



DEPARTMENT OF VETERANS AFFAIRS  
**OFFICE OF INSPECTOR GENERAL**

*Office of Audits and Evaluations*

DEPARTMENT OF VETERANS AFFAIRS

Management of Major  
Medical Leases Needs  
Improvement

AUDIT

REPORT #17-05859-131

JULY 2, 2019



The mission of the Office of Inspector General is to serve veterans and the public by conducting effective oversight of the programs and operations of the Department of Veterans Affairs through independent audits, inspections, reviews, and investigations.

*In addition to general privacy laws that govern release of medical information, disclosure of certain veteran health or other private information may be prohibited by various federal statutes including, but not limited to, 38 U.S.C. §§ 5701, 5705, and 7332, absent an exemption or other specified circumstances. As mandated by law, the OIG adheres to privacy and confidentiality laws and regulations protecting veteran health or other private information in this report.*

**Report suspected wrongdoing in VA programs and operations  
to the VA OIG Hotline:**

[www.va.gov/oig/hotline](http://www.va.gov/oig/hotline)

**1-800-488-8244**



## Executive Summary

VA has undergone several reviews of its capital asset programs since 2012, identifying areas of improvement for both major and minor construction projects. This VA Office of Inspector General (OIG) audit followed up on those reviews to determine whether VA effectively managed the procurement and awarding of major medical leases under the Veterans Access, Choice, and Accountability Act of 2014 (VACAA), including if VA secured leases in a timely manner once authorized. VACAA was designed to improve veterans' timely access to health care and expand community-based medical care. The audit team reviewed 24 major medical leases authorized under VACAA and evaluated their development and acquisition. The review included construction completion status, estimated costs at various project milestones, space calculations, whether the lease was for a new or replacement facility, and overall lease cost.

### What the Audit Found

There are six main steps governing the major lease program acquisition process:

1. **Proposing a lease:** Local VA medical center staff evaluate gaps in eight areas between the current state and future projected need to develop lease business cases through VA's Strategic Capital Investment Planning (SCIP) process.<sup>1</sup>
2. **Approving the business case:** A SCIP panel evaluates each proposed project and the highest ranked projects are reviewed and recommended by VA's SCIP Board to move forward through the VA governance process. The highest ranked projects approved by the VA Secretary are included in VA's annual budget submission to Congress.
3. **Authorizing the lease:** VA medical center staff and Office of Asset Enterprise Management develop an Office of Management and Budget (OMB) Form 300 application (prospectus) for each lease in VA's annual budget submission for Congress to authorize the use of funds.
4. **Awarding the lease contract:** Following congressional authorization, the major leases are solicited and executed by VA's Office of Construction and Facilities Management (CFM).
5. **Designing and constructing the leased facility:** The selected lease contractor completes the design and constructs the building according to VA requirements.

---

<sup>1</sup> Business cases are a series of questions about the project related to a department-wide set of decision criteria, which are used to evaluate and prioritize proposed SCIP projects.

6. **Activating the facility:** Once construction is complete, CFM accepts the leased building for the VA medical center. VA medical center management then activates the facility for serving veterans.

Major medical leases are subject to congressional approval, which took an average of two years for the VACAA leases. VA requested authorization for 15 major leases in the fiscal year (FY 2013) Budget Request and requested an additional 13 major leases in FY 2014. However, Congress did not authorize these leases until VACAA passed in August 2014.

As of September 30, 2018, over four years after Congress authorized 24 major medical leases under VACAA, CFM had opened two leased facilities, awarded 15 contracts, was continuing to negotiate two contracts, and reissued five solicitations. CFM estimated it will take an additional 22.3 months, beyond the original estimated timelines authorized under VACAA, for the 22 leased facilities that are yet to be completed to start serving veterans. VA's delayed acquisition of the 24 major medical leases has slowed its expansion of community-based medical care. The OIG estimated that VA could consistently reduce the overall acquisition time by two years, from five to three years, by assuring there was adequate funding to conduct planning activities, enhancing CFM staffing, minimizing unnecessarily detailed solicitations, and addressing the need for the buildings to include mission-critical building elements. Improving acquisition timeliness for the 24 leases would have reduced their cost by about \$152.3 million over their 20-year lifespan.

VA relies heavily on outside real estate brokers and outside architectural and engineering firms during the development of major medical leases. The development planning process that VA used after Congress approved the VACAA leases took over two years, slightly longer than the congressional approval process. VA should ensure there is adequate funding available to routinely conduct planning activities, including developing requests for lease proposals prior to congressional authorization for requested major leases. This will allow VA to publish the lease solicitations shortly after they are authorized. VA's Office of General Counsel concluded in April 2016 that pursuant to 38 USC § 8104(a)(2), VA may engage in planning and design activities for major facility leases prior to authorization of the projects as these are necessary activities of these projects and therefore a necessary expense of the medical facilities account.

A contributing factor to the lengthy development planning was inadequate CFM staffing. CFM had 21 project managers responsible for an average of 13 projects each. However, for projects similar to VA major medical leases, CFM referenced leading industry best practice resources that say managers should oversee seven to 10 projects. Due to the staffing shortage, CFM initiated projects in four phases, starting several projects about every three months rather than starting them all at the same time. This four-phased approach added significant time to the lease acquisition process in addition to the time spent waiting for congressional approval to begin developing the contract solicitation.

The VA estimated in the major medical lease prospectuses submitted to Congress for approval that it would take 25 or 26 months to publish the solicitation, negotiate, and award the lease contracts. However, CFM took an average of 27.3 months to just develop and publish the lease Solicitation for Offers. For the 15 awarded contracts, VA took an additional 17.8 months to negotiate and make the award. VA used a 35 percent design standard in the solicitations, which contributed to the delays. In November 2012, the Construction Review Council recommended that all new major VA construction projects reach 35 percent design completion prior to budget submission to establish accurate budget cost estimates. VA decided to use the same practice for the VACAA major lease solicitations even though this level of detailed and specific design is not required by the General Services Administration or standard industry practice.

The designs also incorporated mission-critical construction standards, which make it possible for facilities to continue operation during a natural disaster, man-made extreme event, or national emergency. While this standard is important for VA facilities that must remain operational during an emergency, most VA-leased facilities are not required to remain open during extreme events. Mission-critical building features are held to much higher construction standards than local building codes—applying them to leased facilities unnecessarily increases the cost of the facilities. Furthermore, these features often caused contract bids to come in higher than estimated so VA had to spend additional time and resources revising designs to ensure the negotiated contract prices met OMB Circular A-11 cost requirements and VA medical center budget availability.

Disagreements between CFM and local VA officials over whether to include mission-critical building elements, and how to pay for them if they were included, contributed to delays in awarding the lease contracts. VA had no clear policy regarding mission-critical building elements establishing what needs to be decided, by whom, and how quickly, or any process for resolving conflicts. VA needs a policy to define and justify building system requirements based on lease-specific needs before solicitation.

Overall, delayed major medical lease acquisitions resulted in increased facility acquisition costs and potentially reduced veterans' access to medical care. Since the OIG's audit began, VA has taken steps to improve the major lease acquisition process, including simplifying the solicitations and reducing the use of mission-critical building requirements to better align private sector construction practices. However, there are still opportunities for improvement. Past assessments by the Construction Review Council, the Government Accountability Office, Six Sigma, and MITRE Corporation identified similar problems of VA not providing medical facilities on time or at reasonable costs.<sup>2</sup> The reviews offered recommendations that could have improved the leasing process if fully implemented. Some of the review recommendations were in various

---

<sup>2</sup> The MITRE Corporation manages federally funded research and development centers supporting several U.S. government agencies.

stages of implementation during the audit and more work is needed to improve the lease acquisition process.

## **What the OIG Recommended**

The OIG recommended VA ensure there are adequate funds available to routinely conduct planning activities including developing requests for lease proposals while waiting for congressional authorization, reconsider centralizing major medical lease acquisition funding activities, ensure adequate resources to deliver leases on schedule, ensure that the prospectus cost estimates provided to Congress are accurate, establish clear lines of authority for critical lease acquisition decisions, and ensure VA uses appropriate security measure requirements by performing Interagency Security Committee risk evaluations prior to solicitation.<sup>3</sup> Implementing these recommendations should result in faster and more cost-efficient acquisition of major medical leases.

## **Management Comments**

The principal executive director, Office of Acquisition, Logistics, and Construction (OALC), concurred with Recommendations 1, 3, 5, 6, 7, and 8. To address these recommendations, OALC, when appropriate, will work with Office of Management and the Veterans Health Administration (VHA) to ensure there is funding available from appropriate sources for upfront planning for SCIP 2021's major leases, continue to assess staffing needs, develop policy based on the enterprise-approved acquisition program management framework, implement clear guidelines that integrate appropriate security requirements, reinforce the performance focus for acquisition staff, assess gaps in performance-based acquisition methods, and continue to assess the use of additional consultants.

---

<sup>3</sup> The Interagency Security Committee, chaired by the Department of Homeland Security and comprising 58 federal departments and agencies, develops security standards and best practices for nonmilitary federal facilities in the United States.

The assistant secretary for management and chief financial officer (Office of Management) concurred with Recommendations 2 and 4. To address these recommendations, the Office of Management will coordinate with VHA to determine the most appropriate method of centralizing funding for major medical leases and, once defined, will work with VHA and CFM to implement a centralized funding strategy and implement improvements to the prospectus estimating process to ensure accurate cost estimates are provided to Congress. All action plans are scheduled to be completed by February 15, 2020. The OIG will monitor VA's progress and follow up on implementation of the recommendations until all proposed actions are completed.



LARRY M. REINKEMEYER  
Assistant Inspector General  
for Audits and Evaluations

## Contents

Executive Summary .....	i
Abbreviations .....	vii
Introduction .....	1
Results and Recommendations .....	8
Finding: VA Major Medical Leases Authorized by VACAA Are Behind Schedule .....	8
Recommendations 1-8.....	27
Appendix A: Background .....	30
Appendix B: VACAA Major Lease Acquisition Process.....	32
Appendix C: Major Project Milestone Dates of the 24 VACAA Authorized Leases .....	33
Appendix D: Previous Reports, Reviews, and Initiatives.....	35
Appendix E: Scope and Methodology .....	38
Appendix F: Sampling Methodology.....	40
Appendix G: Monetary Benefits in Accordance with Inspector General Act Amendments .....	41
Appendix H: Management Comments—Principal Executive Director, Office of Acquisition, Logistics, and Construction .....	42
Appendix I: Management Comments—Assistant Secretary for Management and Chief Financial Officer.....	44
OIG Contact and Staff Acknowledgments .....	45
Report Distribution .....	46

## Abbreviations

CFM	Office of Construction and Facilities Management
CFO	chief financial officer
DUSHOM	deputy under secretary for health for operations and management
FY	fiscal year
GAO	Government Accountability Office
GSA	General Services Administration
OAEM	Office of Asset Enterprise Management
OALC	Office of Acquisition, Logistics, and Construction
OCAMES	Office of Capital Asset Management Engineering & Support
OIG	Office of Inspector General
OMB	Office of Management and Budget
ORP	Office of Real Property
RLP	request for lease proposal
SCIP	Strategic Capital Investment Planning
SFO	Solicitation for Offer
VA	Department of Veterans Affairs
VACAA	Veterans Access, Choice, and Accountability Act of 2014
VHA	Veterans Health Administration
VISN	Veterans Integrated Service Network



## Introduction

The VA Office of Inspector General (OIG) conducted this audit to determine whether VA effectively managed the development and acquisition of 24 major medical leases authorized under the Veterans Access, Choice, and Accountability Act of 2014 (VACAA). This report focused on VA's process to secure a lease after it is approved by the VA Strategic Capital Investment Planning Board.

### Leasing Program

The Veterans Health Administration (VHA), the largest healthcare system in the United States, served over nine million enrolled veterans in fiscal year (FY) 2018. VHA delivered care through 1,848 medical facilities composed of more than 5,652 VA-owned and 1,681 leased buildings across the country. According to VA's Capital Asset Inventory in October 2018, VHA reported annual rent costs of about \$594.2 million for about 18.7 million net usable square feet of leased medical space.

VACAA provided \$10 billion to VA to improve veterans' timely access to care. The law also granted VA authority to lease 24 major medical facilities and three research facilities. To develop conclusions based on facilities with similar design, use, and structural requirements, the OIG audit team excluded the three research facilities from review and only examined the 24 medical facility leases with estimated annual costs of more than \$1 million. VA is required to get statutory approval for any lease with annual unserviced rent payments of \$1 million or more (defined as major leases).<sup>4</sup> VA created a prospectus for each requested lease to be included in VA's annual budget request. Each prospectus covered the estimated annual cost, lump-sum tenant improvement cost, size, services to be provided, and the timeline to open the facility once Congress has authorized the lease.<sup>5</sup> VA requested authorization for 24 major medical leases, encompassing the scope of this audit, with estimated costs of about \$102.2 million for tenant improvements and about \$1.8 billion in rental costs.<sup>6</sup>

### VA Major Lease Program Management Structure

The VHA Office of the Under Secretary for Health, the VA Office of Management, and the VA Office of Acquisition, Logistics, and Construction (OALC) are three offices involved in the lease acquisition process.

---

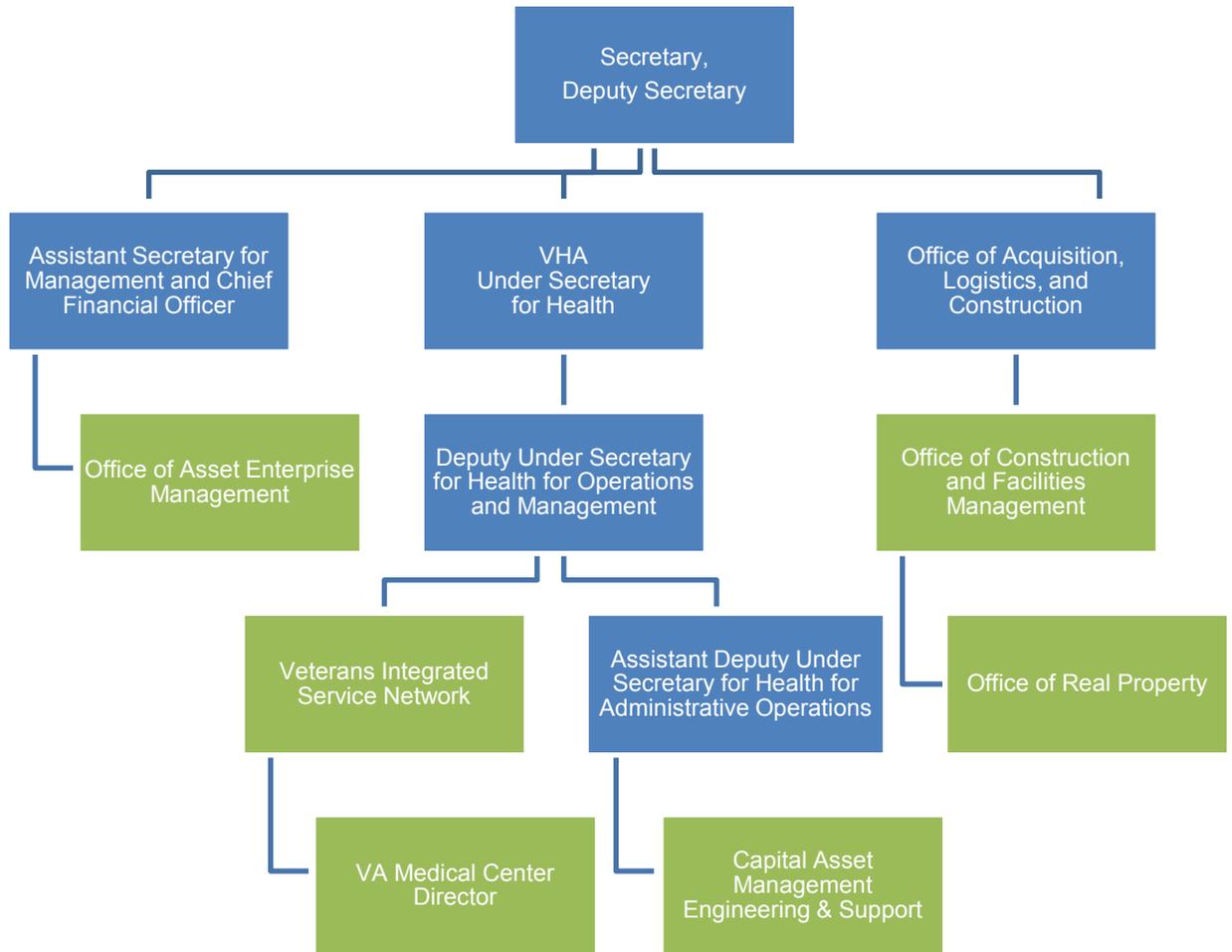
<sup>4</sup> Unserved rent is the base rent, including real estate taxes, insurance, and any amortized build-out costs. Unserved rent does not include operating expenses.

<sup>5</sup> Tenant improvements are special features or enhancements that were built or added for the government's unique needs or special purposes, and should be financed up front, separate from the lease.

<sup>6</sup> \$1.8 billion in rent costs is calculated by multiplying \$90.1 million in annual rent cost by 20 years.

- The Office of the Undersecretary for Health is responsible for requesting new facilities, including the specific needs for a new facility, such as size, services to be provided, and the security of the proposed facility. This request is developed by VA medical center staff and reviewed by the VA medical center director with assistance and oversight by VHA's Office of Capital Asset Management Engineering & Support (OCAMES).
- The Office of Management, under the assistant secretary for management and the chief financial officer, is responsible for Strategic Capital Investment Planning (SCIP) along with the approval of all capital projects, including major medical leases with annual costs over \$1 million, through VA's Office of Asset Enterprise Management (OAEM).
- The OALC Office of Real Property (ORP) is responsible for acquiring major medical leases. The ORP is a division of the Office of Construction and Facilities Management (CFM), which executes major medical lease acquisitions.

Figure 1 describes the offices involved with acquiring major medical leases, highlighting in green the offices that play a direct role.



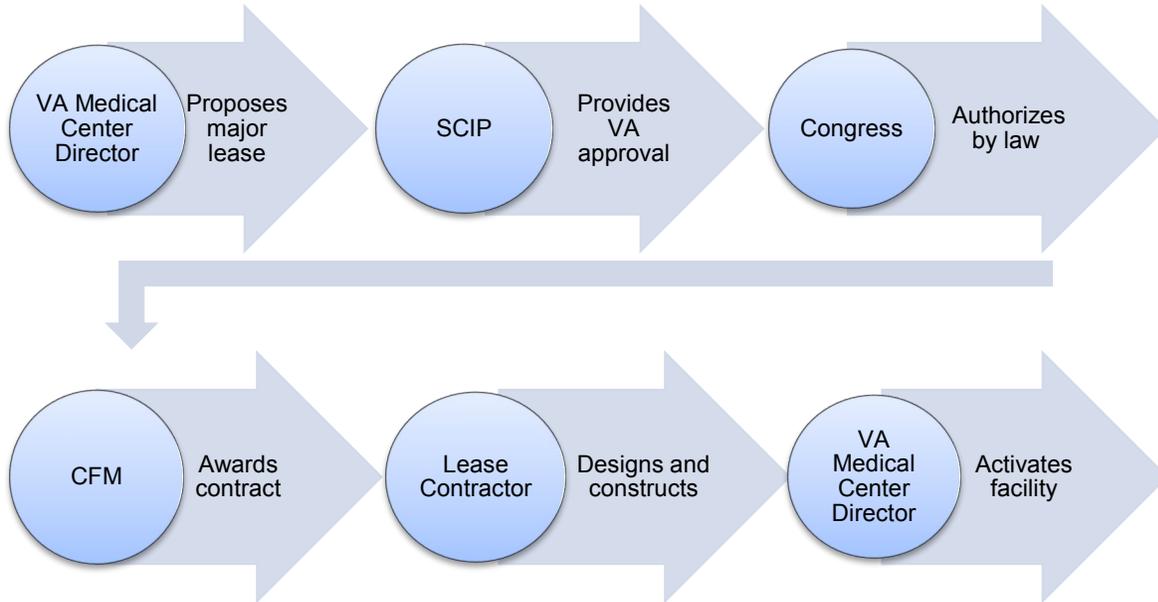
**Figure 1.** VA management structure of major medical lease acquisition  
(Source: OIG analysis of VA structure)

## VA Major Lease Program Process

Six main steps govern the major lease program acquisition process:

1. The VA medical center director proposes a lease.
2. The SCIP Board approves the business case.
3. Congress authorizes the lease.
4. CFM awards the lease contract.
5. The lease contractor designs and constructs the leased facility.
6. VA medical center management activates the facility for serving veterans.

Figure 2 illustrates the acquisition process. This report focused on the time taken between the SCIP Board’s approval of the lease to CFM’s award of the lease contract.



**Figure 2.** Main steps for acquiring major leases  
 (Source: OIG analysis of VA’s major lease acquisition process)

### VA Medical Center Directors Propose Major Leases

Local VA medical center staff develop lease business cases, reviewed by VA medical center directors, that must be approved through VA’s SCIP process. The SCIP process is designed to address VA’s most critical needs first across the Veterans Benefits Administration, National Cemetery Administration, and VHA. Each year at the beginning of the SCIP process, each Veterans Integrated Service Network (VISN) is provided gap data that demonstrates the difference (or gap) between the current state and future projected need in eight areas, including space and facility condition. The SCIP process identifies specific capital investment needs to close performance gaps in the areas of safety, security, utilization, access, seismic protection, facility condition assessments, parking, and energy. Each facility must develop a long-range action plan to address all identified gaps within 10 years. VA medical center directors can propose constructing a VA-owned facility, leasing a privately owned facility, or using other noncapital solutions such as increased use of community care to address access-to-care gaps as a part of their plan.

## **SCIP Board Provides VA Approval of Major Leases**

Every year, OAEM creates a SCIP panel of officials from across VA to evaluate and score each proposed SCIP project business case submitted by VA medical center directors.<sup>7</sup> The SCIP panel's evaluations result in a prioritized list of projects from the major construction, minor construction, nonrecurring maintenance, and lease capital asset programs. This prioritized list of projects is reviewed by the SCIP Board, made up of nine Senior Executive Service representatives from across VA, to recommend which projects move forward with business case submissions through the VA governance process. Final approval of the projects is granted by the VA Secretary, and the projects are included in VA's annual budget submission to Congress.

## **Congress Provides Statutory Authorization**

VA may enter into lease agreements with nonfederal parties based on delegated authority from the General Services Administration (GSA) for all leases. However, since Congress must authorize the use of the Medical Facilities Appropriation for major leases, management at the VA medical centers and OAEM develop an Office of Management and Budget (OMB) Form 300 application (prospectus) for each requested lease in VA's annual budget submission. The prospectus is developed using a baseline space program and an equipment plan/cost estimate to produce the square footage and the equipment needed by size and type of room. In addition, for leases exceeding GSA's delegated authority—which was \$2.85 million in annual unserviced rent for the VACAA leases—VA must obtain additional delegated authority from GSA through two congressional committees before VA can award lease contracts.<sup>8</sup>

## **CFM Awards Major Lease Contracts**

The CFM executive director is responsible for major lease contract solicitations for facilities constructed to VA design specifications. Once Congress has given authorization, CFM oversees the award and construction of the leased properties. These leases are executed by ORP, a division of CFM responsible for managing the department's portfolio of VA land purchases, dispositions, and land use agreements.

The VA medical center director must request that CFM acquire the lease and certify that sufficient funds are available before CFM will start the formal acquisition process. The VA medical center director provides CFM with a memorandum that includes a project description, justification, and desired location. CFM then contracts with real estate brokers to conduct market research to identify acceptable lease sites, develop the solicitation, and support the acquisition

---

<sup>7</sup> Business cases are a series of questions about the proposed project related to a Department-wide set of decision criteria, which are used to evaluate and prioritize proposed SCIP projects.

<sup>8</sup> The GSA's delegated authority limit was increased to \$3.095 million for leases requested in the FY 2019 VA Budget Request.

process. CFM also contracts with architecture/engineering firms to create the solicitation building design documents based on standardized VA prototype designs and VA construction standards.

CFM publishes the solicitation once the design requirements are completed and the solicitation is fully developed. CFM then evaluates bids using a technical evaluation board composed of an engineer, a planner, and leadership from the parent VA medical center to rank the bidders based on the technical merits of their offers. Other CFM project staff analyze the costs of each offer and select the best offer based on the combined results of the technical bid evaluations and their cost analysis.

GSA reviews the lease award documentation after CFM selects the best offer. When this review is completed, the VA Secretary notifies Congress of the department's intent to execute the lease contract. If Congress does not express an objection within 30 days, CFM awards the lease.

### **Lease Contractor Completes Designs and Constructs Building**

CFM oversees the lease contractor as the contractor completes the designs and constructs the building according to VA requirements. Once construction is complete, CFM accepts the leased building for the VA medical center and ensures it passed all CFM and local code inspections. After the facility has been accepted, it needs to be activated to serve veterans.

### **VA medical center Management Activates Facility for Serving Veterans**

VA's activation process is funded separately through the Medical Facility Appropriation. This funding is used by VA medical centers to bring a new leased facility into operation. Funding amounts are calculated based on VA's Activation Cost Budget Model tool using the medical clinic's estimated patient workload, square footage, geographic location, and range of medical services offered, and includes items such as furniture, fixtures and equipment.

### **Major Leasing Improvement Reviews and Initiatives**

In January 2018, OALC, VHA's OCAMES, and VHA executives briefed then-VA Secretary Shulkin on Major Leasing Modernization, which included eight areas for improvement recommended by the VHA Office of Strategic Integration, Veterans Engineering Resource Center. These areas included utilizing industry standards for leased facilities, centralizing funding activities, and defining decision-making authority regarding project changes. The Veterans Engineering Resource Center estimated that implementing the eight items could potentially reduce cycle time for major leases from about five years to 3.25 years. A CFM official stated that then-Secretary Shulkin generally supported the recommended improvements and requested a legislative plan outlining all items that required law or policy changes and a separate action plan to monitor the implementation status for the eight recommendations. The

action plan showed completion dates between February and August 2018 for seven of the eight recommendations and October 1, 2018, for the remaining recommendation. However, these recommendations were in various stages of implementation as of January 2, 2019, and a Veterans Engineering Resource Center supervisory program specialist confirmed that implementation of the recommendations was paused until confirmation of continuing VA leadership support was received.

VA has undergone several reviews of its capital asset programs since 2012 that included evaluations and recommendations related to major medical leases. For more details on the prior reviews, see appendix D.

## Results and Recommendations

### **Finding: VA Major Medical Leases Authorized by VACAA Are Behind Schedule**

As of September 30, 2018, over four years after Congress authorized 24 major medical leases in VACAA, VA had opened two leased facilities, awarded 15 contracts, was continuing to negotiate two contracts, and reissued five solicitations.<sup>9</sup> The two completed facilities opened and began serving veterans an average of about 13.9 months beyond the estimated timelines approved in VACAA. CFM estimated that the remaining 22 facilities will begin serving veterans at an average of about 22.3 months beyond the estimated timeline authorized under VACAA. CFM estimated all 24 leased facilities will be open by April 2022, more than seven years and seven months after VACAA became law.

In April 2016, CFM confirmed with VA's Office of General Counsel that pursuant to 38 USC § 8104(a)(2), VA may engage in planning and design activities for major facility leases prior to authorization of the projects. However, VA struggled to execute contracts for the VACAA major medical leases on schedule because designated lease planning funds were not available to develop the solicitation before the leases were congressionally authorized. This delayed the contracting of consultants needed to assist with the planning and design work necessary to publish the lease solicitations shortly after congressional authorization. In addition, CFM officials stated that they did not have enough staff to start the 24 lease solicitations simultaneously, so they initiated the lease acquisition in four phases, beginning several projects about every three months, further delaying contract awards. CFM also adopted the VA mission-critical construction standards, which are generally more costly than local building codes. These VA design standards resulted in lease offers that exceeded cost standards set by OMB. In addition, VA medical center and CFM staff efforts to resolve conflicts regarding building design standards and best approaches to reducing construction costs resulted in additional delays to the lease acquisition process.

Delays in acquiring these 24 major medical leases ultimately slowed the expansion of VA community-based medical care. The OIG estimated VA will incur increased costs of about \$152.3 million due to the estimated two-year average delay in awarding the lease contracts. Although VA has taken several actions to address the problems associated with managing major medical lease projects cited in this report, the agency still has opportunities for further improvement.

---

<sup>9</sup> VA canceled six lease solicitations at some point in the solicitation process. However, the Lincoln, Nebraska, lease was awarded in September 2018, so the OIG included it in the calculations for awarded leases (15).

## What the OIG Did

The OIG team reviewed the 24 major medical leases authorized under VACAA and evaluated how effectively VA managed the development and acquisition of the leases. During its review, the team conducted eight site visits to various lease locations throughout the United States. Two of the 24 leases were near completion when they were authorized by VACAA, so the team reviewed these two leases to determine how the process varied compared to the leases that had not been initiated prior to VACAA. The audit team judgmentally selected six additional leases for review based on construction completion status, estimated costs at various project milestones, space calculations, whether the lease represented a new facility or a replacement facility, and overall total lease cost. Once selected, the team analyzed any change in total dollar amounts as well as in the total square footage from the approved SCIP business case and authorized prospectus. For the eight selected sites the OIG visited, the audit team conducted in-person or telephone interviews with about 80 individuals, including officials from VHA and CFM. In addition, for the remaining 16 leases, the team reviewed project schedules and major milestones.

This report discusses the following issues that support the OIG's finding:

- Delays in acquiring the 24 major medical leases
- Lack of designated planning funds delayed design and solicitation development
- Shortage of CFM staff delayed initiation of acquisition process
- Excessively detailed designs prolonged the acquisition process
- VA mission-critical building specifications increased costs and prolonged bidding process
- Lack of clear decision authority resulted in delayed project decisions

## Delays in Acquiring the 24 Major Medical Leases

As of September 30, 2018, CFM had awarded contracts for 17 of the 24 planned VACAA-authorized leases. Five of the 17 were awarded before October 2017 and the remaining 12 were awarded in September 2018. In addition, two of the 17 facilities with awarded leases opened and were serving veterans, while the other 15 were in various stages in the acquisition and development process. For the remaining seven VACAA-authorized leases for which contracts had not been awarded, CFM was in contract negotiations for two and had begun resoliciting contracts for the other five after cancelling the initial solicitations after investing an average of about 3.3 years in trying to negotiate the leases.

CFM estimated that 22 of the 24 major medical lease facilities will start serving veterans about 22.3 months beyond the estimated opening dates approved in VACAA. For the 15 awarded contracts, VA estimated opening the medical facilities about 19.8 months beyond the approved

dates. For the two unawarded contracts, VA estimated opening about 19.7 months beyond the approved dates, and for the five leases where VA has begun resoliciting contracts, VA estimated opening about 30.8 months beyond the approved dates. CFM estimated the latest leased facility should open by April 2022, more than seven years and seven months after VACAA became law. Table 1 shows the status of these 24 major medical leases in various stages of development from congressional authorization to completion, as of September 30, 2018.

**Table 1. Status of Leases  
from Authorization to Opening Facilities**

<b>Status</b>	<b>Number of leases</b>	<b>Average delay to awarding lease (months)</b>	<b>Average estimated delay to opening facility (months)</b>
Completed – facility serving veterans	2	7.0	13.9*
Awarded – lease contract signed	15	20.1	19.8
Unawarded – lease contract under negotiation	2	25.5	19.7
Reissued – solicitation reissued**	5	32.0	30.8
<b>Total</b>	<b>24</b>	<b>21.9</b>	<b>21.6</b>

*Source: OIG analysis of VA data comparing dates in prospectus to VA-provided documentation and estimates*

*\* The reported delays for the two completed facilities are based upon actual dates; all other delays in the table above are CFM's best estimates as of September 30, 2018.*

*\*\* Does not include the resolicited Lincoln, Nebraska, lease as it was awarded in September 2018.*

## **Lack of Designated Planning Funds Delayed Solicitations for 24 Months**

VA relies heavily on real estate broker and architectural/engineering firms in the development of major medical lease solicitations. CFM contracts with real estate brokers to conduct market research to identify acceptable lease sites, develop the solicitation, and support the acquisition process. CFM also contracts with architectural/engineering firms to create the solicitation building design documents based on standardized VA prototype designs and VA construction standards. The OIG team determined that for 21 of the 24 leases reviewed, VA did not solicit contracts for real estate brokers to begin the acquisition process until after the VACAA leases were authorized, thus delaying VA's ability to have sufficiently developed lease solicitations to allow VA to publish them timely once authorized by Congress.

## **Six Sigma Study on Lease Solicitation Planning**

In June 2015, Six Sigma consultants recommended that CFM develop the Solicitation for Offer (SFO) prior to congressional authorization. The then-director, OAEM, and the then-associate executive director, ORP, stated that the VA medical centers did not request that CFM initiate the acquisition planning process earlier because there was no clear policy that allowed obligation of funds for architectural/engineering and solicitation development prior to congressional approval of the lease. Obligating the funds needed to hire leasing consultants would have allowed VA to develop the SFO prior to congressional authorization, similar to VA's use of the Advance Planning and Design Fund to cover schematic design, design development, and 35 percent construction drawings for major construction projects. The VA began using the Advance Planning and Design Fund in response to a Construction Review Council recommendation that all new VA major construction projects reach 35 percent design completion prior to budget submission to increase the accuracy and reliability of the initial cost estimates. In April 2016, CFM confirmed with VA's Office of General Counsel that pursuant to 38 USC § 8104(a)(2), VA may engage in planning and design activities for major facility leases prior to congressional authorization of the projects. Planning and design activities for major facility leases are a necessary activity of these projects and therefore a necessary expense of the Medical Facilities account.

## **Proposal to Centralize Major Lease Funds**

To establish working capital for predevelopment activities, the then-VHA chief financial officer (CFO) stated that he made a proposal to VHA's National Leadership Board in July 2017 to remove major lease funds from VISN funding and allocate them as central office funds. This included all major lease funds, not only the predevelopment activity costs, which was less than 2 percent of the total VACAA lease payments. This would allow CFM officials to manage the funds directly, eliminating the need to coordinate with local VA medical center management. However, since this proposal included transferring management of all lease costs to central office, the Leadership Board rejected the proposal due to concerns that using a centrally-managed fund would decrease local VA medical center funding allocations for construction and leases.

Since the then-VHA CFO's attempt to create a centralized fund for all lease costs was rejected, OALC, OCAMES, and VHA executives met with then-Secretary Shulkin in January 2018 and outlined a plan to centralize lease funding activities and establish working capital for predevelopment activities. However, a CFM director stated that CFM did not obtain then-Secretary Shulkin's support for these changes because the Secretary had concluded that spending money prior to congressional approval was too risky. Although these options were not approved, to allow VA to publish the lease solicitations shortly after the leases are authorized, the VA should obtain adequate funding to conduct planning activities including developing the

request for lease proposal (RLP) for major leases prior to congressional authorization. VA should also reconsider centralizing the funding needed to acquire major medical leases through acceptance of the completed building.

### **Impact from Delayed Solicitation Development**

VA requested authorization for 15 major leases in the FY 2013 Budget Request and requested an additional 13 major leases in FY 2014. However, according to the acting associate executive director of ORP, these leases were not authorized in the fiscal year they were requested due to Congressional Budget Office questions regarding the projects' OMB A-11 scoring.<sup>10</sup> Congress did not authorize these leases until VACAA passed in August 2014.<sup>11</sup> Since funding was not available for outside contractors for the VACAA leases prior to congressional authorization, VA waited on average 24 months for Congress to authorize the leases before beginning contracting for the real estate brokers and architectural/engineering firms necessary to develop the solicitations. Once authorized, CFM took an average of about 27.3 months to develop and publish the lease SFOs. If VA had begun contracting with these consultants when VA submitted the prospectuses to Congress, VA could have solicited lease contracts an average of about two years sooner than it did.

#### **Example 1**

*The San Antonio, Texas, lease had a budget of about \$19.4 million and waited for congressional approval for about two years after VA submitted the prospectus. It took CFM more than 38 months to award the contract once it hired the real estate broker. This included about 23 months for the real estate broker and architectural/engineering firm to develop the solicitation and about 15 months for CFM to award the contract. The acquisition could have been awarded nearly two years earlier if CFM had started the solicitation development when VA submitted the prospectus for congressional approval. Inflation during this two-year period at the 4 percent inflation rate cited in the lease's prospectus would increase the cost of the lease by about \$1.6 million ( $\$19.4 \text{ million} \times 1.04 \text{ plus } \$20.2 \text{ million} \times 1.04 \text{ percent}$ ). Therefore, investing resources to ensure timely acquisition planning is a cost-effective investment. The inflation cost of delaying the lease planning was more than double the cost of the San Antonio architectural/engineering contract, which was about \$600,000.*

---

<sup>10</sup> OMB A-11 requires that operating lease payments not exceed 90 percent of a property's fair market value.

<sup>11</sup> One of the 13 major leases requested in FY 2014, in Rapid City, South Dakota, was not approved under VACAA.

Based on VA’s estimated prospectus lease cost of \$1.9 billion, if VA had awarded the leases two years earlier it could have avoided paying over \$152.3 million (8.0 percent) in inflated costs over the 20-year life of the leases.<sup>12</sup> Since the real estate brokers and architectural/engineering firms cost about \$26.1 million, or 1.9 percent of the total VACAA lease payments, the investment would have yielded a return of almost six times the cost. Table 2 shows investment return of contracting the real estate brokers and architectural/engineering firms prior to congressional approval for the VACAA leases.

**Table 2. Cost Savings of Initiating Planning Prior to Congressional Approval**

Cost factor	Amount (thousands)
Total VACAA 20-year lease rental costs	\$1,903,719
Inflation cost of 24-month wait – two years at 4 percent*	\$152,298
VACAA real estate and architectural/engineering design costs at risk	\$26,145
Return on investment over lease lifespan	583%

Source: OIG analysis of CFM-provided data

\* OIG calculated inflation based on the 4 percent rate VA used in the VACAA prospectuses.

Recommendation 1 addresses the need to ensure there are adequate funds available to routinely conduct RLP planning activities, such as solicitation development and project design, while awaiting congressional approval. Recommendation 2 requests that VA reconsider centralizing major medical lease acquisition funding activities through VA’s acceptance of the completed building.

### **CFM Staffing Was Inadequate to Initiate Acquisition of VACAA Authorized Leases in a Timely Manner**

VACAA authorized 24 major medical leases, more than double the average number of major leases authorized during FYs 2009 to 2012.<sup>13</sup> The then-acting deputy director, ORP, stated in December 2017 that they did not have enough staff available to manage the VACAA major leases all at once.<sup>14</sup> ORP leadership stated that they had 274 leasing and land projects for FY18, and a staff of 21 project managers and five contracting officers. This resulted in each project manager being responsible for an average of about 13 projects, and each contracting officer being responsible for an average of 55 total project acquisitions which, in addition to leases, included land purchases, dispositions, and land use agreements.

<sup>12</sup> Inflation costs were based on the rate of 4 percent annual inflation in each VACAA prospectus.

<sup>13</sup> No major leases were authorized in 2013.

<sup>14</sup> VACAA authorized 27 major leases, 24 major medical facility leases, and three major research facility leases.

CFM officials initiated the VACAA lease acquisitions in four phases, beginning several projects about every three months, since they did not have enough staff to start them simultaneously. CFM staff prioritized the simpler leases in the early phases and more complex leases in the later phases to implement lessons learned into the process. On average, CFM data showed that it was about 250 days after VACAA was enacted before real estate brokers began developing the solicitations for the 24 major medical leases.<sup>15</sup> Multiple ORP and CFM senior officials, the director of OCAMES, and a senior manager for a real estate broker with multiple VA lease acquisition contracts stated that initiating the leases in phases due to CFM staffing shortages added significant delays to the lease acquisition process.

In 2017, CFM leadership estimated that in FY 2019 ORP would be responsible for managing 301 projects. CFM project managers ensure development of project requirements, budget estimates, and acquisition strategies. CFM contracting officers are responsible for the award and administration of contracts supporting requirements defined by CFM program staff. According to real estate leasing industry best practice resources cited by CFM, project managers should manage between about seven and 10 projects each. Using a goal based on industry best practices of eight projects per manager, CFM estimated it needed a total of 70 staff consisting of 37 project managers, 12 contracting officers, and 21 other supporting staff. Based on these estimates CFM would need to increase its leasing staff by 84 percent or approximately 32 staff. However, CFM only requested approval for 13 additional leasing staff for FY 2019, rather than the 32 additional staff it estimated were needed.

Table 3 shows the 2017 staffing levels, the additional staff CFM estimated it needed for 2019, and the 2019 staffing shortfall if CFM staffing is not increased from the 2017 level.

**Table 3. Leasing Staff Estimates and Shortages**

Staff title	2017 CFM staffing level	2019 CFM estimate of staffing level need	2019 staffing shortfall
Project managers	21	37	16
Contracting officers	5	12	7
Management/support	12	21	9
Total	38	70	32

*Source: OIG analysis of CFM-provided data*

The then-associate executive director, ORP, stated that during FY 2018, CFM shifted resources to support major leasing within CFM and added five full-time detailed staff to support the leasing program, concentrating on driving the lease program forward. This allowed ORP to approach its ideal staffing goals. However, the then-associate executive director stated that the

<sup>15</sup> Calculation excluded three leases where the brokers were tasked years prior to VACAA authorization as the leases at one time were not anticipated to be major leases.

other ORP business lines, including land management and strategic utilization of VA's real property portfolio, have been significantly under-resourced because of this decision.

In August 2017, Congress authorized 28 new major leases in the VA Choice and Quality Employment Act of 2017. Rather than initiate these 28 leases in phases as CFM had initiated the VACAA leases, CFM was able to initiate acquisition planning for 21 of the 28 authorized projects in December 2017, about four months after Congress authorized these additional leases. In addition, CFM has executed individual reimbursable work agreements with GSA to manage the acquisition of six of the remaining seven leases authorized in 2017 on VA's behalf, reducing the workload for CFM staff. CFM estimated it would pay GSA about \$3.8 million in service fees to oversee the lease document preparation and design of these six major medical leases at an average cost of around \$625,000 per project. The acting associate executive director, ORP, stated that, in addition to these fees, VA would pay GSA 5 percent of the annual rent to acquire and manage the leases. The remaining 2017 authorized major lease was for office space, which GSA routinely acquires without a reimbursable work agreement. Although CFM was able to initiate the 28 leases Congress authorized in 2017 more timely than the VACAA leases, maintaining adequate staffing is needed to enable CFM to continue to improve the timeliness of initiating major lease acquisitions after congressional authorization.

Recommendation 3 addresses OALC's need to obtain adequate resources to deliver leases on schedule.

### **Excessively Detailed Designs Prolonged the Acquisition Process**

The OIG concluded that developing specific, detailed designs for each lease was a significant factor contributing to CFM taking over 27.3 months to develop the lease solicitations. Since the VA estimated in the prospectuses that it would award the lease contracts in 25 or 26 months, it took longer to publish the lease solicitation than VA had estimated it would take to solicit, negotiate, and award the lease contracts. For the 15 awarded contracts VA took an additional 17.8 months to negotiate and award the contracts. In November 2012, the Construction Review Council recommended that all new major VA construction projects reach 35 percent design completion to establish true budget cost estimates prior to budget submission. VA decided to use the same design requirements for the VACAA major lease solicitations even though this level of detail is not required by GSA or standard industry practice.

In June 2015, the Six Sigma contractor recommendation that CFM develop a pilot lease solicitation project using only the lease's space requirements and design standards was presented to the VA principal executive director, OALC. If fully implemented, this recommendation would have resulted in VA no longer using the 35 percent design standard. The director, lease execution, ORP, stated that to implement this recommendation for the VACAA leases, ORP and VHA changed from individually designing each clinic to starting with standardized clinic templates for small, medium, and large clinics. They then completed further design work to

reach the 35 percent design standard for the individual leases. The director stated that using the standardized design approach would also allow the new facilities to better accommodate VA's Patient Aligned Care Team model of care.

To publish the SFOs for the VACAA leases, CFM contracted with real estate brokers to conduct market research to identify acceptable lease sites, develop the solicitation, and support the acquisition process. CFM also contracted with architectural/engineering firms to create the solicitation building design documents. However, despite utilizing the clinic templates, CFM used a lengthy design process that included detailed collaboration between the architectural/engineering contractors and many VA medical center officials, including service chiefs, to develop site-specific 35 percent designs for each VACAA lease, which was a more restrictive practice than required by both GSA solicitations and private sector industry standards.<sup>16</sup> During this collaborative process with the architectural/engineering firms, they determined the size, location, and configuration of medical services within the building. For the 24 VACAA leases, it took an average of about 17 months to develop 35 percent designs from the time the architectural/engineering firms were contracted to VA issuing the SFOs. Developing a 35 percent design takes significant time and money. Unlike VA major construction projects where VA is responsible for development of the final construction documents for the construction contractor, the lease contractor is required to develop the final designs.

## **VA Added Mission-Critical Features**

VA's leasing program began expanding rapidly about 10 years ago. Despite rapid growth, CFM had not developed build-to-suit leasing construction standards according to the then-director, OAEM. Instead, this director explained that CFM adopted the VA mission-critical construction standards used for the construction of VA-owned hospitals and applied them to the VACAA major medical leases. Mission-critical standards require VA facilities to be designed to continue operation during a natural or man-made extreme event or a national emergency.<sup>17</sup> CFM used mission-critical building standards for the leases even though most VA-leased facilities are not required to remain open during an extreme event.<sup>18</sup> The VA mission-critical building features are generally much higher construction standards than local building codes. Mission-critical features

---

<sup>16</sup> Memorandum 2018-06 issued December 22, 2017, by the then-associate executive director, ORP adopts the GSA Leasing Desk Guide for use by VA for all real property lease procurements.

<sup>17</sup> *Physical Security Design Manual, For VA Life-Safety Protected Facilities*, January 2015, pages 1 and 2, states that Executive Order 12656, issued November 18, 1988, requires the head of each federal department and agency to be prepared to respond adequately to all national security emergencies by developing plans for the security of essential facilities and resources, and to avoid or minimize disruptions of essential services during any national security emergency.

<sup>18</sup> *Physical Security Design Manual*, page 3, provides that leased facilities up to 150,000 net usable square feet are classified as not mission critical and are not required to remain operational in a natural or man-made extreme event or a national emergency. Leased facilities greater than 150,000 net usable square feet are classified by the VAMC director as mission-critical or not prior to the lease acquisition.

included items such as perimeter fencing, larger set-back distances from roads and other buildings, and blast-resistant glass.

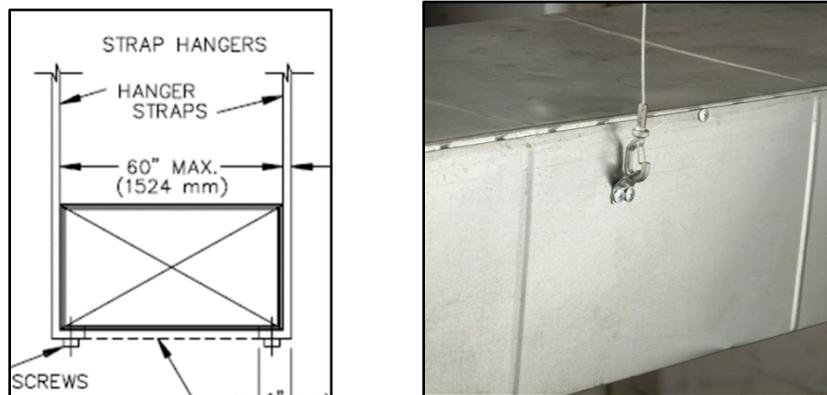
## Mission-Critical Specifications

The mission-critical building standards require most building systems to withstand severe conditions, such as earthquakes. Making the basic systems more robust, such as reinforcing the heating ductwork or using enhanced noise reduction features, required additional engineering efforts from contractors to meet the unfamiliar VA standards and escalated material and labor costs. The following example illustrates the differences in construction methods involved in complying with VA mission-critical building standards.

### Example 2

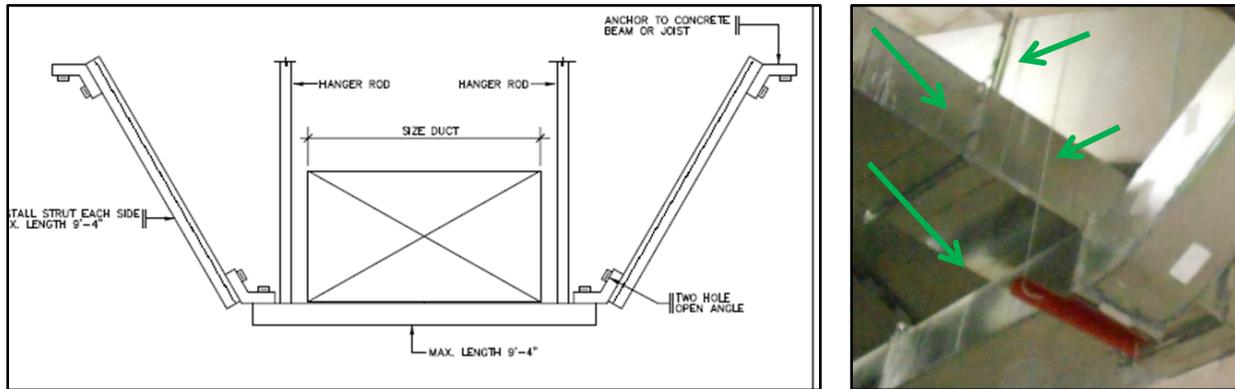
*Local building codes allow for wire and strap hangers to support heating, ventilation, and air conditioning ductwork. A CFM senior engineer stated that he interpreted the VA's master construction specification document as requiring contractors to use steel angles and rods to hang the ductwork. This CFM senior engineer also stated that this was necessary to meet separate seismic restraint requirements to ensure mechanical ductwork remains fully connected during an earthquake and that he had never seen wire and strap hangers used in a VA healthcare facility in his eight years of experience with the department. He added that local contractors were likely to be unfamiliar with VA's mission-critical construction methods. It was his belief that there is a steep learning curve in completing VA designs versus industry designs due to the differences in construction methods likely to be unfamiliar to local contractors.*

Figures 3 and 4 show the requirement illustrations and photo examples of wire hangers used under most local codes compared to the steel angles and rods required by the VA building standards.



**Figure 3.** Example of wire hangers used to hang ductwork under local codes

(Source: VA CFM senior engineer provided materials)



**Figure 4.** Example of steel rods and metal supports used to hang ductwork under VA standards  
(Source: VA CFM senior engineer provided materials)

## Increased Costs

Each lease prospectus authorized under VACAA had separate estimates for annual rent and one-time tenant improvement costs. For the 17 executed lease contracts, as of September 30, 2018, both cost elements varied significantly from the authorized prospectus amounts. However, OMB Circular A-11 capped the annual rent payments at the fair market value of a commercial lease. To comply, VA included the additional costs of the VA mission-critical features in the one-time tenant improvement payment rather than the annual rent payment. VA medical center and VISN leadership stated that these large lump-sum payments were difficult to budget because they often exceeded the lease prospectus estimates requiring money to be shifted away from other needs.

For the 17 VACAA leases that had executed lease contracts as of September 30, 2018, the lump-sum payments totaled about \$209.6 million, more than double (about 114 percent) the prospectus authorized amount of \$98.0 million. However, the annual unserviced rent payments for these contracts totaled about \$1.2 billion, about 24.8 percent less than the prospectus authorized amount of \$1.6 billion. Over the lifespan of these 17 leases, the \$1.4 billion total lease costs were about \$278.5 million (roughly 16.7 percent) less than the total prospectus authorized amount.<sup>19</sup> Table 4 shows OIG's analysis of the tenant improvement and annual rent payments for the 17 executed VACAA contracts.

<sup>19</sup> All prospectus estimates are inflation-adjusted at an annual rate of 4 percent.

**Table 4. Contracted Tenant Improvement and Annual Rental Payments Versus VACAA Authorized Amount**

Site	VACAA authorized amount (thousands)*	Contract payment (thousands)	Difference from VACAA (thousands)	Difference from VACAA
Tenant improvement	\$97,962	\$209,631	\$111,668	114.0%
Total rent	\$1,572,581	\$1,182,433	\$(390,149)	(24.8%)
Total	\$1,670,544	\$1,392,064	\$(278,480)	(16.7%)

Source: *OIG analysis of VA data*

\*OIG calculated inflation based on the 4 percent rate VA used in the VACAA prospectuses

The OIG concluded that the large differences between the actual lease costs and the estimated amounts approved in VACAA were due to amortizing the mission-critical requirements estimated costs in the annual rent payments rather than including these costs in the estimated lump-sum tenant improvement costs. This practice resulted in lease prospectus estimates that did not follow OMB Circular A-11 cost allocation requirements. The Government Accountability Office (GAO) reported in June 2016 that VA’s cost-estimating procedures did not fully incorporate relevant best practices for developing comprehensive, well-documented, accurate, and credible estimates and that their cost estimates may be unreliable.

Recommendation 4 addresses the need to provide Congress with accurate cost estimates that comply with OMB Circular A-11 requirements. This example shows how the high cost of mission-critical features can negatively impact acquiring leased facilities.

**Example 3**

*VA records indicate that in the design development, specific mission-critical items were included for the West Haven, Connecticut, lease. However, CFM issued a memo on October 12, 2017, which stated that state and local building codes and regulations applied unless the mission-critical standards were “deemed appropriate.” CFM staff deleted the blast protection, perimeter fencing, and other items to meet budget restrictions, which the construction contractor estimated would cost at least \$2.8 million.*

*However, the contract left in language that stated mission-critical compliance was required. A VISN official indicated VA medical center leadership was apparently not aware of the CFM memo and reached out to OCAMES officials in December 2017. The VISN official believed the mission-critical requirements were appropriate and entered into discussions with CFM regarding adding the perimeter fencing, blast protection, and other items back into the contract despite the additional \$2.8 million cost. Discussions between the parties were ongoing*

*when on February 26, 2018, the then-acting principal executive director, OALC, and the assistant secretary for Office of Operations, Security, and Preparedness issued a policy memo establishing that high-level security fencing and blast protection were no longer required by policy. However, these issues remained unresolved until April 16, 2018, six months after CFM had issued the first memo, when OCAMES officials acquiesced to following the new policy. They allowed the project to move forward without the mission-critical features even though they stated in an email response to CFM officials that they disagreed with the decision.*

Constructing leased facilities to mission-critical standards increased project costs, which resulted in offers that did not comply with OMB Circular No. A-11 requirements for operating leases.<sup>20</sup> This circular requires that all federal leases demonstrate that the projected return on investment is clearly equal to or better than alternative uses of available public resources. If a proposed lease exceeds 90 percent of the local average industry standard costs for the fair market value of the asset, the lease “scores” as a capital lease rather than as an operating lease. Capital leases are required to fund all lifetime lease costs in the first year of the lease as if it were a purchase. Operating leases are funded from annual appropriations based on the rent payments. Since the VACAA authorized the leases as operating leases, the VA could not award contracts for projects that scored as a capital lease.

## **Resulting Delays**

This example shows the delays that can occur when the costs for mission-critical features are not properly estimated and planned.

### **Example 4**

*According to the then-associate executive director, ORP, in April 2018, CFM was on the cusp of award for the Brick, New Jersey, lease. The average one-time, lump-sum cost of the two remaining offers being considered was about \$8.9 million, which exceeded the \$3.3 million prospectus amount by about \$5.6 million. This director stated that despite early communication of the additional costs from the project team, it took the entire month of March 2018 to obtain a decision from the VA medical center and VISN directors on whether to switch from the “old” building design standards to the “new” standards to increase competition and lower costs. The switch ultimately resulted in the cancellation of the solicitation and a restart of the procurement. This was one of the six VACAA lease solicitations canceled and resolicited.*

---

<sup>20</sup> OMB Circular A-11 *Preparation, Submission, and Execution of the Budget*, Executive Office of the President, Office of Management and Budget, July 2016, page 6 of appendix B.

VA took longer than estimated to acquire the VACAA leases largely due to a lack of a clear understanding of the cost of including VA building specifications in acquiring these leased facilities. However, when a project cost more than expected, VA medical center and CFM staff had to perform cost-savings analysis and conduct extra negotiations with the contractors to meet budget restrictions. When cost issues prevented the leases from progressing, project managers were confronted with conflicting opinions from different VA management groups. Since the management structure of the lease acquisition process spans multiple lines of authority, lease acquisitions were often slowed when major decisions were required.

## **Lack of Clear Decision Authority Resulted in Delayed Project Decisions**

The lack of clear decision authority for defining the appropriate security features and other technical requirements of major medical leases resulted in CFM, under OALC, establishing the initial building requirements. However, VA medical center officials and VISN network directors under the deputy under secretary for health for operations and management (DUSHOM) and Office of Security and Law Enforcement had the discretion to change the standard requirements.

The OIG concluded that disagreements between CFM and local VA officials contributed to many of the delays in awarding lease contracts. VA staff and non-VA consultants consistently cited poor communication and slow decision making as significant sources of delays in the lease acquisition process. For example, VA engaged in internal discussions for eight weeks to decide whether to advertise for existing buildings, undeveloped sites, or both, according to the CFM project manager for the Chula Vista major medical lease. The team ultimately decided to solicit bids for both scenarios. Internal VA discussions to resolve conflicts among VA officials regarding building code requirements and to identify the best approaches to resolve cost issues resulted in significant delays in the lease acquisition process. The then-associate executive director, ORP, explained that VA did not have clear lines of authority regarding which building features would be altered in the final building designs to reduce costs. The VA officials revised the lease solicitations and renegotiated lease terms multiple times, attempting to balance the competing needs of high security expectations, OMB Circular A-11 scoring requirements, and budget limits. The extended discussions to resolve these matters were a major contributor to the long VACAA negotiation process. CFM took an average of about 199 days to receive and evaluate offers that met operating lease scoring standards for the 21 Choice leases initiated after VACAA was authorized.<sup>21</sup> The elapsed time varied from 52 days to 576 days for the 21 leases.

---

<sup>21</sup> CFM conducted at least two technical evaluation board evaluations for 21 of the 22 Choice leases initiated after VACAA was authorized. CFM canceled and restarted the remaining lease acquisition about a year after the first evaluation.

Clear agreement between the OALC executive director and the DUSHOM regarding detailed security and other VA specifications required at each facility is needed prior to soliciting a lease. A clear understanding of the circumstances under which VA expects the building to remain open in times of extreme events or national emergencies and the costs associated with each increased requirement would reduce the likelihood of extensive renegotiation.

With clear planning data, CFM could resolve issues and meet OMB Circular A-11 scoring requirements prior to solicitation, and VA medical center management could accurately plan to have adequate funding to meet specific mission-critical needs. This should save VA time by reducing the need to renegotiate building standards to lower the costs to meet OMB operating lease scoring requirements and to stay within authorized budgets.

A clear policy that establishes what needs to be decided, who decides, and how long they have to make the decision should reduce the time spent in internal VA discussions. Establishing standard acquisition practices would reduce the need to engage in discussions over specific acquisition issues for each lease. In addition, clear policies defining who makes the decision to deviate from the standards and the timelines for those decisions are needed to prevent delays. The policy needs to ensure that each building system requirement and security expectation is explicitly defined and justified based on need, on a lease-by-lease basis, prior to solicitation.

In January 2018, OALC, OCAMES, and VHA executives reported to then-Secretary Shulkin that they planned to implement a template charter for each major medical lease that clearly defined decision rights for project-specific changes (cost and time) at the appropriate management levels by May 1, 2018. In addition, CFM planned to streamline the lease award concurrence process by July 1, 2018.

On June 8, 2018, the DUSHOM issued a three-page policy providing the broad responsibilities for VA medical center, VISN, ORP, OAEM, and OCAMES leadership in the lease acquisition process. However, the policy does not clearly delineate decision authority when there are conflicts and does not define a process for conflict resolution or provide time frames for dispute resolution. Without these elements, it is unclear that this policy will improve the efficiency of major lease procurements or reduce the time needed to procure leases when disputes arise. The policy has not been in effect long enough for the OIG to evaluate how it will affect the lease acquisition process.

Recommendation 5 addresses the continued need for a comprehensive decision authority policy for lease acquisitions.

## **VA Efforts to Improve Lease Procurement Practices**

VA has recently taken several steps to improve the major lease acquisition process. Some of these changes impacting the 24 major medical leases reviewed by the audit team and others

should improve the acquisition of 28 major medical leases approved under the VA Choice and Quality Employment Act of 2017.

### **VA Clarified Design Standards for Major Medical Leases**

The OIG audit team interviewed CFM leadership on February 14, 2018, to discuss VA design standards for major medical leases and reasons that lease bids the department received exceeded 90 percent of the property's fair market value, the limit prescribed by OMB Circular A-11 for operating leases. On February 26, 2018, the acting principal executive director, OALC, and the assistant secretary for the Office of Operations, Security, and Preparedness issued a policy memo to officially differentiate between the standards, processes, and policies applicable to VA-owned facilities versus leased facilities. The VA policy memo adopted all elements of the Interagency Security Committee Standards for its leased facilities and established Facility Security Level II as the minimum standard for all leased facilities.<sup>22</sup> In February 2018, CFM also updated the standard list of required building codes to include local industry standards on their Technical Information Library and referred to the list of codes in their lease solicitations.

OALC officials expected this change would allow contractors to develop designs based on their current expertise in the local market, encourage more participation in the bidding process, and result in more competitively priced bids that score as operating leases. VA awarded 12 leases in the six-month period after the February policy change compared to only five leases awarded in the first three and a half years after VACAA was enacted.

VA needs a comprehensive policy establishing clear decision-making authority for the lease acquisition process. Although CFM has changed some building code standards, VA policy still gives VA medical center leadership the option to request higher-level security requirements. However, these requirements must be approved by the Office of Security and Law Enforcement and the DUSHOM. The Interagency Security Committee Standards acknowledge that cost is a legitimate concern when developing specific security requirements, and providing unnecessary protection at one location reduces the availability of resources at other locations. Although VA needs to seriously consider all security risks, and even though funding may exist, it may not be a sound financial decision to expend that money for little gain at facilities VA does not own.

Including unbudgeted security features in future leased facilities could perpetuate the cost and timeliness issues encountered in acquiring the VACAA major medical leases. The Interagency-Industry Partnership training guide, *Seven Steps to Performance-Based Services Acquisition*, acknowledges the importance of culture change.<sup>23</sup> The guide states "by its very nature, an

---

<sup>22</sup> The Interagency Security Committee, chaired by the Department of Homeland Security, consists of 58 federal departments and agencies, with the mission to develop security standards and best practices for nonmilitary federal facilities in the United States.

<sup>23</sup> An Interagency-Industry Partnership in Performance: *Seven Steps to Performance-Based Services Acquisition*.

integrated solutions team has members whose affiliations cut across organizational boundaries. ‘Turf’ can become an issue unless there is strong, effective senior management support and a shared vision.”

It is too early in the acquisition process to determine if leases acquired using local codes and Facility Security Level II requirements will achieve the anticipated time and cost savings over the VACAA lease process, and CFM needs to periodically monitor, evaluate, and refine the effectiveness of the building code standards used to acquire medical leases. Recommendation 6 addresses the need to ensure VA uses appropriate security measure requirements when acquiring VA major medical leases.

### **VA Began Transitioning to Performance-Based Lease Acquisition**

CFM officials transitioned from using SFO documents to GSA’s RLP documents to solicit the 28 new major leases authorized by the VA Choice and Quality Employment Act of 2017. CFM officials also used the new RLP documents for the six of 24 VACAA leases that were resolicited.

The primary differences between the SFO and RLP documents are in how the solicitation requirements such as site selection, design standards, and security standards are presented. The SFO combines both solicitation requirements and contractual terms into one document, while the RLP separates the solicitation into an RLP document and a lease contract, allowing for a shorter and less complex solicitation document. Additionally, CFM planned to use standard layouts with a conceptual blocking diagram in the RLP, which included agency-specific requirements, IT specifications, and room templates to further aid developers in the bidding process for these solicitations rather than the 35 percent design standards used for the VACAA SFOs.

The RLP serves the same purpose as the SFO for lease acquisitions, acting as a request for proposals in response to a defined government need. However, the RLP documents align with the intent of performance-based acquisition methods, focusing on the function of what is being acquired rather than specifying design requirements. Federal Acquisition Regulation subpart 37.6 defines performance-based acquisitions as a requirement for federal agencies, to the maximum extent practicable, to describe the work in terms of the required results rather than either “how” the work is to be accomplished or the number of hours to be provided.

The *Seven Steps to Performance-Based Services Acquisition* also states that performance-based service acquisition can be daunting, with the need to shift the paradigm from traditional “acquisition think,” where limitations such as defined roles, responsibilities, and organizational boundaries exist, into one of collaborative performance-oriented teamwork, incorporating collective responsibility involving representatives from many different teams such as budget, technical, contracting, logistics, legal, and program offices. The shift to a collaborative performance-based service acquisition team would promote a focus on program performance and improvement, not simply contract compliance. Table 5 compares some key differences between the SFOs used to solicit the VACAA leases and the new performance-based RLP documents.

**Table 5. Comparison of Solicitation for Offer Versus Request for Lease Proposal Acquisition Methods**

Solicitation element	Solicitation for offer	Request for lease proposal
Complexity	Specifically described building requirements – 200+ pages	Outlined functional needs – 45+ pages
Site selection	VA provided a list of accepted sites	Contractor offered sites and existing buildings to evaluate according to site selection criteria
Design standard	35 percent completed design documents	Based on community-based outpatient clinic prototype and department grouping requirements
Security standards	VA mission-critical	International Security Committee Standards, Level II

*Source: OIG analysis of CFM-provided data*

The then-director, OAEM, stated that the VA medical centers had increased the level of detail developed for the prospectuses for the 28 leases authorized under VA Choice and Quality Employment Act of 2017. This included scoring and market analysis that was not developed in the VACAA prospectuses.

The OIG discussed CFM’s continued use of architectural/engineering contractors to develop the less detailed facility requirements used with the RLPs with GSA officials involved in supporting VA in acquiring seven of the 28 new leases. A GSA official stated that since the VA had not previously used RLPs, it does not have tested designs from previous acquisitions to ensure accurate communication of requirements to potential bidders. The OIG was cautioned that since CFM had no experience using RLP documentation, it would likely not realize the expected cost and time savings if it did not properly execute the new leases because of the significant learning curve involved with the RLP acquisition method.

A real estate broker with experience using both methodologies stated that even if VA used the RLP forms, if it continued to include VA’s specific building codes and detailed design requirements, it would not see improved results. The then-director, OAEM, indicated that VA’s risk-averse culture could hinder progress because VHA officials were hesitant to assume the risks of changing from the VA’s mission-critical building requirements to local building code standards.

CFM has begun to execute the transition to using RLP documentation and simplifying the designs used for the solicitation. However, to be effective, CFM will need to ensure the project acquisition teams are adequately trained in performance-based acquisitions, monitor the RLP process to ensure staff consistently execute acquisitions, and continue to identify areas with

further efficiency potential, such as acquiring projects without using an architectural/engineering contractor.

Recommendations 7 and 8 address the need for CFM to ensure the project acquisition teams are adequately trained in performance-based acquisition and to evaluate the use of consultants on a case-by-case basis.

## **Delayed Major Medical Lease Acquisitions Increase Costs and Limit Veteran Access**

Delayed major medical lease acquisitions resulted in veterans potentially not having timely access to medical care while they waited for new facilities to be built, and these delays also increased costs of acquiring the facilities due to inflation and rising real estate costs. VA could potentially acquire the leases in the prospectus time frames provided to Congress, reducing by over two years the time taken to acquire major medical leases by

- Initiating the formal planning process prior to congressional approval,
- Reducing the time needed to create detailed designs, and
- Establishing the proper security needs and accurate costs for mission-critical tenant improvements prior to solicitation.

Consistently reducing the overall acquisition time by two years, from five to three years, could reduce the cost of these facilities for the entire 20-year life of the lease. Using VA's inflation factor of 4 percent per year, an average savings of two years would result in an 8 percent (two years multiplied by four percent) lower lease payment for the 20-year life of the lease. The total estimated cost for the 24 leases was about \$1.9 billion. VA could have saved \$152.3 million (\$1.9 billion multiplied by 8 percent) over the 20-year lifespan of the leases had they been acquired an average of two years sooner.

## **Conclusion**

The management structure of the lease acquisition process spans multiple lines of authority and requires many decisions to execute a lease contract. As a result, lease acquisitions are often slowed when project managers are confronted with conflicting opinions from different management groups. VA has taken some steps to improve the major lease acquisition process, including simplifying the solicitation documentation to better align with GSA practices and changing VA's mission-critical building standards for leases to better align with similar private sector facilities. However, VA has opportunities for further improvement. Although VA has addressed several of the areas of improvement identified through a Six Sigma team review and other efforts, several of the recommendations remain unaddressed.

The recommendations in this report address the major issues and, if adequately implemented, should result in timelier and more cost-efficient acquisition of major medical leases. Improved CFM staffing, providing funding to start formally planning the leases prior to congressional approval, clearly identifying mission-critical building features prior to solicitation, and maintaining clear lines of decision authority are critical to improving VA's major lease acquisition process. Reducing the time taken to acquire major medical leases by about two years would save 8 percent of the cost of each lease related to inflation.

## **Recommendations 1–8**

The OIG recommended:

1. The Principal Executive Director and Chief Acquisition Officer for the Office of Acquisition, Logistics, and Construction ensure there are adequate funds available to routinely conduct planning activities, including developing requests for lease proposals, for Strategic Capital Investment Planning approved major leases while waiting for congressional authorization.
2. The Assistant Secretary for Management and Chief Financial Officer reconsider centralizing major medical lease acquisition funding through VA's acceptance of the completed building.
3. The Principal Executive Director and Chief Acquisition Officer for the Office of Acquisition, Logistics, and Construction obtain adequate resources to deliver leases on schedule.
4. The Assistant Secretary for Management ensure that the prospectus cost estimates provided to Congress are accurate and the costs are allocated appropriately to comply with OMB Circular A-11 requirements.
5. The Principal Executive Director and Chief Acquisition Officer for the Office of Acquisition, Logistics, and Construction implement a comprehensive VA policy for critical decisions in the lease acquisition process establishing clear lines of authority and allowable time frames.
6. The Deputy Under Secretary for Health for Operations and Management and the Executive Director, Office of Construction Facilities Management, ensure VA uses appropriate security measure requirements when acquiring VA major medical leases by performing Interagency Security Committee risk evaluations prior to solicitation.
7. The Executive Director, Office of Construction Facilities Management, ensure project acquisition teams are adequately trained in performance-based acquisition.

8. The Executive Director, Office of Construction Facilities Management, evaluate the use of consultants in the solicitation development process for Requests for Lease Proposals of major medical leases on a case-by-case basis.

## Management Comments

The principal executive director, OALC, concurred with Recommendations 1, 3, 5, 6, 7, and 8. To address Recommendation 1, OALC will work with the Office of Management and VHA to ensure there is funding available from appropriate sources for upfront planning for SCIP 2021's major leases. To address Recommendation 3, the executive director, CFM, will continue to assess staffing needs and request additional support if necessary. To address Recommendation 5, the principal executive director, OALC, in collaboration with VHA, will develop policy based on the enterprise-approved acquisition program management framework and other models that have successfully been implemented for major construction projects.

The DUSHOM, in collaboration with the executive director, CFM, will address Recommendation 6 by reassessing existing policy and implementing clear guidelines that integrate appropriate security requirements by using Interagency Security Committee risk evaluations. The executive director, CFM, will address Recommendations 7 and 8 by training acquisition staff on the use of performance-based acquisition methods. In addition, CFM will continue to assess the use of additional consultants in the solicitation process to maximize efficiencies for lease execution, and additional consultants will be acquired as gaps in support are identified.

The assistant secretary for management and chief financial officer concurred with Recommendations 2 and 4. To address these recommendations, the Office of Management will coordinate with VHA to determine the most appropriate method of centralizing funding for major medical leases and work with VHA and CFM to implement a centralized funding strategy. In addition, the OAEM will implement improvements to the prospectus estimating process to ensure accurate cost estimates are provided to Congress and the estimates comport with the OMB A-11 requirements.

All action plans are scheduled to be completed by February 15, 2020.

## OIG Response

The planned corrective actions of the principal executive director, OALC, the DUSHOM, and the executive director, CFM, are responsive to Recommendations 1, 3, 5, 6, 7, and 8 and should address the issues identified in the report. The assistant secretary for management and chief financial officer's planned corrective actions are responsive to Recommendations 2 and 4 and should address the issues identified in the report.

The OIG will monitor VA's progress and follow up on implementation of the recommendations until all proposed actions are completed. appendixes H and I provide the full text of the comments from the principal executive director, OALC, and the assistant secretary for management and chief financial officer.

## Appendix A: Background

### VA Leadership Structure for Lease Acquisitions

#### Veterans Health Administration

*VA Medical Facilities*—VHA medical facilities provide a wide range of services including traditional hospital-based services such as surgery, critical care, mental health, orthopedics, pharmacy, radiology and physical therapy. Strategic capital assessments and SCIP business cases are developed for each facility to address all identified gaps in eight categories over 10 years, including space. Once business cases are approved under the SCIP process, the facility collaborates with an architectural/engineering firm to develop the prospectus for submission to Congress.

*Office of Capital Asset Management Engineering & Support*—OCAMES provides policy, guidance, training, and funding to support medical centers and VISNs in managing their existing buildings, building systems, equipment, land, leases, and fleet vehicles, including providing guidance, management, and oversight to VHA regarding submitting projects under the SCIP process. OCAMES also provides support for capital initiatives and engineering operations. Programs within this office include Major Construction, Minor Construction, Nonrecurring Maintenance, and Leasing. OCAMES provides oversight and professional engineering consulting services for field engineers, and develops policies, guidelines, and educational courses for the field.

#### Office of the Assistant Secretary for Management and Chief Financial Officer

*Assistant Secretary for Management, Chief Financial Officer (CFO)*—The assistant secretary for management serves as the CFO for the Department. As the CFO, the assistant secretary is responsible for financial management, budget administration, resource planning, business oversight activities, and monitoring the development and implementation of VA's performance measures. The assistant secretary serves as the Department's principal advisor for budget, fiscal, capital and green program management (energy, environment, transportation/fleet, and sustainability) policy, and supports the VA governance bodies regarding capital-asset portfolio management and implementing the SCIP process.

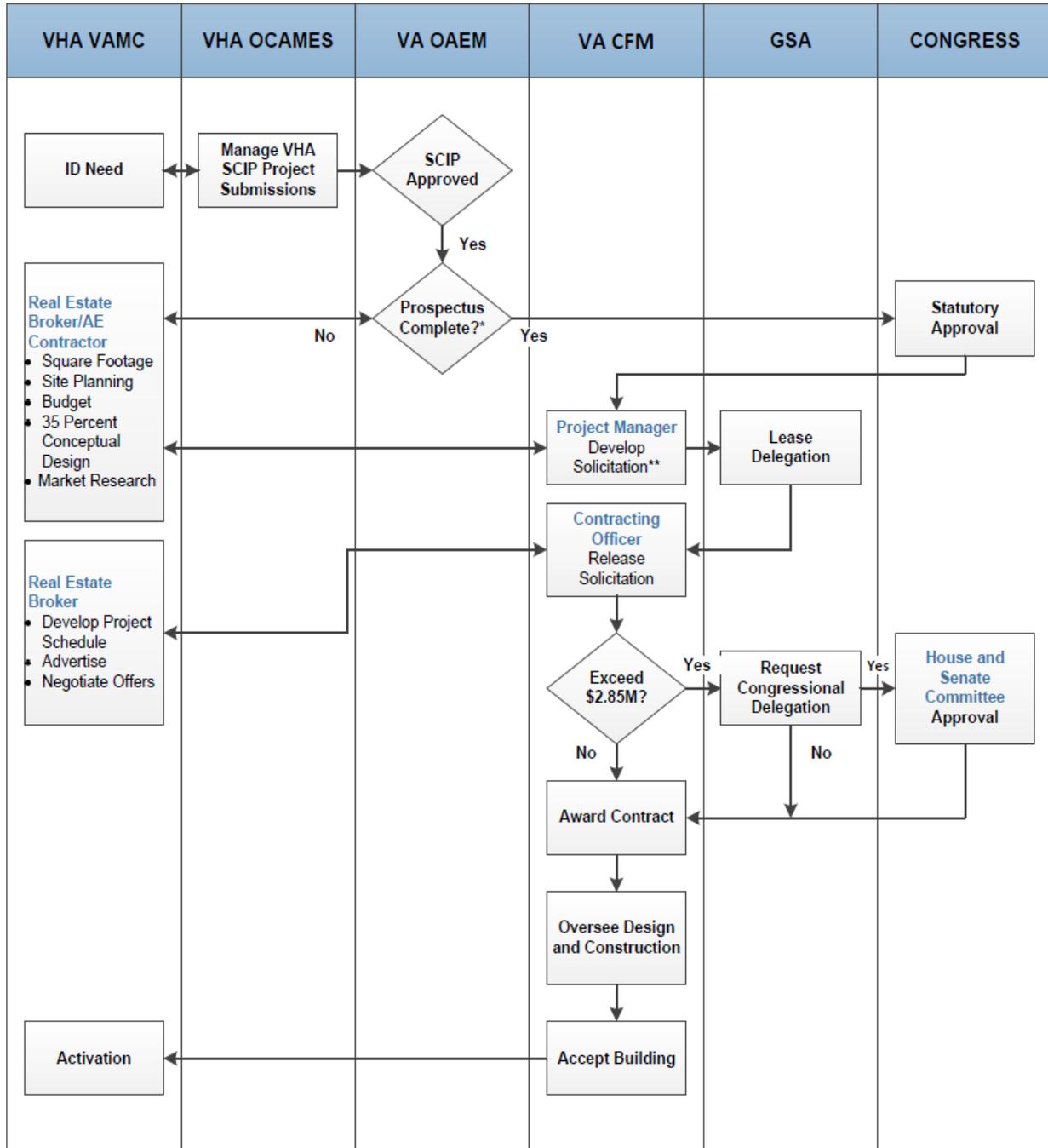
*VA Office of Asset Enterprise Management*—OAEM's four services (Capital Asset Policy, Planning, and Strategy Service; Investment and Enterprise Development Service; Capital Asset Management Service; and Energy Management Program Service) work collaboratively with all areas of the department to ensure capital investments are based on sound business practices and principles. OAEM is tasked with providing the assistant secretary for management/CFO, deputy

secretary of Veterans Affairs, and the Secretary of Veterans Affairs with objective oversight and advice regarding the acquisition, management, and disposal of VA capital assets (that is, buildings and real property leases). OAEM develops and disseminates governance policies, processes, and performance measurement systems for the Department's capital asset management programs. The director serves as the senior VA real property officer, and OAEM manages the Department's SCIP process and chairs the SCIP panels and Board that evaluate, rank, prioritize, and recommend proposed SCIP projects for approval through the VA governance process.

### **Deputy Secretary for Veterans Affairs—VA Office of Acquisition, Logistics, and Construction**

*VA Office of Construction and Facilities Management*—CFM is responsible for the planning, design, and construction of all major construction projects. CFM also manages facility sustainability, seismic corrections, physical security, and historic preservation of the VA's facilities. CFM's ORP supports the VA's mission by acquiring land and leasing space for the construction of medical and medically related facilities that serve the nation's veterans. The executive director, ORP Management, is responsible for the day-to-day execution of major medical facility leases. As shown in VA's Capital Asset Inventory system, in FY 2018, VHA had 1,664 leases for about 18.7 million net usable square feet, with annual rent of about \$594.2 million.

## Appendix B: VACAA Major Lease Acquisition Process

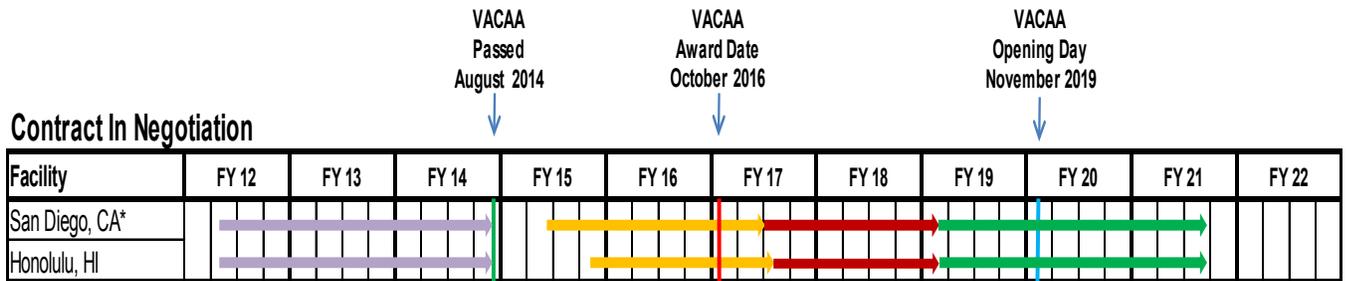


Source: VA OIG analysis of VA documentation and interviews with VA officials

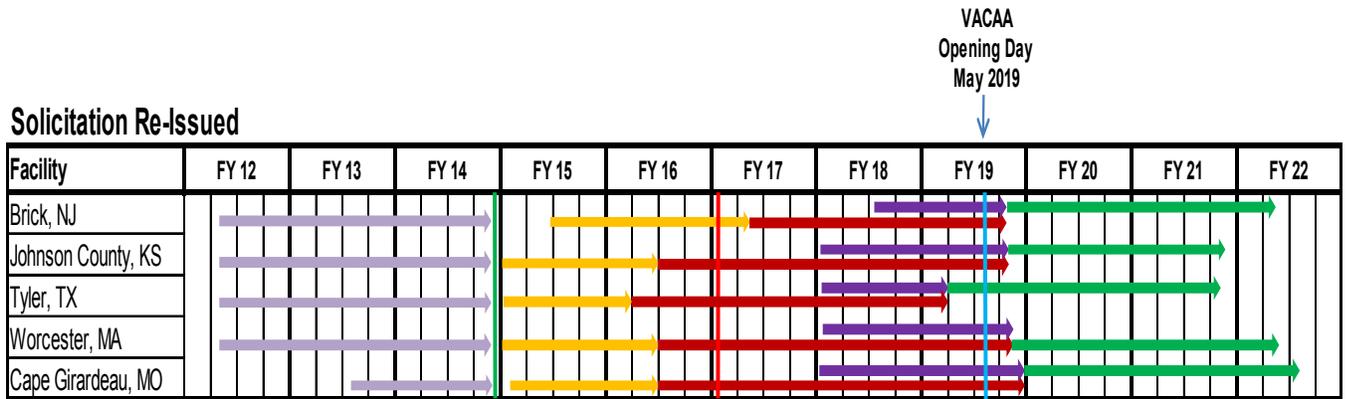
\* The VA medical center and real estate support services contractors collaborate to develop the prospectus. However, CFM manages the real estate support services contracts.

\*\* The VA medical center and an architectural/engineering (AE) contractor collaborate to develop the design requirements for the solicitation. However, CFM manages the AE contract.





\*Note: The San Diego CA lease had an approved VACAA award date of September 2016, and an approved VACAA opening day of October 2019



- Waiting for Congressional Approval →
- Planning Prior to Issuing Solicitation →
- Solicitation and Contract Negotiation →
- Second Solicitation and Contract Negotiation →
- Final Contractor Design and Construction →

Source: VA OIG analysis of VA-provided data

## Appendix D: Previous Reports, Reviews, and Initiatives

Title/Author/Date	Review topics and findings/results
<p>The VA Construction Review Council Activity Report November 2012</p>	<p><b>Topic:</b> In April 2012, VA Secretary Shinseki established the Construction Review Council consisting of the VA Secretary, deputy secretary, chief of staff, under secretaries, and key leaders across the department. The council reviewed the planning, budgeting, execution, and delivery of the VA’s major and minor construction, nonrecurring maintenance, and leasing programs.</p> <p><b>Summary Results:</b> VA’s current practice of developing requirements and preparing budgets for construction occur too early in the process, before significant information has been assembled. Additionally, VA’s design, construction, and activation costs are not coordinated to ensure funds are available at critical times. Specifically, design funds are separated in various accounts and activation funding is not identified early enough.</p> <p><b>Recommendations:</b> The council made recommendations that applied across VA real property acquisitions, including leasing. It recommended that all new major construction projects reach 35 percent design completion prior to budget submission and that VA investigate the use of a Design Fund that would fund major construction designs prior to requesting construction funding.</p>
<p>Review of Management of Health Care Center Leases VA OIG October 2013</p>	<p><b>Topic:</b> Management of lease procurements for seven Health Care Center’s (HCC) authorized by Public Law 111-82.</p> <p><b>Summary Results:</b> The seven HCCs did not meet the schedules established in the prospectuses submitted to Congress. VA did not have detailed guidance that included all requirements for planning and acquiring such large-scale real-property leases. In addition, VA did not have central cost tracking in place to ensure accurate reporting on HCC lease expenditures.</p> <p><b>Recommendations:</b> The OIG recommended that VA establish adequate guidance for management of the procurement process of large-scale build-to-lease facilities, that VA provide realistic and justifiable timelines for HCC completion, that VA ensure project analyses and key decisions are supported and documented, and that VA establish central cost tracking to ensure transparency and accurate reporting on HCC expenditures.</p>
<p>VA Real Property – Action Needed to Improve the Leasing of Outpatient Clinics GAO April 2014</p>	<p><b>Topic:</b> Management of leasing projects has caused schedule delays and cost increases.</p> <p><b>Summary Results:</b> VA has experienced substantial delays in executing new outpatient clinic lease projects. GAO’s analysis showed that for 38 of the 39 projects that experienced a delay, the delay started prior to the award of the lease contract. While VA has taken some actions to improve its leasing management practices for outpatient clinics, its guidance could be improved.</p> <p><b>Recommendations:</b> GAO recommended that VA update VHA’s guidance for the leasing of outpatient clinics to better reflect the roles and responsibilities of all VA staff involved in leasing projects.</p>

Title/Author/Date	Review topics and findings/results
<p>Six Sigma Review: VA Lease cycle time improvements June 2015</p>	<p><b>Topic:</b> CFM contracted a private consulting firm to conduct a Six Sigma study of VA’s leasing process. The contractor reviewed the primary VA offices involved in the leasing process, including ORP, CFM, OAEM, and the Office of General Counsel.</p> <p><b>Summary Results:</b> In June 2015, the initial Six Sigma contractor conclusions and recommendations for VA’s leasing life cycle time improvements were presented to the VA Principal Executive Director, OALC. The contractor’s analysis of VA’s leasing process indicated that leasing process improvements for major leases could be achieved through such actions as better control of project requirements, updating of project management program, and improvements to the solicitation process.</p> <p><b>Recommendations:</b> Six Sigma analysis recommendations included accelerating hiring of the AE firms to complete preliminary designs prior to congressional authorization, earlier development of the solicitation, and piloting the use of VA space requirements rather than a specified AE design for lease solicitations.</p>
<p>Independent Assessment of the Health Care Delivery Systems and Management Processes of the Department of Veterans Affairs The MITRE Corporation September 2015</p>	<p><b>Topic:</b> Integrated report comprising assessments of 12 areas covering VHA services, operations, and support.</p> <p><b>Summary Results:</b> The report was based on the results of a Blue-Ribbon Panel, composed of findings and recommendations from experts from diverse health care and stakeholder backgrounds. The leasing program is not effectively enabling VHA to provide facilities where and when they are required or at a reasonable cost for major leases. VHA was not realizing the speed and flexibility benefits of its leasing strategy since its acquisitions often took more than twice as long as private sector benchmarks, and rents paid were 40 to 50 percent higher than private sector benchmarks for larger build-to-suit facilities designed to VA specifications.* The capital requirement for VHA to maintain facilities and meet projected growth needs over the next decade is higher than anticipated funding levels, and the gap between capital need and resources could continue to widen.</p> <p><b>Recommendations:</b> VA should improve project selection, including improvement of the SCIP process by ensuring that criteria for projects are reflective of the most critical items that contribute to Veteran care in the most cost-effective manner possible. VA should streamline all construction types and leasing. VA should address the root causes currently leading to consistent overruns in cost and schedule for construction projects and lengthy timelines for leases.</p>

Title/Author/Date	Review topics and findings/results
<p>VA Real Property – Leasing Can Provide Flexibility to Meet Needs, but VA Should Demonstrate the Benefits GAO June 2016</p>	<p><b>Topic:</b> VA has increasingly leased facilities, including major medical facilities often citing flexibility as a benefit.</p> <p><b>Summary Results:</b> VA justifies leasing to open facilities more quickly and to obtain flexibility to relocate. VA generally identified leasing as the lowest-cost alternative, but in some cases other options may have been less costly to attain flexibility to relocate in the future and benefit from potentially shorter project timeframes. VA does not provide stakeholders with information on the extent to which it has benefited from flexibility.</p> <p><b>Recommendation:</b> To enhance transparency and allow for more informed decision making related to VA’s major medical facility leases, GAO recommended that the Secretary of Veterans Affairs annually assess how VA has benefited from flexibilities afforded by leasing its major medical facilities and use information from these assessments in its annual capital plans.</p>
<p>Leasing Procedures Used to Acquire VA’s Wilmington Health Care Center  VA OIG September 2018</p>	<p><b>Topic:</b> Review the offers to develop the Wilmington HCC to determine whether VA officials used the appropriate procedures when making the final award determination.</p> <p><b>Summary Results:</b> The OIG determined that the selection of the site to build the Wilmington HCC was not in the taxpayer’s best interest. VA’s CFM changed its requirements from option to purchase to option to lease; paid more than the appraised value for the lease of the land; and used a two-step process that CFM officials later identified as having a major weakness. The OIG could not determine whether the \$69 million lease CFM awarded was the best offer for the Wilmington HCC.</p> <p><b>Recommendation:</b> The OIG recommended that CFM establish and disseminate a formal policy for transferring contract files when transferring responsibilities to a different contracting officer. Since CFM established and implemented several key policies and procedures since the award of the lease, OIG did not make specific recommendations addressing additional conditions reported on in the audit.</p>

Source: VA OIG analysis of published reports

\* GSA leasing guidance states that the federal government utilizes the “build-to-suit” process to procure new construction and for procurements requiring significant design work. In addition to new construction, this includes adaptive reuse of existing buildings, “full gut” rehabilitation replacement of the building enclosure, mechanical systems, ceiling, service cores, etc. and minor renovations.

## **Appendix E: Scope and Methodology**

### **Scope**

The OIG conducted its audit from November 2017 through April 2019 to determine how effectively VA managed the development and acquisition of the 24 major medical facility leases Congress authorized in VACAA.

### **Methodology**

To accomplish its objectives, the OIG team reviewed applicable laws, regulations, policies, procedures, and guidelines. During its review, the team conducted eight site visits to various lease locations throughout the United States. The audit team conducted onsite interviews and conference calls with VHA, CFM, and contracted real estate brokers at the following eight locations from November 2017 through February 2018: San Diego, California; Chula Vista, California; Lake Charles, Louisiana; Lafayette, Louisiana; Brick, New Jersey; Honolulu, Hawaii; San Antonio, Texas; and Worcester, Massachusetts. The OIG team judgmentally selected these locations based on project status, estimated costs at various project milestones, space calculations, and timeliness. The team also performed a summary overview of the remaining 16 sites. The OIG team also interviewed VA directors, project managers, contracting officers, engineers, and others including, 54 individuals from VHA (including VA medical center and OCAMES) and 24 individuals from other VA offices (including CFM, OAEM, and CFO). In addition, the OIG interviewed six GSA staff and five real estate brokers involved with VA major medical leases.

### **Fraud Assessment**

The audit team assessed the risk that fraud, violations of legal and regulatory requirements, and abuse could occur during this audit. The audit team exercised due diligence in staying alert to any fraud indicators.

The OIG team built various fraud-related work steps into its audit program and performed those steps during the site visits, such as assessing whether contractors gained an unfair competitive advantage or VA officials did not keep Congress informed of significant changes when required. The team also coordinated with OIG's Office of Investigations and determined there were no ongoing investigations that would conflict with the scope of the audit. The team found no indications of potential fraud.

### **Data Reliability**

The OIG examined lease procurement documentation obtained from VA's Electronic Contract Management System as well as documentation and information obtained from interviews of

personnel at VA medical centers, OCAMES, the assistant secretary for Management, CFM, and others. Thus, the OIG did not rely on computer-processed data for this audit and concluded the data reviewed were sufficiently reliable to support its audit findings and conclusions.

### **Government Standards**

The OIG conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that the OIG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. The OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

## Appendix F: Sampling Methodology

### Population

VACAA authorized 27 major leases. These consisted of 24 major medical center leases and three research facilities. The audit scope only included the 24 medical facility leases to enable the OIG to develop conclusions based on facilities with similar design, use, and structural requirements.

### Sampling Design

From the 24 leases, the audit team judgmentally selected eight for review. The team used judgmental selection to identify timeliness issues, determine the cause for any delays found, and analyze the process VA used to develop and acquire the major leases authorized by VACAA to determine whether there were systemic issues related to initiating the leases. Two of the 24 leases were near completion when they were authorized by VACAA, so the team included these two leases to determine how the process varied from these leases to the leases that had not been initiated prior to VACAA.

To identify the remaining six sample sites, the audit team analyzed factors including construction completion status, estimated costs at various project milestones, space calculations, and overall total lease cost. The audit team also reviewed the change in total dollar amounts and change in total square footage from the approved SCIP business case and authorized prospectus. Furthermore, the team considered whether the lease represented a new facility or replacement facility, completion status of the lease, and proximity of the facility to other VA facilities.

Based on those factors, the audit team selected these sites for review:

- Brick, New Jersey
- Chula Vista, California
- Honolulu, Hawaii
- Lafayette, Louisiana
- Lake Charles, Louisiana
- San Diego (Mission Valley), California
- San Antonio, Texas
- Worcester, Massachusetts

## Appendix G: Monetary Benefits in Accordance with Inspector General Act Amendments

Recommendation	Explanation of benefits	Better use of funds	Questioned costs
1-8	Shortening the time needed for the development and processing of leases for VA medical facilities will reduce inflationary costs.	\$152.3 million	
	<b>Total</b>	<b>\$152.3 million</b>	

*Source: VA OIG analysis of the timeliness of VA's major medical lease acquisition process*

## Appendix H: Management Comments

### Principal Executive Director, Office of Acquisition, Logistics, and Construction

Department of  
Veterans Affairs

# Memorandum

**Date:** May 21, 2019

**From:** Principal Executive Director, Office of Acquisition, Logistics, and Construction (003)

**Subj:** Draft Office of the Inspector General (OIG) Audit Report, *Management of Major Medical Leases Needs Improvement*, Project Number 2017-05859-R8-0206 (VIEWS 00241891)

**To:** Assistant Inspector General for Audits and Evaluations (52)

1. The Office of Acquisition, Logistics, and Construction (OALC) completed its review of the subject OIG draft report. OALC concurs with Recommendations 1, 3, 5, 6, 7, and 8 in the report and has no technical comments on its findings. The following provides preliminary action plans and proposes corresponding target dates for completion. The Office of Management will prepare and dispatch the responses to Recommendations 2 and 4.

Recommendation 1: The Principal Executive Director, Office of Acquisition, Logistics, and Construction to ensure there are adequate funds available to routinely conduct planning activities, including developing requests for lease proposals, for SCIP approved Major Leases while waiting for congressional authorization.

OALC Response: Concur. OALC will collaborate with Office of Management (OM) and Veterans Health Administration (VHA) on ensuring available funding for upfront planning from appropriate funding sources for SCIP 2021's Major Leases. Targeted completion date is January 15, 2020.

Recommendation 3: The Principal Executive Director, Office of Acquisition, Logistics, and Construction to obtain adequate resources to deliver leases on schedule.

OALC Response: Concur. Over the last year, the Office of Construction and Facilities Management (CFM) adjusted staffing for the Lease Execution division to execute workload successfully. CFM's Executive Director is continuing to assess staffing needs and request additional support, if necessary. Targeted completion date is October 31, 2019.

Recommendation 5: The Principal Executive Director, Office of Acquisition, Logistics, and Construction to implement a comprehensive VA policy for critical decisions in the lease acquisition process establishing clear lines of authority and allowable timeframes.

OALC Response: Concur. OALC, in collaboration with the Veterans Health Administration (VHA), will develop policy based on the enterprise-approved acquisition program management framework and other models that have successfully been

implemented for major construction projects. Targeted completion date is October 31, 2019.

Recommendation 6: Deputy Under Secretary for Health for Operational Management (DUSHOM) and Executive Director, Office of Construction and Facilities Management (CFM) to ensure VA uses appropriate security requirements when acquiring VA major medical leases by performing Interagency Security Committee risk evaluations prior to solicitation.

OALC Response: Concur. Collaboratively, the Executive Director, CFM and VHA's Deputy Under Secretary for Health for Operational Management will reassess existing policy and, as identified, implement clear guidelines that integrate appropriate security requirements through the use of Interagency Security Committee risk evaluations. Targeted completion date is November 30, 2019.

Recommendation 7: Executive Director, Office of Construction and Facilities Management to ensure project acquisition teams are adequately trained in performance-based acquisition.

OALC Response: Concur. When CFM implemented the use of a Request for Lease Proposal to replace the Solicitation for Offer requirement in the solicitation process, acquisition staff received training on differences between the two processes and required actions. CFM identified gaps in performance-based acquisition methods and is conducting training scheduled for June 30, 2019, to reinforce the performance focus for acquisition staff. Following the training CFM, will recurrently assess gaps of performance-based acquisition methods to ensure training goals are achieved. Targeted completion date is October 31, 2019.

Recommendation 8: Executive Director, Office of Construction and Facilities Management to evaluate the use of consultants in the solicitation development process for Requests for Lease Proposals of major medical leases on a case-by case basis.

OALC Response: Concur. In advance of this report, CFMs leaders contracted services for architectural/engineering firms to estimate lump sum costs to more accurately reflect anticipated funding requirements. CFM's Executive Director will continue to assess the use of additional consultants in the solicitation process to maximize efficiencies for lease execution. Additional consultants will be acquired, as gaps in support are identified. Targeted completion date is October 31, 2019.

2. OALC has no technical comments to add this report. Should you have any questions regarding this submission, please contact Melanie Griffin, Management Analysis Officer, at (202) 461-6626, or [Melanie.Griffin@va.gov](mailto:Melanie.Griffin@va.gov).

**Karen L. Brazell** 1681735  
Digitally signed by  
Karen L. Brazell 1681735  
Date: 2019.05.21  
12:31:26 -04'00'

Karen L. Brazell

# Appendix I: Management Comments

## Assistant Secretary for Management and Chief Financial Officer

Department of  
Veterans Affairs

# Memorandum

Date: May 28, 2019

From: Assistant Secretary for Management and Chief Financial Officer (004)

Subj: Draft Office of the Inspector General (OIG) Audit Report, *Management of Major Medical Leases Needs Improvement*, Project Number 2017-05859-R8-0206

To: Assistant Inspector General for Audits and Evaluations (52)

1. The Office Management (OM) has completed its review of the subject OIG draft report. OM concurs with Recommendations 2 and 4 in the report and has no technical comments on its findings. The following provides preliminary action plans and proposes corresponding target dates for completion.

Recommendation 2: The Assistant Secretary for Management and Chief Financial Officer reconsider centralizing major medical lease acquisition funding through VA's acceptance of the completed building.

OM Response: Concur. OM will coordinate with Veterans Health Administration (VHA) staff to determine the most appropriate method of centralizing funding for major medical leases and to address concerns originally raised by VHA leadership in centralizing the funds. Once an appropriate method is defined, OM will work with VHA and Construction and Facilities Management to determine the necessary funds and implement a centralized funding strategy. Target completion date is Oct. 1, 2019.

Recommendation 4: The Assistant Secretary for Management ensure that the prospectus cost estimates provided to Congress are accurate and the costs are allocated appropriately to comply with OMB Circular A-11 requirements.

OM Response: Concur. The Office of Asset Enterprise Management (OAEM), as part of OM, has implemented significant improvements to the prospectus estimating process over the last several years. OAEM will implement additional improvements, as needed, for the 2021 prospectuses to ensure accurate cost estimates are provided to Congress and the estimates comport to the OMB A-11 requirements. Target completion date is Feb. 15, 2020 to coincide with the 2021 budget release.

2. OM has no technical comments to add this report. Should you have any questions regarding this submission, please contact Edward L. Bradley, III, Executive Director, OAEM, at (202) 461-7778, or Edward.Bradley@va.gov.

  
Jon J. Rychalski

## OIG Contact and Staff Acknowledgments

---

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

---

<b>Audit Team</b>	Matthew Rutter, Director Damon Anderson Kevin Day Sophia Demco Marisa Fantasia Barry Johnson Steve Toom Keila Tugwell-Core
-------------------	---

## Report Distribution

### VA Distribution

Office of the Secretary  
Veterans Benefits Administration  
Veterans Health Administration  
National Cemetery Administration  
Assistant Secretaries  
Office of General Counsel  
Office of Acquisition, Logistics, and Construction  
Board of Veterans' Appeals

### Non-VA Distribution

House Committee on Veterans' Affairs  
House Appropriations Subcommittee on Military Construction, Veterans Affairs,  
and Related Agencies  
House Committee on Oversight and Reform  
Senate Committee on Veterans' Affairs  
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

OIG reports are available at [www.va.gov/oig](http://www.va.gov/oig).