

## ENHANCED-USE LEASE PROGRAM POLICIES

1. **REASON FOR ISSUE:** To set forth Department-wide Enhanced-Use Lease (EUL) Program Policies.
2. **SUMMARY OF CONTENTS:**
  - a. Establishes the Office of Asset Enterprise Management as the office responsible for oversight of the Department's EUL program and management of the EUL projects identified as Departmental asset initiatives.
  - b. Provides clarifying guidance on EUL administrative responsibilities, delegations of authority, and financial management of proceeds obtained from EUL.
3. **RESPONSIBLE OFFICE:** The Office of Management (004) is responsible for the contents of this directive.
4. **RELATED HANDBOOK:** VA Handbook 7415, Enhanced-Use Leasing Program Procedures.
5. **DEFINITION:** None
6. **RESCISSIONS:** VA Directive 7415, Enhanced-Use Leasing Program Policies and Procedures, dated December 21, 2011.

**CERTIFIED BY:**

/s/

Dat Tran  
Acting Assistant Secretary for  
Office of Enterprise Integration

**BY DIRECTION OF THE SECRETARY  
OF VETERANS AFFAIRS:**

/s/

Edward J. Murray  
Acting Assistant Secretary for Management  
and Acting Chief Financial Officer

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**ENHANCED-USE LEASE (EUL) PROGRAM POLICIES**

1. **PURPOSE.** This directive establishes policies for program responsibilities and implementation of the Department's EUL program. The Office of Asset Enterprise Management (OAEM), within the Office of Management (OM), has oversight responsibility for the EUL program as well as management responsibility for those projects identified as Departmental asset initiatives.
2. **POLICY.** This directive provides guidance associated with EUL activities, including the roles and responsibilities of VA organizations.
  - a. **Program Policies for EULs.** The EUL authority was originally enacted in 1991, under sections 8161 through 8169 of Title 38 U.S.C. §§8161 – 8169; however, that authority expired December 31, 2011. The EUL authority was reinstated in 2012, in modified form via Public Law 112-154, Section 211, through December 31, 2023, and that authority was further modified by the West Los Angeles Leasing Act 2016. The current authority and the West Los Angeles Leasing Act of 2016 are attached to the EUL handbook, Reference A and on the [VA's Office of Asset Enterprise Management \(OAEM\) website](#). Under this authority, VA may lease land or buildings under the jurisdiction or control of the Secretary to a public or private entity for a term not to exceed 75 years. The leased property may be developed for only supportive housing, provided such use is consistent with and does not adversely affect the mission of VA. The term of the EUL will be no longer than necessary in order to maximize benefits to the Department.
    - (1) Under the provisions of the above-described law, the Secretary must comply with the following statutory requirements:
      - (a) VA must conduct a public hearing in the locality of the contemplated lease after the congressional Veterans' Affairs committees and the public have been given reasonable notice that identifies the time and place for the hearing, identifies the property to be leased and its proposed uses, and describes how the contemplated project would contribute and not be inconsistent with or adversely affect VA's mission; and
      - (b) Provide a Notice of Intent to Enter (NOIE) into an EUL to the following Senate and House Congressional committees at least 45 days in advance of EUL execution: Veterans Affairs, Budget and Appropriations. OAEM drafts the NOIE, the letters to the Chairmen and Ranking Members of the Congressional committees, and the Federal Register Notice.
      - (c) Receive a certification in advance in writing by the Director of the Office of Management and Budget that such lease complies with the requirements of this subchapter [38 USCS §§ 8161 et seq.]. This certification must be received prior to submission of the NOIE to Congress.

- (2) Under the EUL authority, VA must abide by all Federal environmental and historic preservation laws, e.g., the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the National Environmental Policy Act (NEPA), the Resource Conservation and Recovery Act (RCRA), and the National Historic Preservation Act of 1966 (NHPA).
  - (3) Under the EUL authority, VA is not required to follow the Federal Acquisition Regulation (FAR) or the VA Acquisition Regulation (VAAR). However, the EUL process will consider FAR/VAAR guidance where practicable. Conceptually, for example, such guidance is followed in the process of selecting the EUL lessee. Non-competitive selections or direct source leases are discouraged. Nevertheless, under limited circumstances as more fully set out in chapter 5, section I, paragraph (2) of the EUL Handbook 7415, an EUL lessee may be directly selected without a competitive process. In all cases, non-competitive selections must be justified as being in the best interests of the Department. For all instances in which a non-competitive selection is being considered, except in the case of statutory exceptions, a “Direct Source Leasing Memorandum” must be reviewed and approved by OAEM (044) and the Office of General Counsel (OGC) (02), generally prior to the public hearing.
- b. **Reporting Requirements.** Milestones, approvals and supporting documents that occur during the formulation and execution phases of EUL projects must be reported and attached in the OAEM Electronic Record Center, at [VA's Office of Asset Enterprise Management](#). Access must be requested and approved.
  - c. **Use of VA Funds.** Title 38 U.S.C. §8162(b)(4)(B) authorizes the Department to use minor construction funds as a capital contribution to an EUL (not to exceed \$10 million). All VA contributions of funds must first comply with all existing Departmental controls and approvals for the use of such funds. The use of minor construction funds will be coordinated with the involved Administration or staff office.

### 3. RESPONSIBILITIES.

- a. **Office of Asset and Enterprise Management (OAEM)** – OAEM is an office within OM and is responsible for providing leadership and guidance associated with implementing the EUL program; establishing policies, procedures, and guidelines for implementing the program within the Department; devising the appropriate business structures; assessing financial and project feasibility; drafting and/or reviewing necessary documents in coordination with OGC; assuring proper documentation; coordinating with appropriate Departmental offices and activities (and other Federal and non-Federal entities). Additionally, OAEM is responsible for ongoing portfolio management and lease compliance of EUL projects that are in the Steady State phase.

- b. **Office of Construction & Facilities Management (CFM)** – CFM is a staff office located within the Office of Acquisition, Logistics, and Construction whose mission is to provide facilities and technical consulting services for VA customers. CFM provides subject-matter expertise in environmental and historic preservation compliance, facilities and master planning, facility assessment, construction standards, prospectus-level and build-to-suit leasing, and land management. CFM is the only VA office with authority to execute disposal actions (other than EUL), easement agreements, most license agreements, and concurrent jurisdiction actions. CFM also manages a number of indefinite delivery indefinite quantity contracts for real estate-related technical support, analysis, and subject-matter expertise, including EUL support contracts. In areas where CFM is the office of primary responsibility, the organization should be consulted and/or requested to provide concurrence.
- c. **Office of General Counsel** – The Real Property Law Group (RPLG) within OGC is responsible for providing proactive, full service legal support, advice, and assistance for VA-related matters involving the areas of real property, personal property, leases, construction, environmental, enhanced-use leases, and energy matters. RPLG provides legal guidance on EUL matters related to the EUL Statute.
- d. **Office of Capital Asset Management and Engineering Service (OCAMES)** – OCAMES provides the Veterans Health Administration's (VHA) policy, guidance, oversight, and budget management for the following programs: Major Construction, Minor Construction, Non-Recurring Maintenance (NRM) program, Leasing, Space Criteria, Design and Planning, Enhanced Use Leasing, and Enhanced Use Sharing. OCAMES is responsible for coordinating all VHA's EUL efforts with OAEM.
- e. **The Designated VA Representative (DVR)** – The DVR is appointed by the Assistant Secretary for Management (AS/M) and provides the necessary everyday administration, monitoring and management of EUL leases (including any service/use agreements) before or after lease execution by the AS/M for all EUL. The DVR has the delegated authority to approve payments, disbursements, and reimbursements, and to issue written correspondence needed to properly administer an EUL. See VA Handbook 7415 for additional information.
- f. **The EUL Program Manager (PM)** – The EUL PM is appointed by the Director, Investment Enterprise Development Service to manage the day-to-day progress of an EUL from concept paper approval through lease execution, construction and up to 3 months after final completion of the EUL improvements, unless sooner revoked in writing. See VA Handbook 7415 for additional information.

**4. DEFINITION: None**

**5. REFERENCE. Title 38 U.S.C. §§8161-8169, Enhanced-Use Leases of Real Property, as amended.**