

LEASE AND OCCUPANCY AGREEMENT (OA) MANAGEMENT PROCEDURES

- 1. REASON FOR ISSUE:** This handbook establishes procedures for management of VA's real property leases and space assignments through General Services Administration (GSA) Occupancy Agreements (OAs).
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook outlines the procedures by which VA's Under Secretaries, Assistant Secretaries, and Other Key Officials are to structure their lease-related activities and space assignments, satisfy the mission requirements and performance goals of the department, and are supportive of the Secretary's priorities. The updated handbook distinguishes leasehold interests from GSA space assignments, removes term limitations stemming from the Capital Asset Realignment for Enhanced Services program, reflects use of the Strategic Capital Investment Planning (SCIP) process, and includes references to current Congressional lease requirements and direct lease delegation processes.
- 3. RESPONSIBLE OFFICE:** The Office of Management (OM) (004).
- 4. RELATED DIRECTIVES:** VA Directive 7816, Lease and OA Management Procedures; VA Directive 7815, Acquisition of Real Property by Lease and by Assignment from GSA; VA Directive 0056, VA Sustainable Buildings Program; VA Directive 0011, SCIP Process
- 5. RESCISSIONS:** VA Handbook 7816, Lease Management Procedures, dated August 22, 2003.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
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LEASE AND OA MANAGEMENT PROCEDURES

1. **GENERAL LEASE AND OA MANAGEMENT.** To establish a uniform VA framework for the life-cycle management of VA's real property leasehold interests and GSA OA space assignments, Under Secretaries, Assistant Secretaries, and Other Key Officials shall:
 - a. Comply with federal laws and regulations concerning the planning, budgeting, acquisition, management, and disposition of leases and OAs.
 - b. Ensure there is a complete and current portfolio of all of VA's leasehold and OA interests.
 - (1) Under Secretaries, Assistant Secretaries, and Other Key Officials shall provide and update data about their real property lease portfolio and GSA OAs, in accordance with the Office of Asset Enterprise Management (OAEM) guidance for portfolio management contained in [VA Directive 4085, Capital Asset Management dated December 2, 2020](https://www.va.gov/vapubs/search_action.cfm?dType=1) (https://www.va.gov/vapubs/search_action.cfm?dType=1). The Capital Asset Inventory (CAI) database shall be kept accurate and updated with new information on a real-time basis to reflect any change in lease or OA information.
 - c. Follow all Departmental guidance on capital planning and sustainable design elements, including the following:
 - (1) [Directive 7815 - Acquisition of Real Property by Lease and by Assignment from General Services Administration \(GSA\) dated January 20, 2012](https://www.va.gov/vapubs/search_action.cfm?dType=1) (https://www.va.gov/vapubs/search_action.cfm?dType=1)
 - (2) [Directive 0056 - VA Sustainable Buildings Program dated August 31, 2021](https://www.va.gov/vapubs/search_action.cfm?dType=1) (https://www.va.gov/vapubs/search_action.cfm?dType=1)
 - (3) [Directive 0011 – SCIP Process dated August 20, 2021](https://www.va.gov/vapubs/search_action.cfm?dType=1) (https://www.va.gov/vapubs/search_action.cfm?dType=1)
 - (4) [Handbook 0011 – SCIP Process dated August 20, 2021](https://www.va.gov/vapubs/search_action.cfm?dType=1) (https://www.va.gov/vapubs/search_action.cfm?dType=1)
 - (5) [VA's Supplement to GSA's Leasing Desk Guide](https://vaww.cfm.va.gov/real/RPPM201806AdoptionofGSALeasingDeskGuide.pdf) (<https://vaww.cfm.va.gov/real/RPPM201806AdoptionofGSALeasingDeskGuide.pdf>)
 - d. Maximize VA's flexibility to take appropriate action to address strategic capital asset realignment needs. The below policy applies to lease and OA terms (as applicable) which need to be considered when planning lease procurements and GSA space assignments:
 - (1) For all requirements, VA should consider the benefits of favorable pricing associated with longer firm terms against the risk of changing space needs over the life of the agreement.

- (2) Where appropriate, VA should consider leveraging the Government's financial strength and potential to receive 20-year delegated lease acquisition authority from GSA by executing longer term leases.
 - (3) Where appropriate, VA should consider balancing the use of "firm" terms in its delegated direct leases and should seek to negotiate "soft" terms with termination rights to minimize the frequency of lease procurements while maximizing flexibility rather than renewal options. Use of a "soft" term is preferred over renewal options and allows VA to make an assessment as to whether a continuing operational need exists with minimal involvement of Lease Contracting Officers during the latter stages of a lease. For example, a 20-year term with termination rights after year 10 means that years 11 through 20 represent the "soft" term of the lease.
 - (4) Where appropriate, and if the length of lease is not already sufficient, extend existing lease terms for the minimum duration needed to satisfy an operational requirement while providing VA the opportunity to achieve full value from any tenant improvements.
- e. Ensure staff is competent in lease and OA-related activities for which they have responsibility by providing adequate training and support. Under Secretaries, Assistant Secretaries, and Other Key Officials shall provide staff involved in lease-related activities with sufficient training (formal and on-the-job), resulting in certification and warrants for lease contracting officers issued by the Office of Real Property, Office of Construction and Facilities Management. Each Veterans Integrated Service Network will have specialized, trained staff within their Capital Asset Management Office that is well versed and experienced in all VA capital asset policy, procedures, and systems. Veterans Health Administration, National Cemetery Administration, Veterans Benefits Administration, Staff Offices, and the Office of Information and Technology shall have trained staff in their field or central office locations.
- f. Follow VA's accounting procedures in [Chapter 11 Accounting for Real Property Agreements](https://department.va.gov/financial-policy-documents/financial-document/chapter-11-accounting-for-real-property-leases/) (https://department.va.gov/financial-policy-documents/financial-document/chapter-11-accounting-for-real-property-leases/) and as referenced by [Chapter 9 General Property, Plant, and Equipment](https://www.va.gov/finance/docs/VA-FinancialPolicyVolumeVChapter09.pdf) (https://www.va.gov/finance/docs/VA-FinancialPolicyVolumeVChapter09.pdf). In general, this means:
- (1) Entering lease or OA information into CAI once a lease or OA has been fully executed. Leases use a unique contract identifier assigned by VA's electronic contract management system, and OA's use a unique GSA provided OA number and GSA building identifier. Some leases and OAs have a unique project identifier derived from SCIP, which also needs to be entered.
 - (2) Uploading a copy of the fully executed lease or OA into CAI.
 - (3) Providing a fully executed copy of the lease or OA to the Local Fiscal Officer for entry into VA's Integrated Financial and Acquisition Management System to facilitate payments.

- (4) Regularly updating CAI with additional lease or OA details throughout the life of the agreement including managing amendments, option exercises, extensions, or when the agreement is terminated and becomes inactive.
 - (5) [OMB Circular No. A-11, Appendix A](https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf) (https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf), requires operating leases, as defined by [OMB Circular No. A-11, Appendix B](https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf) (https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf), to be obligated for a full fiscal year. For operating leases, budget authority is required to be obligated up front in the amount necessary to cover the Government's legal obligations, consistent with the requirements of the [Antideficiency Act](https://www.law.cornell.edu/uscode/text/31/1341) (https://www.law.cornell.edu/uscode/text/31/1341). This will include the estimated total payments expected to arise under the full term of the contract, or, if the contract includes a cancellation clause, an amount sufficient to cover the lease and other contractually required payments for the first year plus an amount sufficient to cover the costs associated with cancellation of the contract. For each subsequent year, sufficient budget authority is required to be obligated to cover the annual lease payment for that year plus any additional cancellation costs. This requirement remains in effect during a continuing resolution. For operating leases funded by the General Services Administration's Federal Buildings Fund (which is self-insuring under existing authority), only the amount of budget authority needed to cover the annual lease payment is required to be obligated. Project-specific delegations of authority from GSA or validation of appropriate use from OAEM to utilize GSA's standing categorical delegation of authority extends the protection of GSA's Federal Buildings Fund, allowing VA to enter into multi-year lease contracts while only obligating the annual lease payment. This requirement remains in effect during a continuing resolution.
 - (6) For OAs, funds must be obligated for a full fiscal year. This requirement remains in effect during a continuing resolution.
- g. Under Secretaries, Assistant Secretaries, and Other Key Officials shall ensure and be able to demonstrate that real property capital asset policies, standards and business practices exist at the Administration and Staff Office level to ensure compliance with this policy and other existing VA lease policies.
 - h. The accuracy of lease contract file information will be audited periodically by OAEM. Compliance will be reported to the Office of Management and the respective Administration leadership to maintain data quality.
- 2. PLANNING.** To establish consistent planning of VA's leasehold interests and GSA OA space assignments, Under Secretaries, Assistant Secretaries, and Other Key Officials shall:
- a. Use the SCIP Automated Tool (SAT) to gain SCIP approval for any new or replacement action that results in a new unique lease contract identification number or GSA provided OA number. For direct leases, this generally means requesting approval for new, new/replacing, succeeding, and superseding lease action types as referenced in G-Rex. Lease extensions, expansions, and renewals (as referenced in G-Rex) are exempt from this requirement as they are not vetted and approved through SCIP. The Enterprise

Lease Management Tool (ELMT) shall be used to assist and track GSA delegation requests for all lease actions.

- (1) Utilizing SAT will assist the approving authority to ensure the identified requirement:
 - (a) Has been vetted and approved through the SCIP process.
 - (b) Supports the operational needs of Under Secretaries, Assistant Secretaries, and Other Key Officials to achieve their mission.
 - (c) Is aligned with VA's strategic goals (if a business case is developed for the requirement).
 - (d) Supports the Secretary's/President's priorities (if a business case is developed for the requirement).
- b. In accordance with SCIP guidance, users shall submit a proposed lease and OA term (duration) to ensure prudent decision-making.
- c. Work towards colocation of facilities, where feasible, with VA Administrations and Staff Offices and/or other federal, state, or local partners.
- d. Maximize use of existing VA-utilized real property (e.g., owned, leased, or available for use through an OA, revocable license, permit, or enhanced sharing agreement) when determining how to meet the space needs of VA. Prior to initiating action to acquire additional space, Under Secretaries, Assistant Secretaries, and Other Key Officials shall ensure they are following their organization's existing space program criteria and have explored options to maximize use of existing underutilized VA space.
- e. When an Under Secretary, Assistant Secretary, or Other Key Official has validated their need for space and plans to pursue a Mid-Level or Major Lease, an evaluation of all available alternatives for resolving their space needs shall be completed using the latest department guidance on capital planning. The analysis shall be included in the designated system for planning, currently SAT. The following alternatives shall be narratively described and, if applicable, financially analyzed through the Cost Effectiveness Analysis (CEA) tool:
 - (1) Status Quo.
 - (2) New Lease.
 - (3) New Construction.
 - (4) Renovation (if feasible).
 - (5) Contract Out.
 - (6) Acquire an Existing Facility by purchase or lease (if feasible).
 - (7) VA/DoD Collaboration (if feasible).

- f. The merits of each viable alternative shall be assessed with conclusions documented within SAT for the following items:
- (1) Satisfaction of requirements (found in business case & prospectus).
 - (2) Support for VA's strategic goals and the Secretary's priorities (found in business case).
 - (3) Life-cycle costs (found in CEA tool and prospectus).
 - (4) Qualitative benefits (found in prospectus – not required to be documented in SAT if requirement is below VA's Major Lease threshold).
 - (5) Net Present Value (found in CEA tool).
- g. Plan for and take appropriate action to meet upcoming space requirements in a timely manner to avoid existing lease or OA expiration.
- (1) Some leases and OAs shall be approved through the SCIP process and be included in an approved operating plan for the FY of execution.
 - (2) SCIP approval shall be pursued through the normal budget submission process for Major leases. Emergent need Minor and Mid-Level leases projects can be pursued via the Out of Cycle (OOC) process.
 - (3) Before a lease procurement or OA may be initiated, which includes seeking GSA delegation and completion of the SF81 "Request for Space" form for Oas (see [Forms | GSA](https://www.gsa.gov/forms) (<https://www.gsa.gov/forms>)), the lease or OA shall receive full SCIP approval (if required), which means approval by the Secretary (evidenced by project inclusion in VA's annual budget request) or for OOC leases, approval by OAEM and evidenced in SAT.
 - (4) Lease procurements utilizing GSA's delegated authority shall receive a delegation from GSA prior to issuing Requests for Lease Proposals. Per [Federal Management Regulation Bulletin C-2](https://www.gsa.gov/system/files/FMR_Bulletin_C-2_in_Federal_Register_pdf_2014-08645.pdf) (https://www.gsa.gov/system/files/FMR_Bulletin_C-2_in_Federal_Register_pdf_2014-08645.pdf), Agencies shall submit delegation requests to GSA no less than 18 months in advance of lease expiration if there is a continuing need for the space and the agency wishes to obtain a new delegation to satisfy its space requirements.
- h. OAEM shall:
- (1) Issue separate guidance detailing any new requirements for the submission of annual operating and/or long-term lease plans. Short and long-term plan requirements may be combined to minimize reporting requirements.
 - (2) Work collaboratively with Under Secretaries, Assistant Secretaries, and Other Key Officials in the development of new requirements for capital asset-related planning documents.

3. ACQUISITION. To establish consistent acquisition procedures, Under Secretaries, Assistant Secretaries, and Other Key Officials must consider the following requirements:

a. Congressional Lease Requirements:

- (1) Ensure compliance with [38 U.S.C. § 8104](https://uscode.house.gov/view.xhtml?req=(title:38%20section:8104%20edition:prelim)) (https://uscode.house.gov/view.xhtml?req=(title:38%20section:8104%20edition:prelim)), which requires VA to submit a prospectus for approval for Major Leases with average annual rent equal to or greater than the appropriate dollar threshold described in [40 U.S.C. § 3307\(a\)](https://www.law.cornell.edu/uscode/text/40/3307) (https://www.law.cornell.edu/uscode/text/40/3307), which is subject to adjustment in accordance with [40 U.S.C. § 3307\(h\)](https://www.law.cornell.edu/uscode/text/40/3307) (https://www.law.cornell.edu/uscode/text/40/3307), to each of VA's Congressional Committees and to notify Congress of impending Major Lease awards. As of FY 2024, the dollar threshold is equal to or greater than \$3,613,000 in average net annual rent for the term of the lease (including option periods and excluding the cost of services). Contemplated leases calling for a stepped rent or a change in the base rent, shall be "levelized" in accordance with [Chapter 11 of GSA's Leasing Desk Guide, Prospectus-Level Leases](https://www.gsa.gov/system/files/General/LDG_Chapter_11_FINAL_07012022_Cd_cox.pdf) (https://www.gsa.gov/system/files/General/LDG_Chapter_11_FINAL_07012022_Cd_cox.pdf) to determine whether a prospectus is needed. The dollar threshold applied to a particular lease procurement is the dollar threshold in effect during the fiscal year of the lease award.
- (2) Ensure compliance with [40 U.S.C. § 3307\(a\)\(2\)](https://www.law.cornell.edu/uscode/text/40/3307) (https://www.law.cornell.edu/uscode/text/40/3307), which requires VA as an agency utilizing GSA's delegated lease authority, to submit a prospectus for approval through GSA to GSA's Congressional Committees, for VA leases that exceed GSA's prospectus threshold, which is subject to adjustment in accordance with [40 U.S.C. § 3307\(h\)](https://www.law.cornell.edu/uscode/text/40/3307) (https://www.law.cornell.edu/uscode/text/40/3307). As of FY24, the dollar threshold is equal to or greater than \$3,613,000 in average net annual rent. Contemplated leases calling for a stepped rent or a change in the base rent, shall be "levelized" in accordance with [Chapter 11 of GSA's Leasing Desk Guide, Prospectus Level Leases](https://www.gsa.gov/system/files/General/LDG_Chapter_11_FINAL_07012022_Cd_cox.pdf) (https://www.gsa.gov/system/files/General/LDG_Chapter_11_FINAL_07012022_Cd_cox.pdf) to determine whether a prospectus is needed. The dollar threshold applied to a particular lease procurement is the dollar threshold in effect during the fiscal year of the lease award.
- (3) Ensure compliance with [40 U.S.C. § 3307\(a\)\(3\)](https://www.law.cornell.edu/uscode/text/40/3307) (https://www.law.cornell.edu/uscode/text/40/3307) which requires VA as an agency utilizing GSA's delegated lease authority, to submit a prospectus through GSA to GSA's Congressional Committees, for all post-Government occupancy alterations in leased space when the estimated hard construction cost, whether payment is made lump sum or amortized in the rent, exceeds the threshold amount for alterations in leased buildings. As of FY 2024, the dollar threshold is equal to or greater than \$1,806,500 and is subject to adjustment in accordance with [40 U.S.C. § 3307\(h\)](https://www.law.cornell.edu/uscode/text/40/3307) (https://www.law.cornell.edu/uscode/text/40/3307). Initial tenant space alterations do not require submission of a prospectus. Additional guidance can be found in [Chapter 11 of GSA's Leasing Desk Guide \(LDG\), Prospectus-Level Leases](https://www.gsa.gov/system/files/General/LDG_Chapter_11_FINAL_07012022_Cd_cox.pdf)

(https://www.gsa.gov/system/files/General/LDG_Chapter_11_FINAL_07012022_Cd_cox.pdf) and VA's Supplement to GSA's LDG, which can be found in [Real Property Policy Memorandum 2018-06, Adoption of General Services Administration \(GSA\) Leasing Desk Guide \(LDG\)](#)

(<https://vaww.cfm.va.gov/real/RPPM201806AdoptionofGSALeasingDeskGuide.pdf>)

For renovation projects that require a GSA prospectus, please contact CFM ORP Policy and Programs at VACO003C7APolicyandProgramsTeam@va.gov.

- b. Under Secretaries, Assistant Secretaries, and Other Key Officials shall refer to, and comply with, existing GSA requirements and existing VA policy or guidance concerning lease asset management. In any instance where existing VA policy or guidance for lease asset management conflicts with a policy stated in this handbook, policy established in this handbook supersedes the existing non-conforming VA guidance.
 - (1) VA shall adhere to GSA requirements when obtaining a space assignment through GSA or when procuring a direct lease utilizing GSA's delegated authority.
 - (2) Lease Contracting Officers shall upload all required post-award documentation to GSA Real Estate Exchange (GREX) system within 30 calendar days of lease award.
- c. For delegated leases, Under Secretaries, Assistant Secretaries, and Other Key Officials shall:
 - (1) Use ELMT to assist and document the GSA lease delegation process through award.
 - (2) Submit a draft acquisition plan and supporting documentation to OAEM using ELMT and GREX.
 - (3) Enter proposed and actual milestone dates and all lease tracking information in ELMT.
- d. OAEM shall:
 - (1) Review and clear all delegation requests before Under Secretaries, Assistant Secretaries, and Other Key Officials may request delegation from GSA via GREX.
 - (2) Review and validate all Categorical lease delegation requests submitted through the ELMT-GREX process to ensure appropriate use of GSA's standing categorical delegation.
 - (3) Review delegation requests to ensure they correspond with approved projects in SCIP.
- e. All delegated leases shall achieve scoring as Operating Leases in accordance with [OMB Circular A-11 Appendix B—Budgetary Treatment of Lease-Purchases and Leases of Capital Assets](#) (https://www.whitehouse.gov/wp-content/uploads/2018/06/app_b.pdf).
- f. VA-wide Review and Approval:

- (1) ["Acquisition of Real Property by Lease and by Assignment from GSA" \(VA Directive 7815\)](https://www.va.gov/vapubs/search_action.cfm?dType=1) (https://www.va.gov/vapubs/search_action.cfm?dType=1) outlines the approval authorities for leasing actions.
- (2) Under Secretaries, Assistant Secretaries, and Other Key Officials may submit any lease policies, standards, and business practices to OAEM before they are implemented.
- (3) OAEM may review and provide certification of Administrations' and Staff Offices' lease policies, standards, and business practices.

4. MANAGEMENT. To establish consistent ongoing management of VA's leasehold and OA interests, Under Secretaries, Assistant Secretaries, and Other Key Officials shall:

- a. Ensure accurate billing to VA and timely payment to lessors and GSA through effective management controls. Conduct periodic audits to identify errors and systemic weaknesses.
- b. Monitor critical dates within operational lease agreements and take timely and appropriate action to resolicit, evaluate upcoming lease options, and where appropriate, exercise such options in a timely manner.
- c. Ensure OAs and new, new/replacing, succeeding, superseding, and extension lease actions are taken in advance of agreement expiration, as appropriate, to avoid VA operating in space without a valid agreement and to maximize available options and negotiating leverage.
- d. Holdover and standstill tenancies are not acceptable. Facilities occupied via holdover tenancies and standstill agreements should be prioritized to be resolved immediately.
- e. Ensure new and applicable new/replacing lease actions and OAs are submitted for approval through SCIP approximately 30 months in advance of agreement expiration so that replacement space can be accepted before the expiration of the prior lease or OA. New, new/replacing, succeeding, superseding, and extension lease actions, especially those leases above the Simplified Lease Acquisition Threshold may require a substantial amount of pre-planning and approvals including SCIP approval, a justification for other than full and open competition, and GSA lease delegation approval. Per [Federal Management Regulation Bulletin C-2](https://www.gsa.gov/system/files/FMR_Bulletin_C-2_in_Federal_Register_pdf_2014-08645.pdf) (https://www.gsa.gov/system/files/FMR_Bulletin_C-2_in_Federal_Register_pdf_2014-08645.pdf), Agencies shall submit delegation requests to GSA no less than 18 months in advance of lease expiration if there is a continuing need for the space and the agency wishes to obtain a new delegation to satisfy its space requirements.
- f. Conduct management reviews of existing leases on a periodic basis and take action as appropriate. These reviews shall include, but not be limited to:
 - (1) An evaluation of the Lessor's performance under the terms of the lease as well as a review of VA's actual rental payments versus its rental obligations under a lease.

Lease Contracting officers shall take appropriate action, such as using cure letters, to improve performance deficiencies, when feasible.

- (2) A determination if the existing amount of leased space is still required at a given location or if a reduction in space, an increase in space, or consolidation with another location is warranted. Proposed increases in office and warehouse space need to be offset to ensure that there is no net increase in the size of these space types within VA's owned and leased inventory. Under Secretaries, Assistant Secretaries, and Other Key Officials should refer to workload projections as well as VA's current and projected to be available, vacant, and underutilized owned and leased space. Under Secretaries, Assistant Secretaries, and Other Key Officials should confer with planning staff when making this determination.
 - (3) A determination that a continuation of the current leasehold interest is in the best interest of VA, either as a succeeding or superseding lease, in the current space or for that function in a new/replacing lease in another location. Under Secretaries, Assistant Secretaries, and Other Key Officials should assess the merits of a proposed renewal of VA's leasehold, possible renegotiation of the terms and conditions of the current leasehold, or termination and relocation, if any of those options would be in the best interest of VA.
- g. Take timely and appropriate action to exercise lease renewal option(s) in accordance with contractual requirements and after a determination that doing so is in VA's best interest. Additional guidance can be found in [Chapter 9 of GSA's Leasing Desk Guide, Renewal Options](https://www.gsa.gov/system/files/General/LDG_Chapter_9_Renewal_Options_REV_%28April_2022%29_C.pdf) (https://www.gsa.gov/system/files/General/LDG_Chapter_9_Renewal_Options_REV_%28April_2022%29_C.pdf). Renewal option(s) not included in the total term of the original approved delegation of lease authority require GSA evaluation and approval to exercise.
 - h. Leases shall be effectively and appropriately managed across the Department. OAEM requires that as part of the Federal Manager's Financial Integrity Act (FMFIA) management control assessment process, Under Secretaries, Assistant Secretaries, and Other Key Officials' capital asset review and approval authorities certify on an annual basis the necessary policies, standards and practices are in place and are being appropriately exercised. If leases are not being effectively and appropriately managed, OAEM may require a corrective action plan be developed and submitted. Once approved by OAEM, OAEM may choose to oversee the corrective action plan's execution.
 - i. Ensure the respective lease contracting officers and realty specialists periodically review VA's website <http://vaww.va.gov/oaem/> for current policy, guidance, and other lease-related material.