

VA REAL PROPERTY DISPOSAL GUIDE

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Office of Construction and Facilities Management
Office of Real Property
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PURPOSE

The purpose of this guidebook is to help VA Facilities Managers plan, implement, and execute projects to dispose of vacant and unneeded properties by explaining the various options available and the corresponding processes which should be followed when disposing of VA's real property assets. This guide discusses the decision-making criteria when considering disposal of vacant buildings, structures and/or land; and provides disposal options available to Department of Veterans Affairs (VA), the priority in which to consider these options, and the required steps to complete a disposal for each of the options.

Veteran Health Administration (VHA) disposal actions are initiated by the individual VAMC responsible for identifying a facility engineer or other point of contact to manage the project. While the VAMC is ultimately responsible for the property, the decision to dispose must be concurred on by the Veterans Integrated Service Network (VISN) Director through the VISN Capital Asset Manager (CAM) and approved by VHA's Deputy Under Secretary for Health for Operations and Management (DUSHOM) via the Office of Capital Asset Management Engineering and Support (OCAMES.)

National Cemetery Administration (NCA) disposal actions are initiated by the individual NCA locations and subsequently routed through NCA's Cemetery Development & Improvement Office for final decision by NCA Undersecretary for Memorial Affairs (USMA).

For both VHA and NCA, once approved, initiatives are executed by the Office of Construction & Facilities Management's (CFM), Office of Real Property (ORP). The assigned ORP PM is responsible for keeping the Administration point of contact aware of the disposal project status.

The intended audiences for this guide are Facilities Managers, including Facility Planners, Engineers, Project Managers (PMs); VISN Capital Asset Managers (CAMs); and administration capital program offices involved in real property disposal decision making or transactions.

HOW TO USE THIS GUIDE

Instructions:

1. Use the Disposal Decision Tree and the associated narrative in [Section 3](#) to help select the appropriate disposal option.
2. Follow the chart and engage responsible offices (See Chart in Upper Right on Disposal Decision Tree) when needed to complete the disposal action.
3. Address each applicable compliance action as described in [Section 4](#) and work with the responsible office listed for assistance as needed.
4. Record your progress in the Capital Asset Inventory (CAI) system by entering in start and finish date of each of the key disposal milestones and, where applicable, upload evidence of compliance with a given milestone. For NCA actions CAI is updated by the Capital Asset Manager (42B1) and all disposal milestones should be shared with that office for timely CAI update.

SECTION 1: DEFINITIONS

- A. Capital Assets: Buildings, structures and land used by VA to execute its mission to serve Veterans. Capital assets include buildings and land on VA owned properties as well as use of non-VA space from appropriate land use agreements, including leases, permits, etc.
- B. Capital Asset Inventory (CAI): Capital Asset Inventory is VA's official real property database of record; housing disposal plans for buildings and/or land identified to be disposed. It is used as an input into VA's Strategic Capital Investment Planning (SCIP)'s Automated Tool to identify gaps for assisting each administration leadership with decisions on capital assets. It is also used as VA's reporting source for external entities, including Congress, the Federal Real Property Council, etc. Therefore, every effort should be made to ensure this database is as accurate as possible on an ongoing basis. The link to CAI is <https://vaww.cai.va.gov/Default.aspx>
- C. Compensated Work Therapy (CWT) Program: This program was a Veterans Health Administration (VHA) vocational rehabilitation program that endeavored to match and support work-ready Veterans in competitive jobs, and to consult with business and industry regarding their specific employment needs. VA owns buildings around the country designated to house veterans that were part of the CWT/TR program. In accordance with 38 U.S.C. 2032, VA may dispose of any property acquired for this purpose with the proceeds of any such disposal to be credited to the VA General Post Fund.

- D. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA): Commonly known as Superfund, CERCLA was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment.
- E. Deconstruction: Deconstruction is the act of salvaging interior or exterior elements of architectural and/or historical significance of an historic or significant building prior to or during demolition.
- F. Demolition: The act of physically removing or tearing down a VA-owned building or structure from a VA-owned associated land parcel.
- G. Direct Sale of Therapeutic Housing Properties: Pursuant to 38 U.S.C. Section 2032, the Secretary may dispose of any property acquired for the purpose of therapeutic housing.
- H. Enhanced Use Lease: The EU Leasing (EUL) statute (38 U.S.C. Section 8161 through 8169) authorizes the Department of VA Secretary (SecVA) to lease an underutilized building and/or land parcel to a private, not-for-profit, or local government entity for terms up to 75 years for Veteran supportive housing purposes. Specific guidance about the EUL program may be found in "VA Handbook 7415 – Enhanced-Use Lease Program Policies". More information about the program may also be found here: <https://www.va.gov/assetmanagement/>.
- I. General Services Administration (GSA) Disposal Authorities: More information about GSA's disposal authorities can be found here: <http://www.disposal.gsa.gov>.
- J. Historic Outlease and Exchange: The VA Historic Reuse Program (HRP) is authorized by Sections 306121-306122 of the National Historic Preservation Act ("NHPA") under Title 54 U.S.C. (commonly known by its old citation as simply Section 111), which allows federal agencies, after consultation with the Advisory Council on Historic Preservation, to lease or exchange historic properties out to public or private entities for alternative uses and retain any lease proceeds for expenditure within two years of receipt. An HRP outlease does not remove an asset from VA's inventory.
- K. Legislated Transfer: Congress can order the transfer of a particular Federal asset to any party by legislation, usually with specific conditions. When this occurs, VA, through its Office of Real Property, works with the petitioner after the law has been passed to execute the property conveyance transaction pursuant to the law.

- L. Like-Kind Exchange: The Secretary may acquire any facility or parcel of land necessary for use as a medical facility (38 U.S.C. Section 8103) or national cemetery (38 U.S.C. Section 2405) by exchanging a non-mission dependent or underutilized property under authority in Title 38 U.S.C.
- M. Local Station: For the purposes of this Disposal Guide, the local station is the VHA facility that has control over the building/property being considered for disposal. NCA is more centralized and while there are district engineers for each region, disposal actions are primarily coordinated with NCA DCS and NCA CDIS along with the NCA Capital Asset Manager (42B).
- N. Mothball: The mothballing process temporarily secures a vacant building to protect it from weather and vandalism while limiting damaging temperatures and moisture. Mothballing does not remove the asset from inventory, but it safeguards and lowers the operating cost of maintaining the asset, allowing VA to steward the asset safely and consider other disposal options or reuse of the asset at a later time.
- O. National Cemetery Administration (NCA) Budget Office and NCA Design and Construction Services (DCS): are jointly responsible for NCA capital program management.
- P. National Cemetery Administration Cemetery Development & Improvement Service (CDIS): NCA's Cemetery Development & Improvement Office is responsible for recommending disposals to NCA Leadership.
- Q. National Cemetery Administration Outlease: In accordance with 38 U.S.C. Section 2412, NCA may lease any undeveloped land or unused/underutilized buildings, or parts or parcels thereof, belonging to the United States and part of the NCA to a non-federal sharing partner for a term of a lease not to exceed 10 years. Any such lease may provide for the maintenance, protection, or restoration of the leased property by the lessee, as a part or all the consideration for the lease. This type of lease is distinct from a lease under NHPA Section 111.
- R. National Environmental Policy Act (NEPA): The National Environmental Policy Act (NEPA) was signed into law on January 1, 1970. NEPA requires federal agencies to assess the environmental effects of their proposed actions prior to making decisions.
- S. National Historic Preservation Act (NHPA): NHPA is legislation intended to preserve historical and archaeological sites in the United States of America. The act created the National Register of Historic Places, federal preservation programs, and the State Historic Preservation Offices.

- T. National Register of Historic Places: The National Register of Historic Places is the official list of the Nation's historic places considered worthy of preservation. More information may be found here.
<https://www.nps.gov/subjects/nationalregister/index.htm>
- U. Office of Asset and Enterprise Management (OAEM): OAEM is VA's real estate asset management office. OAEM's mission is to ensure efficient and effective corporate-level management of VA capital assets. OAEM manages the strategic capital investment planning process (SCIP) and operates VA's Enhanced Use Leasing program.
- V. Office of Capital Asset Management Engineering and Support (OCAMES): OCAMES, as it relates to disposal activities, provides VHA's policy, guidance, oversight, and budget management for capital programs. This office is part of the approval process to support VHA's Deputy Under Secretary for Health for Operations and Management (DUSHOM) when a building or property is slated for disposal.
- W. Office of Construction and Facilities Management (CFM): CFM, as it relates to disposals, is responsible for overall asset management, including providing guidance for legal compliance with historic preservation procedures and environmental assessments.
- X. Strategic Capital Investment Planning Process (SCIP): The Strategic Capital Investment Planning (SCIP) is the process by which VA scores and ranks proposed capital improvements to support VA's capital budget requests. SCIP guidance can be found by contacting OAEM.
- Y. Undertaking: An undertaking is a regulatory term related to historic preservation requirements and is any action funded, conducted or assisted by a federal agency, which includes all disposals.

SECTION 2: ROLES AND RESPONSIBILITIES

- A. Local Station\NCA District Engineer Responsibilities¹: With regard to disposing of an asset, the local stations\NCA district engineer is responsible for:
- Determining whether a given building can be used or retrofitted to support the Local Station's mission or not, and if a given building is a candidate for disposal.
 - Entering a planned disposal in CAI.
 - Submitting capital request for planned disposal reuse and disposal projects for SCIP evaluation.
 - Identifying a primary point of contact to be integrally involved in the process and engage with OAEM and ORP as needed until the property is completely disposed of and is transferred out of, or reclassified, within the VA real property inventory at the completion of the disposal project depending on the disposal method used.
 - Creating and updating the CAI database reuse or disposal records on an ongoing basis as projects are identified and disposal actions completed, but at least annually during CAI certification. It is the local station's responsibility to completely update the CAI which removes the property from VA's real property inventory.
- B. Regional Offices & VISNs\NCA District Engineers: Each Regional Office & VISN leadership or NCA District Engineer is responsible for:
- Confirming that the most advantageous capital option is disposal for specific buildings and land.
 - Reviewing and approving local offices and VAMC disposal activities per this guide, VA Directive 7633, and Handbook 7633.
 - Approving reuse or demolition of buildings per SCIP's process.
 - Validating that CAI reuse and disposal records are accurate at least annually.
- C. Administration Capital Program Offices: OCAMES and NCA's Budget Office are responsible for:
- Reviewing and finalizing disposal plans through the SCIP process
 - Ensuring compliance to this guidebook, Directive 7633, and Handbook 7633.

¹ Local Station in this context refers to individual VA Medical Centers (VAMCs) across the country for VHA. For NCA, the District Engineers for each region are responsible for providing disposal information to the NCA Capital Asset Manager(42B1) who will update CAI accordingly.

- D. Office of Construction & Facilities Management (CFM): CFM, as it relates to disposals, is responsible for assisting the local station with legal compliance with historic preservation procedures and environmental assessments.
1. Environmental Program: The Environment Program within CFM manages the environmental due diligence and implementation of the requirements of NEPA throughout VA. The Environmental Program develops guidance and training; ensures that NEPA analyses are completed before VA makes a decision with adverse environmental effects or that limits the choice of alternatives; ensures VA elements are aware of the potential environmental impacts of VA programs, projects, and plans; monitors the NEPA process to ensure compliance with schedules and with regulations and guidance from the Council on Environmental Quality and VA; provides technical advice to project proponents and decision-makers; provides due diligence and NEPA documents; and co-signs NEPA documents for environmental sufficiency . CFM Environmental Program is responsible for NEPA and where delegated by the CFM Environmental Program Manager NCA Environmental may prepare and sign NEPA documentation.
 2. Historic Preservation Program: The National Historic Preservation Act (NHPA) Section 110 requires all Federal Agencies to establish a preservation program and designate a Federal Preservation Officer (FPO). For VA, the program and position are within CFM. The FPO is responsible for historic preservation policies oversight and legal requirements for VA. The FPO is involved in all historic preservation related decisions including the screening of HRP projects. The FPO and historic preservation program staff assist staff offices, Administrations, and field locations to insure all undertakings (including disposals) comply with NHPA and, when necessary, assist in consultation and facilitate the process to conclusion. The Historic Preservation Program does not manage physical preservation of properties. For NCA Disposal projects, NCA's Office of Design and Construction Services (DCS) is responsible for NHPA, with CFM Historic Preservation Program as a supporting resource.
 3. Office of Real Property: Office of Real Property (ORP), an office within CFM, as it relates to disposals is responsible for intergovernmental transfers; the execution of historic reuse projects including outlease and exchanges; disposals; and guidance for these activities to VACO capital offices, regional and local VA offices, VHA and NCA.
- E. Office of Asset Enterprise Management: OAEM is responsible for monitoring and reporting on VA's real property portfolio. It administers the CAI database, which serves as the database of record for VA real property and tracks real property disposals. It also administers the Strategic Capital Investment Planning (SCIP) process, which facilitates approval for real property reuse and disposals projects.

It is also responsible for the development and post-transaction maintenance of VA EULs. OAEM oversees the Investment Enterprise Development Service (IEDS) and the Capital Asset Management Service (CAMS).

1. Capital Asset Management Service (CAMS): CAMS is charged with managing VA's portfolio of capital assets, performance monitoring of the portfolio, real property management, disposal and reuse planning, real property data management, and on-going analysis of VA's real property portfolio. The CAMS office serves as the administrator of the CAI database, which tracks all real property disposals. CAMS also run the post-transaction maintenance of VA's EULs.
 2. Investment Enterprise Development Service (IEDS): The Investment and Enterprise Development Service (IEDS) is a service within OAEM that operates the Enhanced Use Leasing program and provides technical assistance; tools and training. After internal reuse of disposable property has been considered and dismissed by the station, the IEDS Service evaluates the disposal for EUL potential. More information about the OAEM EUL Team can be found here: <https://www.va.gov/assetmanagement>
- F. Office of General Counsel (OGC): VA's OGC Real Property Law Group (RPLG) provides legal advice and services for Real Property Acquisitions and Disposals, Leases, Construction, Energy Law, Environmental Law, and Enhanced Use Leases.
- G. Contracting: Local Contracting officials are responsible for procuring the actual demolition activity once all the pre-demolition compliance work has been completed (NHPA, CERCLA, NEPA and McKinney-Vento). A complete contracting document package to initiate a demolition action includes a Performance Work Statement (PWS) or Statement of Work (SOW) for the work to be completed, an Independent Government Cost Estimate (IGCE), and Confirmation of Funding to pay for the work.
- For disposal actions undertaken by the Office of Real Property, the CFM Contracting Office is responsible for the procurement of due diligence studies for disposals.
 - For Enhanced Use Leases, OAEM will contract out for any necessary due diligence studies.

SECTION 3: MAKING THE DISPOSAL DECISION USING VA'S REAL PROPERTY DISPOSAL DECISION TREE

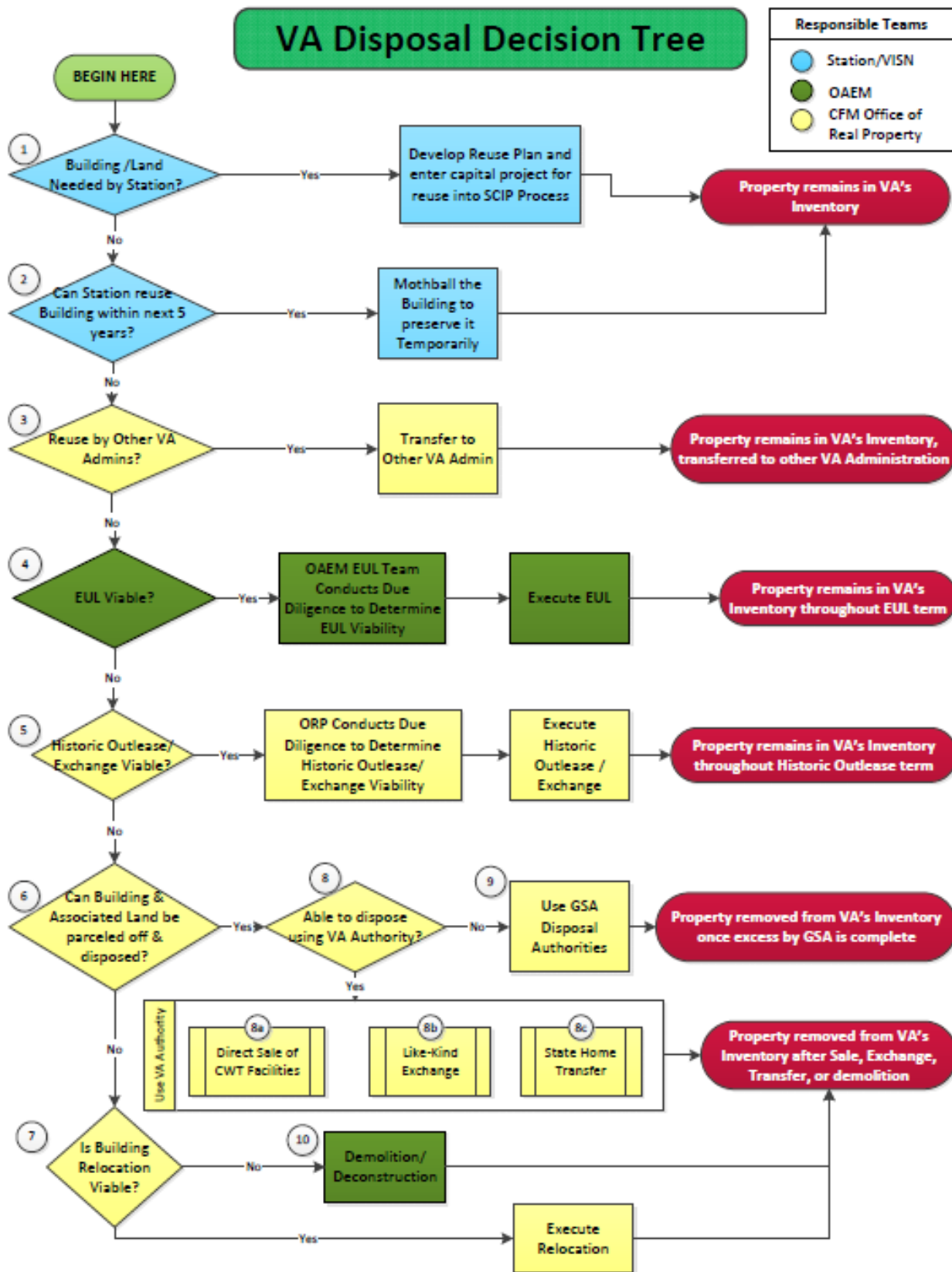
The VA Real Property Disposal Decision Tree on the following page walks the user through each potential disposal option in priority order. The order of disposal options in the decision tree is in accordance with VA Handbook 7633. This handbook outlines VA priorities for reuse and disposal of underutilized assets. The disposal options are numbered and are meant to be followed sequentially. By working through the Decision Tree, local stations² should be able to arrive at an optimal disposal methodology for their potential disposal. The Disposal Decision Tree is meant to be a conversation starter. Local stations should contact ORP for assistance and to discuss the options based on each potential disposal's unique characteristics to ensure that the option selected is best and all contingencies have been considered. *The decision tree is accompanied by narrative in this section which discusses the need for financial viability and/or business case analysis when considering a disposal option. VA will release a separate addendum to the Disposal Guide with guidance on how to complete a financial viability or business case analysis for potential disposal options.*

Not included in the decision tree are dispositions mandated by legislation. In those scenarios the disposal decision has been made by Congress, and VA **must** convey the real property to the intended recipient. If the intended recipient specifically declines the transfer, or if the legislation mandating the transfer has expired or has been rescinded by an act of Congress, then VA will not execute the mandated conveyance. The public law legislating the transfer may waive or dictate certain compliance requirements. The applicable public law language should be reviewed and OGC consulted as needed. If there is a public law/mandate directing a conveyance, contact ORP to assign a Project Manager (PM) to oversee the transaction. The PM will contact the intended recipient to manage the details of the property transfer with the intended recipient and the local station¹. The property may not be disposed of in any other manner until the intended recipient has officially declined to receive the property. The declination should be in the form of an official letter addressed to the Director of CFM. If the intended recipient declines to accept the real property, then the decision tree may be used to determine another disposal option.

The transfer is affected by a quit claim deed from VA to the recipient. Once the deed is received and recorded by the recipient, a copy of the recorded deed should be forwarded to VA as evidence that the property has been transferred. For VHA, the local

² Local Station in this context refers to individual VA Medical Centers (VAMCs) across the country for VHA. For NCA, Local Station refers to the District Engineer.

station is responsible for updating CAI with the recorded deed indicating completion of the transfer. For NCA, whose real estate transactions are executed by the Office of Real Property, the ORP PM is responsible for notifying the NCA Capital Asset Manager that the deed has been received so that CAI may be updated accordingly.



OPTION 1: Internal Reuse Possibility

Responsibility: VHA Local Station (VAMC) or NCA CDIS.

Decision Consideration: Is the property needed by the current VA owner? Can the property be used by the owner for another use than originally intended? If so, then no further disposal action is necessary.

If the property cannot be reused internally, prepare a summary of the current and past attempts at reuse for the building(s) which will be helpful should demolition of a building be proposed and retain the summary in the project file. Then proceed to OPTION 2.

OPTION 2: Future VA Internal Reuse Possibility

Responsibility: VHA Local Station or NCA CDIS.

Decision Consideration: Does the Local Station have a need for the property in the next five years?

If yes, THEN mothballing the building may be considered as an appropriate disposal option Refer to Section 1, Definitions, for more information on mothballing.

Financial Viability & Business Case Analysis: Analyze the cost / time of mothballing the building. Are the costs associated with mothballing the building less than the cost of any alternative means of satisfying the later need? If yes, proceed with plans to mothball the building to preserve the building for its future use. If no, proceed to OPTION 3.

OPTION 3: Reuse by Other VA Administrations

Responsibility: ORP.

Decision Consideration: Is another VA administration interested in this property?

If no, proceed to OPTION 4.

Action: Send an email to the VA Administration Level Capital Program Offices indicating the availability of the property. ORP or OAEM can provide contact information for a Point of Contact (POC) at the other administrations. Should there be interest, completing the transfer action includes an Intra-Agency Agreement between the administrations. Administrations will likely need to conduct a Phase I Environmental Site Assessment to validate any environmental or lack thereof as well as an American Land and Title Association (ALTA) survey of the property being transferred. Once the property has been transferred, contact OAEM to ensure CAI has been updated to reflect the change in custody to the new VA Administration. For NCA actions, the NCA Capital Asset Manager is notified to complete the required CAI updates.

OPTION 4: EUL Screening

Responsibility: OAEM – IEDS. (<https://www.va.gov/assetmanagement/>)

At this juncture, it's been established that the property no longer serves VA's daily operations and can be reviewed for its potential to meet another mission need prior to seeking outside VA alternatives. In OPTION 4, the property is evaluated for its potential to be used as a supportive housing for homeless veterans thru the Enhanced Use Leasing (EUL) program.

Decision Consideration: Is this property viable for an Enhanced Use Lease? Could it be used to support homeless veteran housing?

To determine the answer, the Local Station asks OAEM's Investment Enterprise Development Service (IEDS) office at EUL.Team.Management@va.gov for a screening form. The Local Station should complete the top half of the EUL screening form and return by email per the form instructions. IEDS evaluates the potential disposal and determines if it meets the minimum threshold criteria or not for further EUL exploration using the EUL screening form. The evaluation by IEDS considers the need for veteran supportive housing in the geographic area of the disposal and the market viability of a prospective EUL development plus the financial viability of such a use.

Financial Viability & Business Case Analysis: IEDS will analyze the financial viability of such a development as well as the level of community support to deliver veteran supportive housing to the area.

Action: The Local Station or ORP PM and the NCA Capital Asset Manager for NCA actions will receive the completed EUL screening form along with IEDS' determination on EUL viability. If not viable, the completed form is uploaded by the recipient into the CAI Disposal Screen under EUL Screening to acknowledge completion of this FUNCTION and then moves to OPTION 5. If the potential disposal is deemed "EUL viable" by IEDS, the potential disposal will require additional due diligence such as Phase I ESAs and Sources Sought notices to gauge developer interest in a potential EUL. The process will result either in an executed EUL, or in the EUL Team notifying the Local Station\ORP PM that all options have been exhausted in which case the Local Station\ORP PM would continue to OPTION 5. If the latter is the case, IEDS provides an email indicating the property's unsuitability for EUL to stakeholders, which is then uploaded into the CAI Disposal Screen as evidence that this step is completed.

As reference, IEDS's in-depth review may take up to a year or more as due diligence and market studies are conducted.

OPTION 5: Historic Reuse Screening

Responsibility: ORP and NCA DCS.

At this option, if the property is an historic building (eligible for or listed on the [National Register of Historic Places](#)), it should be screened to determine viability for the [Historic Reuse Program \(HRP\)](#). An HRP project can be either a long-term ground lease (historic outlease) to a third-party entity or an historic exchange in accordance with the statute as described in the definition section.

Decision Considerations: Should VA keep this building that has historic value in its inventory for future uses, even though VA has no need for it in the near future?

Prior to proceeding with an HRP project, the local station and ORP with input from the VA FPO must concur that, due to the historic nature of the building (for example, if the building is a National Historic Landmark or is historically significant for the veteran community), VA would like to keep the building in its inventory even if there may not be an immediate need for it.

Financial Viability & Business Case Analysis: The maintenance and preservation costs for VA are often prohibitive. If this is the case, locating a third-party entity to preserve the historic property using non-VA funding may be a viable option. Otherwise a disposal option that completely removes the building from VA inventory would be preferable. With historic reuse projects, the external developer must finance the entire cost of rehabilitation including any necessary environmental remediation. Therefore, the building should be of a size that would be attractive to external developers for the purposes of redevelopment, and small historic buildings such as garages or sheds may not be viable historic reuse projects. For potential projects such as a group of multiple buildings or an individual building of a significant size, ORP may contract for a reuse or feasibility study to determine if the HRP project would be financially feasible.

Additionally, the term of the outlease should be of a duration to allow a developer to adequately recoup the costs of its investment. For example, if the local station has plans for the building or the space it currently occupies that would restrict the term of the outlease such that it precludes the building's availability for a long-term ground lease an HRP outlease may not be financially feasible. Although the law provides no minimum or maximum limit to the lease duration, other internal agency considerations will limit the term.

Action: If an HRP outlease or exchange is pursued, ORP manages the solicitation of the external developer and negotiates the transaction to successful execution.

If an HRP project is not feasible, ORP documents the property's unsuitability and continues the process of seeking an appropriate disposal methodology with OPTION 6.

OPTION 6: Parcel Separation Possibility

Responsibility: Local station, NCA CDIS and ORP.

Decision Consideration: Is the potential disposal part of a larger VA medical campus or cemetery and can it be severed from the rest of the parcel and separately disposed of?

If parcel separation is an option, proceed to OPTION 8, Disposal Using VA Authority. If parcel separation is NOT an option, proceed to OPTION 7, Building Relocation Possibility.

OPTION 7: Building Relocation Possibility

Responsibility: ORP.

Decision Considerations: This option is most applicable to buildings deemed important enough to preserve. For a historic building disposal, if a third party is not willing to reuse the building at its present location (via an historic outlease), the building may be offered to any party willing to pay to physically remove the building from VA-owned land and preferably preserve the building at its new location. This may be an attractive alternative to demolition for a historically significant building that VA does not need and is unable to maintain. If the building is not worth preserving, proceed to OPTION 10 Demolition/ Deconstruction.

Action: ORP creates and publishes a Request for Interest (RFI) advertising the availability of the historic building to be relocated. If the RFI produces interest, ORP works with interested parties to move the building at their expense.

If relocation of the building is not an option due to lack of interest or feasibility, then proceed to OPTION 10 Demolition/ Deconstruction.

OPTION 8: VA Disposal Authorities:

a. Direct Sale of Former Compensated Work Therapy (CWT) Facilities:

Responsibility: ORP, NCA CDIS and the Local Station.

Decision Considerations: Was the property a facility used for the CWT program? If so, VA has authority to directly sell former CWT facilities and former CWT houses available for disposal that have cleared the previous potential disposal options.

Financial Viability & Business Case Analysis: Direct sale may not be the optimal option for a single CWT house. ORP should do a cost benefit analysis and consider if another disposal method such as a GSA excess (OPTION 9) would make more sense when compared to the investment required to secure a contractor/broker to sell a single house compared to the expected proceeds from the sale. Proceeds from the sale of CWT houses go to the VHA General Post Fund.

Action: ORP procures a contractor/broker to coordinate the completion of the necessary due diligence and the sale process for the building. The Local Station funds any necessary due diligence actions.

If the potential disposal is not a former CWT facility or house, then consider OPTION 8b.

b. Like-Kind Exchange:

Responsibility: ORP, NCA CDIS and Local Station.

Decision Considerations: Does another entity desire to acquire the potential disposal and more importantly, do they have an equivalent valued building or land parcel that VA desires in exchange to meet a mission need? Are there environmental contamination issues on either of the parcels being considered for exchange which could result in delays or additional costs in completing the exchange transaction?

If an exchange is a viable option, ORP will complete the negotiations for the exchange.

If an exchange is not a viable option, proceed to OPTION 8c.

c. State Home Transfer:

Responsibility: ORP, NCA CDIS and Local Station.

Decision Considerations: Has the state requested a transfer of VA property to construct and operate a State home nursing or domiciliary care facility?

If yes, ORP manages the transfer of property in accordance with 38 U.S.C. 8122.

If no, and neither of the previous VA authorities apply then proceed to OPTION 9 and test each of the GSA Disposal Authorities for applicability.

OPTION 9: GSA Authorities:

Until a disposal action utilizing a GSA authority is completed, the property remains in VA inventory. GSA has the authority to relocate, exchange, or excess a building or property referred to it for disposal. Until the disposal action is completed and until the deed is transferred out of VA's inventory, VA is still the land holding agency.

Responsibility: ORP oversees the disposal process for VA in conjunction with GSA.

Decision Considerations for Relocations and Exchanges: GSA Relocation is an option to consider if there is a current mission use for the property, but the property is not **optimal** for its current use. For example, if the station is considering disposal of the asset in the hopes of upgrading to a more contemporary facility, GSA may consider relocating the station use elsewhere and using the property in another way or disposing of it. GSA Relocation can be a lengthy process which requires approval from both GSA and OMB.

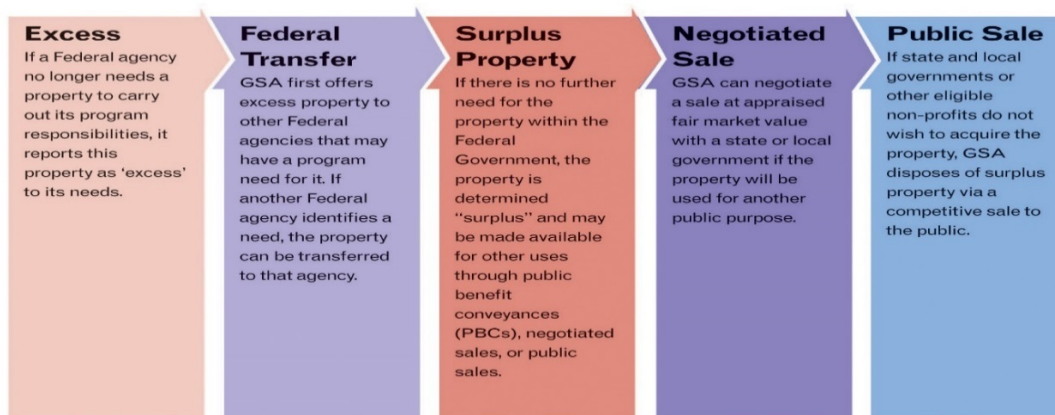
A GSA Exchange may be an option if, while a facility or facility location can be highly attractive to nonfederal entities, the facility no longer meets the needs of the government. In this case, a nonfederal entity may offer to exchange another property for the one that no longer meets the needs of the government. The GSA Exchanges can be lengthy processes and can be difficult to execute.

GSA Excess:

Decision Considerations: The GSA Excess option can be somewhat of a catch-all prior to demolition in that it can be the default option for disposal if none of the previously discussed options apply. However, there are important points to consider before proceeding with the GSA excess process. The excess process results in property being disposed of via one of five GSA disposal methodologies shown in the excess process graphic below. VA cannot choose a preferable disposal methodology as the excess process is mandated by Federal Law and Executive Orders.

Action: ORP completes the initial draft of the report of excess (RoE) (SF-118 and Excess Real Property Checklist) with input from the station. ORP finalizes the RoE, obtains the appropriate concurrences and forwards RoE to GSA for acceptance. Until the building has been successfully disposed of by GSA, ORP is responsible for monitoring the progress of the disposal with GSA. And as the land holding agency

VA remains responsible for security and maintenance of the property. Once the disposal is complete and GSA notifies VA that the deed has been transferred to the new owner, VA is no longer the land holding agency and the building may be removed from the CAI inventory. For NCA actions, the ORP PM must notify the NCA Capital Asset Manager so CAI may be updated accordingly. GSA will typically provide the transactional instrument, usually a recorded quit claim deed, to evidence the transaction to the grantee.



VA may influence the outcome of the excess by assisting to determine third party (federal/state/local govt, non-profit) interest before reporting the excess property to GSA and by having preliminary business discussions with ORP and GSA.

The last step in the excess process is public sale at auction and neither VA nor GSA has control over who the winning bidder will be. Therefore, if the local station is concerned over who the future owner may be, GSA excess should not be pursued. VA does not receive the proceeds from the sale or auction.

OPTION 10: Demolition/Deconstruction

Responsibility: ORP, NCA CDIS and Local Station

Decision Considerations: After considering all the previous disposal options, if the property cannot be severed from the main VA-site and there is no interest in building relocation the only remaining disposal option is demolition/deconstruction.

Action: The Local Station is responsible for assembling the evidence of compliance and updating the CAI Disposal Screen milestones. For NCA actions ORP and CDIS will compile the necessary information and the ORP PM will notify the NCA Capital Asset Manager so CAI may be updated.

SECTION 4: COMPLIANCE ACTIONS

Each disposal methodology in the previous section has certain required compliance actions that must be completed. The following chart summarizes the applicability of each compliance action based on the disposal option selected.

DISPOSAL OPTIONS										
Program Compliance Requirements	Legislative Transfer	Internal VA Reuse	Mothball	EUL	Historic Reuse	CWT Direct Sale	Like-Kind Exchange	State Home Transfer	GSA Excess	Demolition
NHPA	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
CERCLA	YES	NO	NO	YES	NO	YES	YES	YES	YES	Depends
NEPA	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
McKinney-Vento Screening	YES	NO	NO	NO	NO	YES	NO	NO	YES	Depends

This section explains each of the required compliance acts that must be completed prior to the completion of the disposal action along with the steps involved.

Please note that for all NCA real estate transactions, the NCA Capital Asset Manager is responsible for updating CAI. ORP PM's executing NCA transactions should involve NCA Capital Asset Manager (42B) early in the process and ensure that the NCA Capital Asset Manager has all the data needed to update CAI.

A. National Historic Preservation Act Compliance:

1. Legislation: The National Historic Preservation Act (NHPA) requires all federal agencies to identify and consider properties that are eligible or listed on the National Register of Historic Places when an undertaking is proposed. The agency must give the federal agency with oversight for compliance, the Advisory Council on Historic Preservation, an opportunity to comment on the undertaking and its effects on historic properties.
2. Applicability: NHPA applies to ALL disposal actions.
3. Required Actions:
 - a. Consultation Process: The consultation process should be initiated immediately after a potential disposal has been identified. It is the project manager's responsibility to coordinate this with NEPA.

There are two VA options for completing the Section 106 consultation process: 1) follow the standard process of 36 CFR § 800.3 thru 800.6,

summarized below, or 2) utilize the 2018 VA Program Comment for Vacant and Underutilized Properties, which provides for an expedited review for certain vacant or underutilized properties.

- 1) NHPA Section 106 Process per 36 CFR 800.3-6:
 - a) Initiate the process: Is this a federal undertaking -YES, all disposals are automatically federal undertaking.
 - b) Determine the undertaking.
 - c) Identify all consulting parties including tribes; VA must invite the National Park Service (NPS) to consult on any disposal of a National Historic Landmark (i.e. NPS becomes one of the consulting parties).
 - d) Notify State Historic Preservation Office (SHPO)/Tribal Historic Preservation Office (THPO)/Local Government/Others
 - e) Identify historic properties, are they impacted?
 - i. Determine Area of Potential Effects (APE)
 - ii. Consult with SHPO/THPO/Others
 - iii. Involve the public
 - f) Assess the effect to identified historic properties: Are the effects negative?
 - i. Apply criteria of adverse effect.
 - ii. Consult with SHPO/THPO/Others
 - iii. Involve the public
 - g) Resolve Adverse Effects: Can the parties reach agreement? VA always seeks agreement on a plan for moving forward, which may include a conference call or meeting with SHPO, Advisory Council on Historic Preservation (ACHP) (if participating) and other entities to consult on addressing the adverse effects by possible mitigative actions. A Memorandum of Agreement (legal contract) is produced and signed to evidence the agreement of parties.
 - i. Avoid, minimize, mitigate adverse effects
 - ii. Notify ACHP
 - iii. Consult with SHPO/THPO/Others
 - iv. Involve the public

 - 2) VA Program Comment: The program comment provides for a streamlined method to complete the section 106 process for certain real property actions. Please consult the FPO to see if your property qualifies.

 - b. CAI Database Input: Create or update CAI disposal record with all relevant information and upload associated documents. For NCA transactions, NHPA is the responsibility of NCA DCS which should notify the NCA Asset Manager of all disposal actions, so CAI may be updated.
4. Documentation:

- a. Standard Section 106 Process Documentation: Information about the affected historic property and its defining features and characteristics and whether there will be an adverse effect or not to the property by the proposed undertaking must be gathered to inform the process, as defined at 36 CFR § 800.11. CAI documentation includes an executed MoA if adverse effects or SHPO concurrence with no adverse effect.
 - b. Program Comment: For proposed transactions involving properties covered by the VA Program Comment, including leases, exchanges, sales, transfers, conveyances, and demolitions, a completed Program Comment Form 1-A must be submitted to and approved by the FPO.
5. Responsible Offices: CFM FPO <https://www.cfm.va.gov/historic/>
Email: historicpreservation@va.gov
NCA Design and Construction Service and VISN CAMS
- B. Comprehensive Environmental Compensation, Response and Liability Act (CERCLA):
1. Legislation: Comprehensive Environmental Compensation, Response and Liability Act, also known as the Superfund law is a United States federal government program designed to fund the cleanup of sites contaminated with hazardous substances and pollutants. CERCLA, in part, regulates the liability of persons responsible for releases of hazardous substances at closed and abandoned hazardous waste sites. CERCLA §120(h) imposes requirements on all transfers of federal real property to non-federal entities.
 2. Applicability: All federal agencies are required to comply with CERCLA when transferring federally owned property out of federal ownership. CERCLA does not apply to interagency federal real property transfers or transactions where the federal government will remain the owner. CERCLA §120(h) also does not apply to personal property disposals. Although the CERCLA legislation does not apply to VA transfer of real property to other federal agencies an Environmental Site Assessment Phase 1 is still completed followed by a Phase 2 or other testing if required, in order to document any existing contaminants and the level of remediation that VA completed prior to transfer.
 3. Required Actions: Conduct all appropriate inquiries and studies to determine the presence or likely presence of any hazardous substances or petroleum products in, on, or at the property. VA cannot transfer properties on which a release has occurred over applicable action levels during the federal government's ownership, until appropriate cleanup standards are met. Therefore, any

recognized environmental conditions (RECs) that fall under the CERCLA requirements must be addressed.

a. Documentation:

- 1) CERCLA Phase I Environmental Site Assessment (ESA)
 - 2) One or more of the following may be required based on the Phase I ESA findings and current site conditions:
 - CERCLA ESA Phase II: Soil, Groundwater and Surface Water Contamination Assessment – investigates the specific recognized environmental conditions identified in the CERCLA Phase I ESA and generates hard data.
 - Remediation of the contaminants identified in the earlier studies
 - 3) If applicable, description of any land use control (engineering or institutional) that ensures protection of human health and the environment with respect to any hazardous substance remaining on the property. Include concurrence from any applicable regulatory agency on the use of a land use control as all or part of the remedy.
 - 4) If applicable, regulatory concurrence that an installed remedial design is operating properly and successfully. If remediation is not completed, property cannot be transferred unless the deferral process in CERCLA 120(h)(3)(C) is followed and approved. Requires approval of the Governor.
 - 5) Description of remediation not yet taken, when it will be completed, and reason that it has not yet occurred. Generally, if remediation is not completed, property cannot be transfer without further approval. OGC's real property law group must be consulted for further support and guidance.
- b. CAI Database Input: Create or update CAI disposal record with all relevant information and upload associated documents, such as CERCLA ESA or EIS documents.
- c. When to Begin: The CERCLA process must be initiated immediately after a potential disposal has been identified. Ensure compliance of remedial investigations and remediation actions, if any, with all applicable federal and state environmental and cultural resource protection laws. Contact CFM Environmental Program Office for assistance.

4. Deed Requirements:

If applicable, include the following notices and covenants:

- a. Provide notice of hazardous substance activity: This notice is required by 40 CFR 373.1 and applies whenever the United States enters into any contract for the sale or other transfer of real property which is owned by the United States and on which any hazardous substance was stored for one year or more.
- b. Covenant in the deed that "all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of such transfer."
- c. Covenant in the deed that the United States will return and perform any additional response action that may be required in the future and retain a perpetual right of access necessary to do such additional response actions.
- d. Clause in the deed granting the United States access to the property in the event that future remedial action or corrective action is found to be necessary after the date of transfer.
- e. [Not applicable if the person or entity to whom the property will be transferred is a potentially responsible party. 120(h)(3)(B)]

5. Responsible Offices:

- a. For VHA and VBA disposals, contact the CFM Environmental Program Office. For NCA disposals CFM Environmental is responsible for Major Construction projects and NCA Environmental is responsible for Minor Construction projects.
- b. OGC's Real Property Law Group reviews deed transfers including CERCLA warranties.

C. National Environmental Policy Act:

1. Legislation: National Environmental Policy Act (NEPA) requires federal agencies to assess and disclose the potential environmental impacts of their actions. NEPA is based on the idea of preventing environmental impacts before they occur through thoughtful decision-making. Disposal of federal property, including transfer to another agency, is a federal action subject to NEPA.
2. Applicability: NEPA applies to most disposal actions please see table at the beginning of this section.

3. Required Actions:

- a. Determine level of NEPA documentation by completing the Review of Site Environmental Information and Recommended NEPA Documentation form:
 - 1) Categorical Exclusion (CATEX). VA has named a list of agency actions that normally do not require further analysis to determine that they have no significant impacts (36 CFR 26.6(b)). Such an action is a CATEX. A CATEX may apply to the listed VA actions if there are no extraordinary circumstances in which a normally excluded action may have a significant environmental effect.
 - 2) Environmental Assessment (EA). If VA expects that an action would not have any significant environmental impacts, they prepare an EA: a concise analysis of the potential impacts of alternatives for accomplishing the agency's purpose of and need for action. The Draft EA is published for public comment and provided to appropriate federal, state, local, and tribal agencies and other stakeholders for review. Comments are addressed in a Final EA. The EA process concludes with a finding of no significant impact (FONSI) signed by the agency decision-maker.
 - 3) Environmental Impact Statement (EIS). An EIS is a comprehensive document that states the purpose of and need for an agency to take action, identifies the range of alternatives that could meet that purpose and need, and analyzes the environmental impacts of those alternatives and also the impacts of taking no action. An EIS has extensive public involvement: the agency must conduct public scoping to help determine the alternatives and issues to be analyzed in the EIS, often including scoping meetings; publish the Draft EIS and hold public meetings to accept public comments; and provide the EIS for review by appropriate federal, state, local, and tribal agencies and other stakeholders. The Final EIS addresses comments and revises the analysis as needed. The EIS process concludes with the agency decision-maker selecting an alternative and documenting it in a record of decision (ROD).
- b. CAI Database Input: Create or update CAI disposal record with all relevant information and upload associated documents, such as CATEX, FONSI, ROD, etc.
- c. When to Begin: The process needs to be initiated immediately after a potential disposal has been identified. Coordinate with NHPA as NHPA compliance informs NEPA compliance.

4. Required documentation: one of the following, as described in Paragraph 3a above:
 - a. CATEX
 - b. EA and signed FONSI
 - c. EIS and signed ROD
5. Responsible Office: CFM Environmental Program is responsible for NEPA and where delegated by the CFM Environmental Program Manager, NCA Environmental may prepare and sign NEPA documentation.

D. McKinney-Vento Homeless Assistance Act:

1. Legislation: The McKinney-Vento Homeless Assistance Act requires that all Federal landholding agencies submit unutilized real property for screening by the Department of Housing and Urban Development (HUD) for homeless assistance screening. HUD determines whether the property is suitable or unsuitable for homeless organization use and posts each property on HUD Exchange as public notification.
2. Process: For suitable properties, VA must wait 30 days from the posting date to determine homeless organization interest prior to initiating a disposal contract. For unsuitable properties, VA must wait 20 days for appeal of the unsuitable determination prior to initiating a disposal contract.
If homeless organization declares an interest in a suitable property and properly notifies the government within the designated timeframe, any disposal action must be placed on hold while the homeless organization submits a development package to the Department of Health and Human Services (HHS), which is the agency responsible for evaluating such proposals. If HHS determines that a proposal is satisfactory, it negotiates an outlease on behalf of VA for use of the building(s). Though VA retains discretion to determine the terms of the lease, the lease must be for a minimum of one year. If HHS determines the organization's proposal is unsatisfactory, VA may initiate disposal.
3. Applicability: NEPA applies to all disposal action.
4. Required Actions:

- a. Title V Checklist: prior to initiating any contract for disposal, the station must complete a Title V Checklist and submit it to the McKinney Vento Point of Contact within ORP.
- b. Required Documentation: The facility must provide proof (in the form of a screen capture or equivalent documentation) of the HUD Exchange listing showing the listing date.
- c. CAI Update: Update CAI's Disposal Tab once the real property has been listed on the HUD exchange website for the legally required amount of time (depending on suitability), the station must upload proof of posting to the CAI database.
- d. Once the facility determines that a piece of unutilized real property that cannot be internally reused, and neither an EUL nor an historic outlease are feasible, the facility should begin the McKinney-Vento screening process.

5. Responsible Office: CFM's ORP.

SECTION 5: REFERENCES

- A. Managing Underutilized Real Property Assets, Including Options for Reuse and Disposal," VA Directive 7633 and VA Handbook 7633.
- B. EUL Statute, 38 U.S.C. Sections 8161 through 8169.
- C. VA Handbook 7415 – Enhanced-Use Lease Program Policies
- D. VA Handbook 7454 – Enhanced-Use Leasing Post Transaction
- E. National Cemetery Administration (NCA) Outlease, 38 U.S.C. Sec. 2412.
- F. State Home Transfer, 38 U.S.C. Sec. 8122.
- G. National Historic Preservation Act (NHPA). 54 U.S.C. Sec. 300101 et seq
- H. Comprehensive Environmental Compensation, Response and Liability Act (CERCLA). 42 U.S.C. 9601 et seq.
- I. National Environmental Policy Act (NEPA). 42 U.S.C. 4321 et seq.
- J. McKinney-Vento Homeless Assistance Act. 42 U.S.C. 11431 et seq.
- K. National Park Service Preservation Brief 31 (Mothballing Real Property)

SECTION 6: APPENDICES

Contact ORP to obtain the most up to date forms. For examples current at the time this guide was created, see the following pages.

CATEX FORM

Page 32

EUL Screening Form

Page 33

U.S. Department of Veterans Affairs: Categorical Exclusion from NEPA Requirement for EA or EIS		
Project title:		Project number:
Date:		
Location: Address or intersection City, State ZIP County	Description:	
Type(s) of project: Operations/maintenance Repairs/renovation New construction Lease Grant Other (describe)	Specify applicable categorical exclusion(s) (38 CFR 26.6(b)(1)):	
	Electrical Components or site elements within VA property line Routine maintenance Procurement for routing facility Interior construction/renovation New construction ≤75,000 GSF Cemetery development ≤20 acres existing property; development ≤5 acres new land	Support/appurtenances for normal operations Leases, licenses, permits, and easements Reduction in force Policies, actions, studies with no significant environmental effect Regulations/guidance implement requirements from higher VA levels or other agencies No expenditure of federal funds
Review for extraordinary circumstances (38 CFR 26(b)(3)) - Check each box to confirm review and item is not applicable: NA: Greater scope or size than normally experienced for a particular categorical exclusion NA: Actions in highly populated or congested areas NA: Potential for degradation, although slight, or existing poor environmental conditions NA: Use of unproven technology NA: Potential presence of an endangered species, archaeological remains, or other protected resources NA: Potential presence of hazardous or toxic substances List other potentially significant environmental effects reviewed, if any:		
Indicate (check box) whether the proposed activity would involve or generate any of the following:		
Air emissions including GHGs Asbestos Excess noise Utility modification Water treatment Water flow modification Liquid effluent	Petroleum storage Solid waste Hazardous waste Biological resources Radioactive waste Mixed waste RCRA or CERCLA site	Wetlands Permit modification Chemical use/storage Aesthetics Water/well use Historic property Other:
Determination		
The proposed project qualifies as a categorical exclusion (specified above) with no extraordinary circumstances. The proposed project MAY have a significant effect on the environment. Therefore, an environmental assessment will be prepared. Environmental impact statement.		
Reviewed by VA Environmental staff <i>Signature (electronic)</i> Title		
Approval <i>Signature (electronic)</i> Title		

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Office of Asset Enterprise Management (OAEM)
Enhanced Use Leasing (EUL) Preliminary Screening Form for Disposals

In accordance with VA Directive 7633 dated January 11, 2018, VA's next highest priority for Managing Underutilized Asset after "VA Reuse" is "Re-use by Other Stakeholders" which includes the Enhanced Use Leasing program. The purpose of this form is to solicit initial feedback from OAEM's Enhanced Use Leasing Team and allow stations considering disposal of real property assets initial feedback on whether conditions are conducive to further pursuit of reuse of certain assets through an EUL. This completed form will serve as evidence that the station has considered reuse of real property assets through an Enhanced Use Lease.

Submitted by: _____ Date: _____

Administration: _____ Station Name: _____ Station Number: _____

Capital Asset Manager: _____

Disposal Candidates to be Screened:

- Building(s)/Structure(s) RPUID¹(s): _____
- Building(s) Square Footage: _____
- Land RPUID(s): _____
- Land Acreage: _____

Background:

For OAEM Use Only:

Preliminary Screening Questions:	Yes	No
1. Is the land/building(s) located on a VA Medical Center?		
2. Is the land/building owned by VA?		
3. Is the land/building located in a residential community?		
4. Does EUL already exist at the station?		
5. Is there enough land area/acreage available to support an EUL at this station?		

Determination:

There is potential use for the above listed real property assets for reuse as an EUL. OAEM will assign a Project Manager and will contact you via email within the next 10 business days to further investigate the potential for reuse as an EUL.

Based on this preliminary information, the OAEM EUL Team has determined that there is no reuse for an EUL involving these real property assets at this time.

Determination by: _____ OAEM EUL Project Manager | Date: _____

Concur/Not Concur _____ OAEM IEDS Director | Date: _____

¹ Real Property Unique Identifier

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