in April 2014, nearly two years after the property was purchased and at a cost of \$2,447. Spending the \$2,447 for the review appraisal was a waste of the taxpayers' money.

OALC did not obtain a review appraisal prior to purchasing the property because VA policies were not clear as to when to obtain a review appraisal. RPS specialists understood that review appraisals were obtained for new appraisals and not for those already in process, or if the land owner challenged the appraisal. As a result, VA lacks assurance the purchase price paid was reasonable, and VA may have overpaid more than \$3 million for this property.

Furthermore, OALC misrepresented information provided in a letter to the HVAC regarding the 31 percent increase in the property's market value over the 14-month span, December 2010 to February 2012. OALC stated the increase was based on a revised highest and best-use of the property. Specifically, OALC stated that the property was revised from residential to mixed-use development. This was contrary to our findings, as both appraisals state that the highest and best use of the property would be for mixed-use development.

Criteria

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, as well as Federal regulations require a Federal agency to appraise real property prior to initiating negotiations for the purchase of the property. In addition, Title 49 Code of Federal Regulations Section 24.104, requires the agency to have a review process of any completed appraisals. This is known as a "review appraisal". As such, a qualified appraiser is required to examine the presentation and analysis of market information in appraisals to assure they meet Federal regulation requirements and to support the appraiser's opinion of value. The review appraiser identifies each appraisal report as recommended, accepted, or not

accepted. A recommended appraisal report is the basis for the establishment of the just compensation.

**OALC Did Not
Obtain a
Review
Appraisal**

The Office of Construction and Facilities Management hired Galloway Appraisal to conduct two appraisals on the Brownsboro Road property prior to the July 2012 purchase. The first appraisal was dated December 10, 2010, and the second February 29, 2012. However, VA did not obtain a review appraisal until April 2014, nearly 2 years after the property was purchased and at a cost of \$2,447. The timing of the review appraisal was useless in determining whether VA paid just compensation for this property. Spending the \$2,447 for the review appraisal was a waste of the taxpayers' money.

The review appraisal determined the February 2012 appraisal failed to comply with standards and the purchased price could not be substantiated. The review appraiser stated that the highest and best-use conclusion in the appraisal was inadequate and did not comply with appraisal standards. Also, the review appraiser stated that the appraiser's analysis was unsupported and the conclusion of market value was not considered credible regarding the commercial component of the Brownsboro property.

Upon receipt of this information, RPS shared the review with Galloway Appraisal, who contested the results, indicating there was a personal bias with the review appraiser. Galloway Appraisal believed that the review appraiser's prejudice against Galloway Appraisal rendered him unqualified to conduct the review. RPS accepted Galloway's unsigned rebuttal and dismissed the conclusions outlined in the review appraisal.

When asked why a review appraisal was not conducted prior to the purchase, RPS realty specialists stated that obtaining a review appraisal was not part of RPS's normal course of doing business. RPS also stated that review appraisals are only obtained if the land owner challenged the appraisal. This was not in compliance with Federal regulation. The RPS Director and realty specialists stated that RPS disseminated guidance in February 2012 requiring review appraisals. This was followed by an RPS memo on October 16, 2012, reinforcing the guidance. RPS staff stated that they understood that this policy applied only when obtaining new appraisals, not for appraisals already in process, as in the case of the Brownsboro Road property. Despite RPS's policy, the need for a review appraisal was established in Federal regulation, well before the Brownsboro Road property purchase.

Title 49 CFR 24.104 states before negotiations are initiated an agency is required to establish an amount as just compensation for the real property. The review appraisal determines whether a previous appraisal complies with established standards. If the appraisal is approved, it is used as the basis for the amount of just compensation to be paid for the land. We contacted the

General Services Administration and the United States Army Corps of Engineers to determine the process they follow when acquiring land. According to officials from these two agencies that purchase land for the Federal Government, they both obtain review appraisals prior to purchasing real property.

The February 2012 appraisal should have been reviewed and approved by a review appraisal prior to its acceptance as a just compensation amount. Because RPS did not obtain a review appraisal prior to purchasing the property, RPS did not establish that the \$12,905,000 appraised value was a just compensation amount. Three months after the land was purchased, RPS issued a memo requiring the use of review appraisals in a manner consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, codified in Chapter 61, Title 42, United States Code.

***Lack of Support
for Appraised
Value Increase***

Prior to VA's purchase of the property, Galloway Appraisal conducted two appraisals on the property. The December 10, 2010, appraisal was valued at \$9,850,000. The February 29, 2012, appraisal was valued at \$12,905,000, a 31 percent increase.

In OALC's October 3, 2014, letter to the HVAC Chairman, the prior Principal Executive Director stated the increase was based on a revised highest and best use analysis. Specifically, the Principal Executive Director stated to the Chairman that the highest and best-use of the property was revised from residential to mixed-use development. This was contrary to our findings, as both appraisals state that the highest and best use of the property would be for mixed-use development.

Further, the prior OALC Principal Executive Director stated in his letter that the increase was also due to additional comparable sales that occurred after the first appraisal. Both the December 2010 and February 2012 appraisals contained a list of recently sold properties similar to the Brownsboro Road property, and in close proximity to the property. The list of sales consists of both residential and commercial properties. The 2012 appraisal included a February 2011 sale of commercial property. If this had been the only change in the lists of sales between the two appraisals, OIG calculated that this sale would have resulted in about a 4 percent increase in the value of the commercial property.

The 31 percent increase between the two appraisals was not only due to the inclusion of the February 2011 sale, but also the inclusion of two parcels of land that sold in 2008. It would have been reasonable for RPS to question the inclusion of these two properties in the 2012 appraisal, as they were not part of the 2010 appraisal. OALC's prior Principal Executive Director's statements in his letter to Congress misrepresented these facts as a result of OALC not analyzing the two appraisals properly.

The \$12,905,000 purchase price was based upon the February 2012 appraisal, and was a 31 percent increase from the December 2010 appraised value. Had the acquisition team obtained the required review appraisal, a review appraisal would have determined whether the \$12,905,000 was a fair and reasonable amount for VA to pay for the property. Since the review appraisal was not obtained, VA possibly overpaid for the property by \$3,055,000. VA could have put this additional money to better use. Obtaining a review appraisal to ensure the appraised amount was a just compensation amount would have been more fiscally responsible.

Conclusion

VA did not establish a just compensation amount, as required by law and regulations, and also did not ensure that the requirements of 49 CFR 24.104 were met. VA purchased the Brownsboro Road property to serve as the location for a new medical facility. Although VA obtained two appraisals for the property over a 14-month period, VA did not obtain a review appraisal prior to purchasing the property to determine the fair and reasonable amount to pay for the property.

In addition, OALC did not provide supporting documentation for the increase. The \$12,905,000 purchase price was based upon the February 2012 appraisal, and was a 31 percent increase from the December 2010 appraised value. Further, the prior Principal Executive Director, OALC, provided incorrect information in a letter to Congress.

A review appraisal would have determined whether the \$12,905,000 was a fair and reasonable amount for VA to pay for the property. However, obtaining a review appraisal 21 months after the purchase of the property for \$2,447 was a waste of the taxpayers' money.

Recommendations

1. We recommended the Principal Executive Director, Office of Acquisition, Logistics, and Construction establish formal VA policy and procedures regarding review appraisals and ensure its dissemination.
2. We recommended the Principal Executive Director, Office of Acquisition, Logistics, and Construction establish an internal review board to enforce compliance with Federal laws and VA policies governing VA land purchases.
3. We recommended the Principal Executive Director, Office of Acquisition, Logistics, and Construction determine the appropriate administrative actions to take for noncompliance with regulations.

**Management
Comments and
OIG Response**

The Principal Executive Director, OALC concurred with all of our recommendations and included a series of general and technical comments.

The Principal Executive Director, OALC requested closure of Recommendations 1 and 3. To support the request, OALC submitted the RPS policy memorandum that requires the use of review appraisals for all VA land contracts. They also state that in the future employees that fail to adhere to this policy the matter will be considered a performance issue. It is OIG's position that Recommendations 1 and 3 remain open until OALC revises the memorandum to include this warning and reissue it under the signature of the Principal Executive Director, OALC.

The Principal Executive Director, OALC disagreed with our assertion regarding providing a lack of supporting documentation for the 31 percent increase in appraised value of the same property. OIG stands by its position. Although OALC stated the purchase price was supported by an independent valuation of property by a licensed appraiser, a required review appraisal was necessary to establish the just compensation amount. Further, the review appraisal conducted in April 2014 stated that the highest and best use conclusion in the 2012 appraisal was inadequate, did not comply with appraisal standards, and the conclusion of the market value was not considered credible. Without a review appraisal, OALC cannot support the 31 percent increase in the amount paid for the property.

The Principal Executive Director, OALC disagreed with our assertion that VA wasted \$2,447 by commissioning an independent review appraisal in 2014. OIG stands by its position that obtaining a review appraisal 21 months after the purchase of the property served no value since the sale was complete and no further action could be taken based on the review appraisal.

We made one change in response to the technical comment regarding using the term law instead of regulation throughout the report. See Appendix C for the full text of the Principal Executive Director's comments.

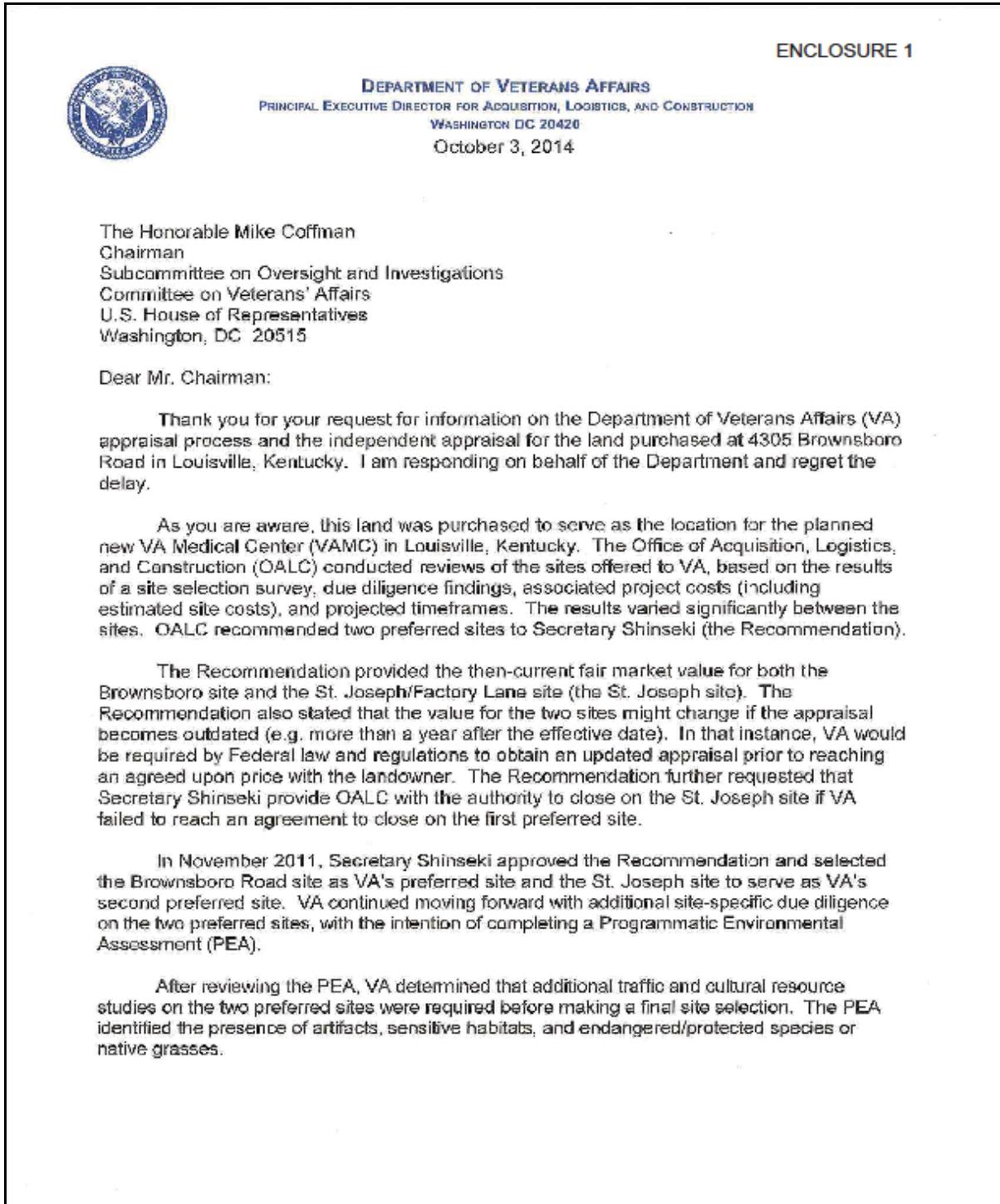
Data Reliability

VA provided real estate appraisals conducted by Galloway Appraisal of the Brownsboro Road property. The appraisals contained information about land sales, which we relied upon as part of this review. Although the appraisals were not independently verified, since the appraisals were created by Galloway Appraisals and not by VA, we determined the appraisal information was sufficiently reliable for the purposes of our review.

**Government
Standards**

We conducted this review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.

Appendix A OALC Letter to the Chairman of HVAC Subcommittee on Oversight and Investigations



Page 2.

The Honorable Mike Coffman:

Uniformity and fairness in the treatment of property owners are desired goals of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended, 42 United States Code (U.S.C.) §4601, et seq. Pursuant to the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), specifically, Section D-13 entitled Updating Appraisal Reports, VA requested updated appraisals to reflect the current market conditions for the two sites.

VA expected to make a final site determination after complying with the National Environmental Policy Act and obtaining the updated appraisals. Galloway Appraisal prepared the updated appraisals through a Kentucky State certified appraiser possessing a Member of the Appraisal Institute (MAI) designation.

Due to the passage of time between the first appraisal and due diligence completion, the second appraisal for the Brownsboro site indicated an updated fair market value of \$3.1 million more than the initial appraised value. The increase was based on a revised highest and best use analysis. Specifically, the analysis of highest and best use of the property was revised from residential to mixed-use development. Further, there were additional comparable sales that occurred after the first appraisal. The appraiser determined those sales were significant to consider in determining the current fair market value for the Brownsboro site. The final sales price was negotiated with the seller based on the updated appraisal. VA previously provided the sales price for the Brownsville site to this Committee, as reflected in the executed Offer to Sell negotiated with the seller, Midlands-Louisville, I.L.C.

Concurrently with obtaining an updated appraisal for the first preferred site, VA obtained an updated appraisal for the St. Joseph site. The updated appraisal for the St. Joseph site indicated a fair market value of \$4.5 million for 100 acres. The landowner's asking price was \$300,000 per acre, which equated to \$30 million for 100 acres.

In February 2012, OALC updated its appraisal review policy, whereby a different independent, qualified appraiser conducts a review appraisal of each initial appraisal commissioned. This process was implemented for future land acquisitions, as opposed to land acquisitions already commenced. However, VA plans to provide you an unredacted copy of the review appraisal for the Louisville Medical Center land acquisition by October 31, 2014.

Since February 2012, VA's new review appraisal policy applies to all VA land contracts, including Offers to Sell, Assignable Options to Purchase (used for build-to-suit leases), and Land Option contracts. The review appraisal policy requires VA to obtain review appraisals for each transaction, whether VA's initial appraisal contradicts a landowner's appraisal, or whether

Page 3.

The Honorable Mike Coffman

VA's initial appraisal is accepted by a landowner without issue. The review appraiser is in part expected to assess the extent to which the initial appraisal(s) are:

- (1) adequately supported;
- (2) compliant with recognized appraisal principles; and,
- (3) compliant with the UASFLA, governing laws and agency policy.

The minimum review process is prescribed in 49 Code of Federal Regulations §24.104 and the UASFLA. A qualified review appraiser must assure the appraisals under review satisfy those requirements; and, if necessary, seek corrections or revisions to them. The review appraiser must certify in writing which appraisal reports were reviewed and explain the basis for their analysis, including if applicable, their recommendation for approving the appraisals reviewed.

With regard to information shared with the community, in March 2012, VA staff attended the city council meeting to discuss the planned new Louisville, Kentucky, VA Medical Center with the adjacent Crossgate community. VA staff also addressed questions regarding the first preferred site. At the time of the meeting, VA had not yet entered into the purchase contract with the seller. Thus, due to applicable procurement integrity strictures, VA was precluded from discussing details of the ongoing negotiations, including but not limited to, the anticipated purchase price.

Regarding VA's relationship with Galloway Appraisal, VA did not contract directly with them. OALC used the services of a real estate broker from its indefinite delivery/indefinite quantity (IDIQ) National Broker Services Contract to obtain a minimum of three proposals from independent, state-certified, MAI appraisers. VA's selected National Broker obtained the three proposals. VA and the National Broker reviewed the qualifications and cost proposals provided, and VA selected Galloway's proposal based on a technically acceptable, lowest-price basis. Based thereon, VA issued a task order to the IDIQ National Broker.

You have requested cost information for the sites that were not selected as either of the preferred sites. VA contracted with the National Broker to obtain appraisals for three greenfield sites and a downtown site. The cost for the initial appraisal was \$3,582.67 for each greenfield site, for a total of \$10,748.00. The downtown assemblage consisted of 18 separate parcels. The appraisals for all 18 parcels cost \$34,914.03. The costs for the updated appraisals on the two preferred sites were \$2,264.92 for the Brownsboro site and \$4,529.84 for the St. Joseph site, for a total of \$6,794.76.

Page 4.

The Honorable Mike Coffman

OALC's review has identified no previous business interaction between VA and any business associated with the Brownsboro site owner (Mr. Jonathan S. Blue, Chairman and Director of Midlands-Louisville, LLC) or Galloway Appraisal prior to the events leading to the acquisition of the Brownsboro site. Enclosures 1 through 6 provide unredacted copies of all emails, faxes, and correspondence between VA and any business associated with Mr. Blue or Galloway Appraisal from January 2010 to the present. The emailed correspondence is grouped according to the following topics:

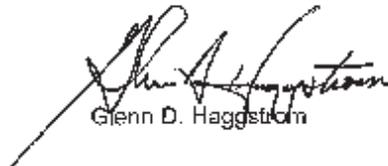
- (1) Due diligence, including slip ramp and traffic studies;
- (2) News articles;
- (3) The Offer to Sell;
- (4) Appraisal and pre-closing activities;
- (5) The Closing; and
- (6) The appraisal for the second preferred site, and related due diligence.

Lastly, I have included an Executive Summary for the unredacted copies of emails and correspondence for the greenfield sites appraisals and the downtown assemblage documents.

The requested documents are provided in full text. However, some of the information disclosed herein is proprietary or otherwise of a confidential commercial or financial nature. Accordingly, this information is protected by the Freedom of Information Act, 5 U.S.C. § 552(b)(4), and is provided to the Subcommittee in its oversight capacity. In addition, the information in this letter reveals the identity and personal information of specific individuals. VA protects this information carefully, consistent with statutory and regulatory requirements, and requests that the Committee protect this information accordingly. We trust that the Committee will afford the information adequate protection, including ensuring limited access and providing physical security.

Thank you for your continued support of our mission. Should you or your staff have additional questions, please have a member of your staff contact Mr. Omar Boulware, Congressional Relations Officer, at (202) 461-6468 or by email at omara.boulware@va.gov.

Sincerely,



Glenn D. Haggstrom

Enclosures

Appendix B Potential Monetary Benefits in Accordance With Inspector General Act Amendments

Recommendation	Explanation of Benefits	Better Use of Funds	Questioned Costs
1	Had the VA acquisition team obtained a review appraisal, OALC would have been able to determine if the appraised amount was a just compensation amount.	\$3,055,000	\$0
1	Since the property was already purchased in July 2012, there was no need for the review appraisal conducted in April 2014.	\$2,447	\$0
Total		\$3,057,447	\$0

Appendix C Principal Executive Director, Office of Acquisition, Logistics, and Construction Comments

Department of Veterans Affairs

Memorandum

Date: July 31, 2015
From: Principal Executive Director, Office of Acquisition, Logistics, and Construction (003)
Subj: OIG Draft Report Review of Land Purchase for the Replacement Hospital in Louisville Kentucky, Project Number: 2014-02666-AR-0154 (VAIQ No. 7622728)
To: Director, Healthcare Resources Division, Office of Contract Review (55)

1. The Office of Acquisition, Logistics, and Construction (OALC) has reviewed the subject report and agrees with the Office of the Inspector General (OIG) that OALC has the opportunity to make improvements to its land acquisition program policies and procedures, specifically as issues arose in the land acquisition for the Louisville VA Medical Center (VAMC). Such improvements will help to ensure that a situation like that affecting the Louisville VAMC land acquisition will not happen again. OALC concurs with all of the recommendations and provides general comments on the report. I have also attached technical comments to the report to for your consideration. We would be pleased to meet with you to discuss any of these comments
2. OALC concurs with OIG's recommendations and provides the following implementation statuses:
 - a. Recommendation 1: We recommend the Principal Executive Director, Office of Acquisition, Logistics, and Construction, establish formal VA policy and procedures regarding review appraisals and ensure its dissemination.

OALC Response: OALC concurs with this recommendation and requests closure based on the following status. In a memorandum dated October 16, 2012, OALC's Real Property Service (RPS) clarified the required use of review appraisals for all VA land contracts, including offers to sell and land option contracts as opposed to the prior organizational practice that included only seeking an independent review, or third appraisals, when there was a dispute of value (Attachment 1). RPS has also updated its land acquisition checklist which is used by its realty specialists which includes the independent review appraisal requirement (Attachment 2). Further, all policies are posted on the RPS SharePoint site accessible to all staff and all RPS staff received an e-mail reminder about the SharePoint site and its contents(Attachment 3). OALC resubmits these documents for consideration of closure of this recommendation.

b. Recommendation 2: We recommended the Principal Executive Director, Office of Acquisition, Logistics, and Construction establish an internal review board to enforce compliance with Federal laws and VA policies governing VA land purchases.

OALC Response: OALC concurs with this recommendation and is in the process of establishing a new internal review process that will include an institutional cross check prior to closing on real property. According to this new process, a team of subject

matter experts will convene for certain projects (the selection of which is based on contract value and other parameters) to review transactions for compliance with Federal laws, regulations, and VA policies. The new policy and procedure will be implemented by the end of calendar year 2015.

c. Recommendation 3: We recommended the Principal Executive Director, Office of Acquisition, Logistics, and Construction determine the appropriate administrative actions to take for noncompliance with regulations.

OALC Response: OALC concurs with this recommendation and has determined that appropriate administrative actions have been taken, and requests closure of this recommendation. Specifically, at that time, OALC employees were following the land acquisition practice at that time in instances where land value was not contested. In 2012, RPS revised its policy to state that going forward, independent review appraisals are required for all land purchases regardless of whether the value was contested. All policies have been posted on the RPS policy SharePoint site, accessible to all staff. In the future, if an employee fails to adhere to this or other policies the matter will become a performance issue. OALC requests closure of this recommendation.

3. OALC also provides the following general comments:

a. OALC believes that it is important to note that while the review appraisal was not conducted prior to the land purchase, all of the initial and updated appraisals, upon which the land acquisition was based, were conducted by an independently commissioned appraisal conducted by a state-licensed and MAI-certified appraiser. Further, RPS staff performed an internal review of both appraisals by reviewing the content in accordance with Federal regulations and speaking to the appraiser about his findings prior to purchase. This process is known as an administrative, in-house review, in a method recognized by the U.S. Department of Justice (DOJ) Federal Appraisal Standards and in accordance with VA's procedures at that time. VA believed it established an offer of just compensation based on the independently commissioned appraisal and in-house administrative review as required by the Uniform Relocation and Real Property Assistance Act. This would have been further verified through obtaining the review appraisal as required by regulation.

b. OALC disagrees with OIG's assertion regarding providing a lack of supporting documentation for the 31 percent increase in appraised value of the same property. OALC staff provided the independently commissioned appraisals conducted by a state-licensed and MAI-certified appraiser. We do not believe the straight line financial calculations used to understand the comparable property sales analysis took into account the weights and adjustments associated with those comparable sales or all information presented in the 2012 appraisal. We have included supporting information in OALC's technical comments (Attachment 4).

c. OALC disagrees with the assertion that VA "wasted" \$2,447 by commissioning an independent review appraisal in 2014. The review appraisal was commissioned to validate the findings of the initial appraisal as a "back-check," and in response to the stakeholder inquiries regarding the initial appraised value.

d. OALC agrees with OIG that the October 3, 2014, letter from OALC to the House Veterans Affairs Committee (HVAC) was not factually accurate with regard to a change in zoning. OALC has researched and identified the source of the incorrect information provided in the October 3, 2014, letter to the House Committee on Veterans' Affairs by

the previous Principal Executive Director, OALC. We are prepared to demonstrate that this was an administrative error and no willful misrepresentations were made.

4. OALC provides additional technical comments to inform the final report as Attachment 4.

Should you have questions regarding this submission, please contact Ms. Melanie Griffin at (202) 461-6626 or via email at Melanie.griffin@va.gov.

(original signed by:)

Gregory L. Giddens

Attachments: (4)

ATTACHMENT

TECHNICAL COMMENTS

OIG Draft Report Review of Land Purchase for the Replacement Hospital in Louisville Kentucky, Project Number: 2014-02666-AR-0154

OALC provides that following technical comments, for consideration and inclusion in the final report.

1. The purchase price was supported by an independent valuation of property by a licensed appraiser. OALC recommends revision to the draft report on page i, paragraph 3, and page 5, paragraph 5 to replace “VA possibly overpaid \$3,055,000 for the property” with “*VA paid the fair market value of the property as independently appraised by a state-licensed, and MAI- certified appraiser and administratively reviewed in-house, in accordance with DOJ Uniform Appraisal Standards for Federal Land Acquisitions and VA’s policy at that time.*”

2. OALC recommends revision to the draft report that indicates OALC obtained an independent review appraisal after purchase in response to inquiries obtained from VA’s Oversight and Investigations Committee as well as other Congressional members. In doing so, VA was performing a diligent backward looking review as well as better complying with the Federal regulation governing appraisal practice. To inform the report accurately, please revise the following references:

- a. Page 1, Paragraph 3: “In addition, obtaining a review appraisal 21 months after the purchase, OALC wasted another \$2,447”;
- b. Page 3, Paragraph 3: “This review appraisal cost VA \$2,447...Spending the \$2447 for the review appraisal was a waste of taxpayers’ money”; and
- c. Page 6, Paragraph 3; “However, obtaining a review appraisal 21 months after the purpose of the property for \$2,447, was a waste of taxpayers’ money.”

3. RPS issued a policy memorandum requiring the use of independent review appraisals in all acquisition circumstances, not only when price is disputed, in a manner consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and section 24.104, title 49, Code of Federal Regulations (49 CFR 24.104). OALC requests revision of page 4, paragraph 5, specifically, “...RPS issued a simple memo requiring the use of review appraisals in a manner consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act.”

4. Contrary to the assertions on page 1, paragraph 1 and 3; page 3, paragraph 1; and page 6, paragraph 2 that “OALC was unable to provide supporting documentation for

the 31 percent increase in appraised value of the same property....”; OALC believes it provided all supporting documentation to support the purchase price and price of the independent review appraisal. In furtherance of the aforementioned documentation, OALC provided OIG with copies of independent appraisals conducted by Galloway Appraisal, dated December 10, 2010 (Appraisal 1), and an independent updated appraisal conducted by the same firm, dated February 29, 2012, (Appraisal 2), on May 6, 2015, and again on June 26, 2015. OALC relied upon these independent appraisals, commissioned appraisal conducted by a State-licensed and MAI-certified appraisers to support the increase in the appraised fair market value that was obtained prior to purchase.

5. OALC requests a revision to page 4, paragraph 1 that relates RPS received and reviewed Galloway’s rebuttal and, in coordination with staff from VA’s OGC, determined that both the independent review appraisal and Galloway’s rebuttal were inconclusive.”: From, “RPS accepted Galloway’s unsigned rebuttal and dismissed the conclusions outlined in the review appraisal.”

6. OALC requests that OIG consider revising the following language to reflect that VA performed an in-house administrative review but did not obtain an independent review appraisal, prior to purchase. RPS performed an in-house, administrative review of the appraisals, received for all viable site options, in accordance with Section C-1 of the DOJ Uniform Appraisal Standards for Federal Land Acquisitions, that was omitted from the draft report. Pursuant to those standards, an “administrative review may be performed by an appraiser or a non-appraiser and is sometimes referred to as a compliance review. An administrative review is not subject to USPAP [federal appraisal requirements] and is typically performed as part of making a business decision such as whether or not to pursue the purchase or sale of a property.” Further, “The content and scope of an administrative review will vary with the intended use and intended user of the review.” However, the standards do note that administrative reviews do not meet the requirements of 49 CFR 24.104. The OIG draft report fails to include the internal review or analysis on OALC’s part. Four references in the draft report that the omission could inform include: (a) page 1, paragraph 3; (b) page 2, paragraph 1 and 3; (c) page 4, paragraph 2 and 3, and (d) page 5, paragraph 5.

7. Recommend OIG correct the following references that misrepresent a violation of law: (a) page i, paragraph 1; (b) page 4, paragraph 2; (3) and page 5, paragraph 6. OALC agrees that, in hindsight, it did not take sufficient steps to *independently* validate the fair market value of the property prior to purchase as required by Federal regulations (49 CFR 24.104). However, this requirement is set forth by a regulation, not law. OIG expressly reads implied language into the regulation at, not the law. Additionally, OALC RPS offered just compensation for the property in accordance with the law and based on the in-house administrative review and the independent review appraisal following the purchase.

8. OIG's analyses leads to the assertion (and implied language) that the 2011 sale is not a significant component of the change in valuation. OALC believes that OIG may not have fully taken the text and comparable sales information, including adjustments, into account that is presented in the 2012 appraisal. The 2012 appraisal text and comparable sale charts, indicate that the most recent sale in 2011, for a hospital, was attributed more weight toward the subject property's value than would be seen in a straight line analysis.

9. The 2012 appraisal revised the 2010 comparable sales analysis by adding three comparable properties and removing two older comparable property sales. The OIG Draft Report questions the inclusion of two of the three new comparables and performs its own analysis of the increase in price that may not correspond with industry standards for appraisal valuation. The OIG Draft Report also fails to mention that older comparable property sales analyzed in the 2010 appraisal were removed from the 2012 analysis. By presenting information in this manner, the draft report infers that the only change between appraisals was the addition of 3 new properties; and further, that the financial analysis is not supported.

10. In the 2012 appraisal, one 2011 sale, and the two, 2008 comparable properties were added; of which, the 2011 sale was for a hospital, one 2008 property was offered for sale at the time of the 2012 appraisal at the 2008 price, and the second was a sale for a medical use (pediatric outpatient center). Despite language in the 2012 appraisal analyzing the added sales, the draft report makes no mention of those facts.

11. OIG's omission of the removed comparable sales or the context surrounding the added sales does not fully represent the analysis underlying the 2012 appraisal property valuation. Including that information would better inform an understanding of why the appraiser revised his analysis to reflect the market.

Office of Acquisition, Logistics, and Construction
July 30, 2015

ATTACHMENT

NAME OF LAND ACQUISITION (CITY, STATE - INTENDED USE)		
SCHEDULE, SCOPE		
Schedule	<p>X acres should be acquired by June 30, 2017</p> <ul style="list-style-type: none"> • Advertisement by (date) • Site Selection by (date) • If NCA Major project must be authorized for expenditure from the Land Acquisition Fund • If NCA Minor project, confirm authority for budget year and obtain project number from NCA 	<input type="checkbox"/>
Funding	<p>Land acquisitions can only be funded by a Major or Minor project. Funding must be confirmed as available for acquisition prior to initiation of project. If,</p> <ul style="list-style-type: none"> • NCA Major – money paid from Land Acquisition Fund • NCA Minor – money paid from <i>Land Acquisition Account (confirm amount of funding, acquisition limits (i.e. how much construction will cost) and project number)</i> • VHA Major – money paid from Major project funds (held by CFM) • VHA Minor – money paid from Minor project funds (held by 10NR) (<i>confirm amount of funding, acquisition limits (i.e. how much construction will cost) and project number</i>) <p><i>See Standard Operating Procedure related to funding components of a land action.</i></p> <ul style="list-style-type: none"> ➤ Confirm funding availability (use certification of funds) once agreed to appraised value. 	<input type="checkbox"/>
Approval	<p>Agency approval must be provided in the following forms:</p> <ul style="list-style-type: none"> • Signed Strategic Capital Investment Process (SCIP) approval or suitable alternative (i.e. Emergency Minor). • If NCA project cost < \$1M, SCIP not needed, must be on NCA Operating Plan. • Secretary's conceptual approval of acquisition (per MP3) – Required for all acquisitions except for VHA Majors b/c prospectus authorized as part of the budget. • ExSum to DepSec notifying of intent to sign contract (7 day prior notice required) 	<input type="checkbox"/>
SITE SELECTION (STANDARD)		
Definition of Standard	In the five instances outline in this cell, you will <u>not</u> conduct a standard site selection process because the site location has been fixed from	<input type="checkbox"/>

	<p>the onset.</p> <ul style="list-style-type: none"> ➤ Skip Site Selection Board and Tour sections. Instead, confirm project requirements and proceed with due diligence. <p>Pursuant to 38 USC § 8103, the Secretary has authority to pre-determine a site,</p> <ul style="list-style-type: none"> • Sites may be pre-selected by the USMA (land adjacent to an existing national cemetery for expansion) and approved by SecVA, • A donation may be offered to VA (check requirements for acceptance of donated property), • A BRAC transfer • A fed-to-fed transfer 	
Confirm Project Requirements	<p>Confirm the following with VHA/NCA</p> <ol style="list-style-type: none"> 1. A need exists that has been authorized and approved by the administration (see "bona fide need" rule) 2. Funding to cover the estimated acquisition cost, and related expenses (ad, due diligence, etc...) exists and will be made available – obtain written approval 3. A delineated area (if conducting a site selection) 4. Minimum requirements (i.e. acreage, water rights, etc...) 	<input type="checkbox"/>
Establish Site Selection Board (SSB)	<p>Establish SSB via memo</p> <ol style="list-style-type: none"> 1. See Site Selection folder – confirm board composition with NCA/VHA 2. Write memo from Chief, RPS to Executive Director, CFM 	<input type="checkbox"/>
Site Selection Tour	<ol style="list-style-type: none"> 1. Confirm dates, transportation and accommodations 2. Allow for extra time before and after tour to discuss and evaluate sites 	<input type="checkbox"/>
Pre-tour	<ol style="list-style-type: none"> 3. Confirm logistics – sites, contact information, driving directions, # binders, confidentiality certificates, copies of evaluation factor definitions and extra scoring sheets 4. Obtain site characteristic information and prepare binders 5. Confirm appropriate selection factors and relative weights with RPS and VHA/NCA prior to tour. 	<input type="checkbox"/>
Tour	<ol style="list-style-type: none"> 6. SSB conducts site selection tour of proposed sites and ranks based on evaluation criteria. 	
Post-tour	<ol style="list-style-type: none"> 7. Prepare SSB report with recommendations to proceed with due diligence and acquisition on two top-ranked sites. 	
ASSESSING SITE FEASIBILITY (DUE DILIGENCE)		
Obtain Quotes from Real Estate Brokers	<ol style="list-style-type: none"> 1. Obtain the next IDIQ broker in line for work from the National Program Manager 2. Issue a non-commissionable task order to obtain due diligence quotes for the following actions: 	

	<p>h) OGC approval of land contract</p> <p>2. Prepare VA stakeholders for closing – is this a high interest project that involves notifications prior to closing and a press release? Coordinate with OCLA, OPIA and the facility point of contact to ensure proper notifications in advance of potential media attention. Send an ExSum and Congressional Affairs Notification similar to that used in leasing (see Port Hudson as an example).</p>	
Closing	<p>1. Vendorize title company</p> <p>2. Obtain escrow account information and wire funds via EFT to arrive in escrow account at least 5 business days prior to closing</p> <p>3. Obtain copy of closing statement a couple of weeks in advance plus all documents VA will be expected to sign</p> <p style="padding-left: 20px;">a) Review closing statement for seller and buyer – ensure amounts are correct and that taxes are not being credited to VA, but paid out to jurisdiction at closing.</p> <p style="padding-left: 20px;">b) Review closing documents with RPS Land Team Leader. Ensure standard language provisions are agreeable to VA – often these must be marked up and take time resolve with underwriter’s attorney.</p> <p>4. Confirm with closing agent that money is in escrow account.</p> <p>5. Sign and retain a copy of closing documents.</p>	<input type="checkbox"/>
Post-Closing	<p>1. Obtain a copy of all recorded closing documents – save them in the project folder on the server.</p> <p>2. Obtain the final title policy from the title company and the recorded deed -save these in the project folder on the server.</p> <p>3. Submit request final title opinion (FTO) to DOJ or VA qualified attorney. Save FTO in project folder on the server.</p>	<input type="checkbox"/>
ITEMS TO CONSIDER		
Items which may extend timeframe	<ul style="list-style-type: none"> ➤ Issues with title, i.e. multiple title holders ➤ Uniform Relocation Act issues ➤ Environmental hazards ➤ Inability to secure all land clearances in a timely manner 	

Realty Specialist: _____

Date Project Completed: _____

**Department of
Veterans Affairs**

Memorandum

Date: Oct 16, 2012

From: Acting Director, Real Property Service (0031CE)

Subj: Appraisal Policy – Clarification of Review Appraisal Process

To: All 003C1E Staff (Real Property Service)

1. The purpose of this memorandum is to reinforce and clarify the previously implemented review appraisal policy. This policy is intended to ensure that the review appraisal process is implemented in a manner consistent with the Uniform Relocation and Assistance and Real Property Acquisition Policies Act of 1970 (URA), codified in 42 USC Chapter 61, and guided by the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), and the Uniform Standards of Professional Appraisal Practice (USPAP). This policy was confirmed in February 2012, and on various occasions since, during Real Property Service (RPS) staff meetings.
2. This policy applies to all VA land contracts, including Offers to Sell, Assignable Options to Purchase (used for build-to-suit leases), and Land Option contracts.
3. Pursuant to this policy, Realty Specialists must obtain review appraisals for each transaction, when the government's appraisal contradicts a landowner's appraisal and when VA's appraisal is accepted by a landowner without issue.
4. It is the review appraiser's responsibility to determine whether the initial appraisal(s) are: (1) adequately supported, (2) compliant with recognized appraisal principles, and (3) compliant with the UASFLA, governing laws and agency policy. The minimum review process is prescribed in 49 C.F.R. §24.104 and the UASFLA, as follows:

- (a) A qualified reviewing appraiser must assure appraisals satisfy requirements and, if necessary, seek corrections or revisions;
 - (b) If the reviewing appraiser is unable to approve or recommend approval of an appraisal, and it is determined that it is not practical to obtain an additional appraisal, the reviewing appraiser may develop appraisal documentation in accordance with §24.103 to support a value; and
 - (c) The reviewing appraiser's certification or the approved value must be included in a signed statement which identifies the appraisal reports reviewed and explains the basis for the recommendation or approval.
4. RPS Realty Specialists and Contracting Officers are responsible for obtaining (with broker assistance, as appropriate) review appraisals that satisfy the laws and regulations described in this memorandum.

(original signed by:)

Jessica L. Kaplan

Appendix D Office of Inspector General Contact

OIG Contact

For more information about this report, please contact the Office of Inspector General at (202) 461-4720.

Appendix E Report Distribution

VA Distribution

Office of the Secretary
Veterans Health Administration
Veterans Benefits Administration
National Cemetery Administration
Assistant Secretaries
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House Appropriations Subcommittee on Military Construction,
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Senate Appropriations Subcommittee on Military Construction,
Veterans Affairs, and Related Agencies
Senate Committee on Homeland Security and Governmental Affairs
National Veterans Service Organizations
Government Accountability Office
Office of Management and Budget
U.S. Senate: Mitch McConnell, Rand Paul
U.S. House of Representatives: Garland Barr, Brett Guthrie, Thomas Massie,
Harold Rogers, Ed Whitfield, John Yarmuth

This report is available on our Web site at www.va.gov/oig.