VA Office of Inspector General

OFFICE OF AUDITS AND EVALUATIONS

Department of Veterans Affairs

Audit of the Enhanced-Use Lease Program

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ACRONYMS AND ABBREVIATIONS

CAMS	Capital Asset Management System
EUL	Enhanced-Use Lease
OAEM	Office of Asset Enterprise Management
OIG	Office of Inspector General
RFP	Request for Proposals
VA	Veterans Affairs

Report Highlights: Audit of VA's Enhanced-Use Lease Program

Why We Did This Audit

The Enhanced-Use Lease (EUL) program provides a useful means for VA to manage the inventory and decrease the costs of maintaining underutilized capital assets. VA reports the EUL program has cumulatively generated $261.7 million in total consideration since 2006. VA's EUL authority expired on December 31, 2011. VA has requested extending the program for an additional 10 years. We conducted this audit to determine whether VA effectively and efficiently implemented EUL management policies and procedures.

What We Found

Management of VA's EUL program needs improvement. EUL projects were not always effectively monitored to serve the best interests of the Department and veterans. VA could not fully determine EUL effectiveness due to inaccurate reporting on program benefits and expenses. Personnel did not always document major project decisions, resulting in a lack of transparency. Further, delays in executing lease agreements meant VA sometimes had to maintain capital assets longer than necessary.

The problems above occurred because EUL program policies and procedures, oversight, and performance measures were not in place to ensure adequate project documentation, timely project development and execution, effective monitoring, and accurate cost accounting. As a result, VA may not have fully realized the potential benefits of the EUL program.

What We Recommended

We recommended the Executive in Charge for the Office of Management institute the policies and procedures needed for effective EUL administration and accurate reporting on EUL benefits and expenses. We recommended the Executive in Charge establish oversight mechanisms to ensure compliance with EUL policies and procedures. Further, we recommended establishing performance measures to gauge success and timeliness in EUL execution.

Agency Comments

The Executive in Charge for the Office of Management agreed with our finding and recommendations. They are preparing a detailed implementation plan to address the audit recommendations. We will assess the effectiveness of VA's proposed implementation plan and follow up as required on all actions.

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INTRODUCTION

Objective

We conducted this audit to determine whether VA effectively and efficiently implemented Enhanced-Use Lease (EUL) management policies and procedures. We focused on VA management of projects in development to become EULs, as well as those with executed or terminated leases.

EUL Authority

Enhanced-Use Leases of Real Property (Title 38, United States Code §§ 8161-8169), enacted in August 1991, authorizes the VA Secretary to lease real property to private or public entities for up to 75 years. While VA is not required to follow Federal or VA acquisition rules in implementing EULs, it should nonetheless apply sound management principles to ensure integrity in selecting lessees and executing leases. VA's EUL authority expired on December 31, 2011. VA has requested a 10-year extension.

EUL Program

According to senior VA officials, responsibility for the EUL program transferred from the Veterans Health Administration to the Office of Asset Enterprise Management (OAEM) in 2002. Program implementation entails establishing EUL policies and procedures, selecting and awarding leases, and managing each project from formulation, to execution, to steady state, to final disposal. According to OAEM, VA awarded 60 leases between April 1993 and June 2011 and is actively engaged in developing 66 additional EUL projects, including 34 projects related to homeless housing.

EUL projects are categorized as directly serving veterans, improving VA operations, or providing community benefits. EUL projects directly serving veterans include transitional and assisted living housing, homeless shelters, and outpatient clinics. Those projects improving VA operations provide services such as energy and visitor centers or cost avoidance through better utilization of VA properties. EUL projects providing community benefits include golf courses and mixed-use facilities that promote VA employee and veteran satisfaction and serve community needs.

In *Memorandum Report, Evaluation of the VA Enhanced-Use Lease Program* (Report No. 00-02773-106, July 13, 2001), we determined that EULs provided VA with a cost-effective way to use undeveloped or underutilized property to generate revenues, defray operating costs, and benefit veterans. We indicated that we would revisit this subject after VA initiatives at that time to revise policy and streamline the EUL process were implemented and in operation long enough to fully assess effectiveness. This audit constitutes that follow-up assessment.

Appendix A provides background and criteria on EULs. Appendix B provides our audit scope and methodology. Further, Appendix C provides the full text of management comments on a draft of this report.

RESULTS AND RECOMMENDATIONS

Finding EUL Program Management Needs Improvement

Management of VA's EUL program needs improvement. EUL projects were not always effectively monitored to serve VA's and veterans' best interests. VA could not fully determine EUL effectiveness due to inaccurate reporting on program benefits and expenses. Responsible personnel did not always document major project decisions, resulting in a lack of transparency. Also, delays in executing lease agreements meant VA sometimes had to maintain capital assets longer than necessary. The problems above occurred because EUL program policies and procedures, oversight, and performance measures were not in place to ensure adequate project documentation, timely project development and execution, effective monitoring, and accurate cost accounting. As a result, VA may not have fully realized the potential benefits of the EUL program.

Administration Needs Improvement

Given the lack of structure and controls needed for sound program management, lease agreements have not always been effectively administered. After lease execution, OAEM did not provide adequate guidance and communicate effectively with the on-site points of contact it relied upon to informally monitor and report on the status of EULs nationwide. As a result, VA improperly paid for services for which it was not responsible per EUL agreements and collected inadequate payments from lessees. Further, in one instance, the lease did not include priority placement for veterans in an EUL housing facility.

Inadequate Guidance and Communication to Onsite

VA has not established an effective mechanism for overseeing EUL performance after lease execution. The official duty station for all OAEM personnel is at VA Headquarters in Washington, DC. Lacking personnel in the field to provide hands-on management, OAEM managers told us that they relied heavily on selected personnel at EUL locations to monitor the facilities, keep abreast of developments, and on an ad hoc basis notify them of issues that arose. The on-site points of contact were not officially within the OAEM chain of command. Rather, they assisted informally, at times officially holding positions at financial institutions and serving as trustees for lessees or at VA medical centers. Annually, these on-site points of contact were asked to complete streamlined check lists—Annual Oversight Compliance Certificates—which they emailed back to OAEM indicating whether the listed EUL requirements were being met.

While this monitoring arrangement may be efficient in concept and meet the immediate need, it has not proven effective. On-site points of contact have not received the guidance they need to effectively carry out their oversight responsibilities. In turn, on-site points of contact were not clear on expectations, such as what their responsibilities were day-to-day, how frequently they should contact OAEM, and what constituted newsworthy information that needed to be conveyed. OAEM emailed the Annual Oversight Compliance Certificates to the points of contact, but provided no accompanying guidance on why they were needed, how to complete them, or how to validate the information provided. For example, points of contact in both the VA Western New York and Minneapolis VA Healthcare Systems stated they annually completed compliance certificates with much of the information provided by the lessees; however, they did not independently validate the data to ensure accuracy or completeness.

For projects not included in our sample, VA personnel demonstrated that they had followed up on some returned certificates that indicated lease requirements were not met or could not be verified. The certificates were complete for 5 (63 percent) of 8 actively monitored projects in our sample. However, we did not identify any such follow-up on the checklists for the remaining 3 (38 percent) of the 8 actively monitored projects. In one additional case, personnel did not request the annual checklists at all. For example, the Durham VA Medical Center point of contact had not been contacted to complete Annual Oversight Compliance Certificates for either 2009 or 2010.

Inadequate guidance and communication to support EUL monitoring had adverse financial impacts on VA. Absent detailed guidance, field points of contact allowed VA payments for services for which lessees were actually responsible. VA also collected inaccurate lease payments when OAEM did not communicate to field representatives that rents had increased.

Following are instances where EUL program managers were unaware of activities regarding the leases because monitoring processes were inadequate.

- VA's Western New York Healthcare System paid $391,331 for asbestos removal during the execution phase of the Batavia Transitional Housing EUL project. Similarly, the Edward Hines Jr. Hospital paid $67,143 to repair damages resulting from flooding that occurred during construction in the steady state phase of the Hines, IL, Assisted Living project. However, the leases specifically stated that the lessees were responsible for these costs.

- In 2009, onsite points of contact were not notified that the lessee did not pay a $5,000 per year rent increase as required for the Hines, IL, Assisted Living EUL project. As a result, the lessee continued paying the same amount of rent as in previous months and the onsite point of contact did not question it. VA officials were not aware that the lessee did not pay the rent increase until we brought this to their attention over a year later, after a shortage of approximately $7,000 in rent payments.

Inadequate Lease Agreements

In one instance, the lease did not include all required provisions and had not been negotiated in its entirety prior to signature. This EUL project was intended to provide housing to veterans, non-veteran seniors, and disabled persons, while giving veterans placement preference in the facility. However, in August 2004 the VA Secretary signed the lease without this provision, allowing the lessee to address the provision at a later date. One week later, the lessee submitted a plan to offer veterans placement preference for 2 months once the housing facility opened. At the end of the 2-month period, the lessee planned to provide veterans placement preference only if it had no waiting list. VA accepted the plan.

Since the housing facility opened in July 2005, the lessee has consistently had a waiting list for occupants. As such, priority placement for veterans at the EUL housing facility has not been ensured. Financing obtained by the lessee also dictated a maximum allowable income for 30 of 32 apartments at $22,300 per year for single occupancy. At this rate, 100 percent disabled veterans could not qualify for placement at the facility. According to VA, the average number of veterans housed in the facility in FY 2010 was 6 (19 percent) of 32 total apartments. In October 2011, lessee representatives at the EUL facility confirmed that the facility still only housed six veterans.

Inaccurate Cost and Benefit Reporting

VA often reported inaccurate benefits and expenses associated with the EUL program. VA tracks costs avoided, cost savings, and expenses realized through EULs and publishes them annually in a Consideration Report. However, we found reports on cost avoidance were inflated, actual costs were not reported, enhanced services were incorrectly classified, benefits were overstated, and expenses were understated. We were only able to review reported considerations for certain years due to the unavailability of documentation supporting VA calculations. Without accurate cost-benefit information, VA was unable to determine whether the EUL program was successfully maximizing use of capital assets and decreasing costs.

Cost Avoidance Calculations Inflated

VA overstated reports on cost avoidance—the costs VA would have paid to maintain a facility and/or deliver services in the absence of an EUL. For example, VA can avoid costs when veterans obtain shelter at leased facilities vs. lodging at VA medical facilities or other non-VA shelters. In its FY 2010 EUL Consideration Report, VA reported a total of approximately $54 million in costs avoided related to bed days of care and homeless per diem for FY 2009 and FY 2010. VA attributed approximately $37 million of the $54 million to veterans receiving care at EULs instead of VA medical facilities. The remaining $17 million in cost avoidance was based on not having to pay homeless per diem when veterans lodged at EULs instead.

However, our analysis of supporting documentation showed the $54 million in total cost avoidance was overstated by approximately $4.2 million. The cost avoidance calculations were based on the assumption that 100 percent of the veterans in EUL housing facilities would have incurred homeless per diem costs, and 25 percent of these same veterans would have received care at VA medical facilities. Since a veteran can only receive services in one location at a time, VA double-counted in its calculation. The Department should have used an assumption that a maximum of 75 percent of the veterans in EUL housing facilities would have incurred homeless per diem costs, while the remaining 25 percent would have received care at VA medical facilities. VA personnel did not agree there was an overstatement when we questioned their calculation assumptions. Further, EUL housing facilities can participate in VA's Homeless Providers Grant and Per Diem Program. As such, it cannot be assumed the homeless per diem cost was avoided solely because a veteran was in an EUL housing facility.

Projected Vs. Actual Costs Reported

Projected costs for EUL energy projects were reported when actual cost data were available. To justify two EUL projects, independent analyses were obtained to project expected energy costs on the open market vs. expected energy costs at the EUL facilities. In FY 2010, after the EULs had been executed and the energy centers had been built, VA incorrectly reported cost savings using this projected cost comparison. VA officials stated they were unable to identify actual market costs because those rates were not available. To illustrate, in FY 2010, based on July 2002 projections, cost savings of about $500,000 were reported for the energy portion of the Chicago, IL, Westside Parking/Collocation/Energy EUL. Similarly, based on June 2005 projections, cost savings of about $1.7 million were reported for the North Chicago, IL, Energy Phase I and II EUL.

Since actual market rates were not available, we compared VA's actual EUL energy project costs for FY 2010 with projected market rates. We determined that VA actually paid approximately $603,000 more than the projected market rate for energy for the Chicago, IL, Westside EUL project. Further, VA only saved approximately $801,000 instead of the approximate $1.7 million reported for the North Chicago, IL, project using the projected market rate. As such, approximately $200,000 should have been reported in possible energy savings associated with these projects for FY 2010. In September 2011, VA officials stated that actual market rates for these projects had been identified, and could be used to determine VA savings or costs associated with the projects.

Enhanced Services Incorrectly Classified

EUL project benefits were incorrectly classified as cost savings rather than enhanced services. Cost savings are derived from discounts realized through necessary VA purchases of goods and services; cost savings directly impact the VA budget. In contrast, enhanced services are new or discounted goods or services made available through EUL facilities to veterans, VA employees, or surrounding communities. These enhanced services have no effect on VA's operating budget because VA is not otherwise required to provide the goods or services.

Employee benefits associated with the parking garage were incorrectly reported for the Chicago, IL, Westside Parking/Collocation/Energy EUL project as cost savings rather than enhanced services. Specifically, cost savings were calculated for this project by comparing the price of parking in the Chicago area to what VA employees paid to use the EUL parking garage. The discounts VA employees received were incorrectly reported as VA cost savings, totaling $646,340 for FY 2009 and FY 2010. Since VA employee parking was not a necessary VA purchase, the discounts should have been classified as enhanced services instead, with no measurable impact on VA's operating budget.

Benefits Overstated

In FY 2010, the dollar value of enhanced services resulting from housing EUL projects was overstated by approximately $6 million. The value of the enhanced services was calculated by multiplying the total number of housing units available in the EUL facility by the fair market rental rate in the surrounding area, as established by the Department of Housing and Urban Development. VA reported the value of the enhanced services at approximately $10 million. However, this calculation inappropriately double-counted the number of rooms occupied by veterans that had already been included in separate cost avoidance analyses.

All Expenses Not Reported

All expenses were not always consistently captured and reported. Expenses are costs incurred by VA in relation to an EUL, excluding overhead for lease administration. In its FY 2010 EUL Consideration Report, VA reported a total of about $1 million in cumulative expenses for all projects since 2006. According to VA personnel, this report only included expenses that were not negotiated at the time of lease execution. All EUL expenses must be captured to accurately identify the benefits received from the EUL authority.

We could not fully identify VA expenses to develop the 12 EUL projects we reviewed. This was because medical facility and Veterans Integrated Service Network financial records did not clearly identify expenses associated with the EUL projects.

In one instance, however, we were able to identify over $1 million in VA expenses for consultants, attorneys, and appraisers, as well as $7 million in VA demolition expenses for the Chicago, IL, Lakeside Realignment/Disposal project. VA reported $22 million in proceeds from the sale of the Chicago, IL, Lakeside EUL. However, it did not report any expenses associated with the project, such as yet-to-be completed environmental remediation activities that we identified.

Effects of Poor Cost/Benefit Reporting

Without accurate cost-benefit information, VA was unable to demonstrate the extent to which it was successfully maximizing use of capital assets and decreasing costs through the EUL program. Also, VA was unable to determine whether a project should be replicated, what lessons could be learned to improve similar projects in the future, or whether certain types of projects should be foregone completely. Accurate cost accounting and expense reporting also helps ensure program integrity and transparency in an era of heightened fiscal oversight.

Missing Project Documentation

Major decisions were not always documented in EUL project files or populated in the Capital Asset Management System (CAMS) as required. For these reasons, we are unable to determine whether the selection process was appropriate and fair, and whether all required notifications occurred.

Program Criteria

Multiple activities are required for an EUL project to progress from concept approval to lease agreement. Title 38 of the United States Code, § 8163, "Hearing and Notice Requirements Regarding Proposed Leases," requires VA to issue notices of intent to execute to Congress, alerting legislators of plans to enter into EULs. VA also must hold public hearings, providing open forums to publically debate EUL projects with local communities. Property appraisals and environmental analyses are typically completed to assess value and identify the highest and best use for capital assets under consideration.

VA is not required to comply with Federal or VA acquisition regulations in managing EULs, but must ensure selection process integrity. VA uses sole-source justifications, Requests for Proposals (RFPs), and Technical Evaluation Board Reviews to help ensure transparency and fairness in EUL awards. Sole-source justifications support decisions for less than full and open competition and RFPs are official requests for services to meet specific needs. Technical Evaluation Board Reviews entail reviewing, analyzing, rating, and ranking vendor bids in response to Government solicitations. Maintaining documentation on project development ensures EUL decisions are transparent and well-supported.

Key Decisions Not Always Documented

Several files lacked documentation to support EUL project decisions. Specifically, 7 (58 percent) of 12 projects collectively were missing documents such as sole-source justifications, RFPs, and Technical Evaluation Board results. For 1 of the 7 projects, we also could not determine whether Congress had been notified of the intent to enter into the EUL or whether a public hearing had been held with the local community. Because OAEM files were not centrally maintained and were housed in multiple locations, we experienced difficulties timely locating EUL project documentation for our review. Additionally, files often contained misplaced documentation for other projects.

Table 1 shows major decisions that OAEM documented vs. those not found (italicized) in EUL project files.

Table 1

Documentation on Key Project Decisions

Project		Sole-Source Justification or RFP	Technical Evaluation Board Review	Congressional Notice of Intent To Execute	Evidence Public Hearing Occurred
1. Batavia, NY	Assisted Living	√	N/A	√	√
2. Batavia, NY	*Single Room Occupancy*	See note 1		√	√
3. Batavia, NY	Transitional Housing	√	N/A	√	√
4. Chicago, IL	*Lakeside Realignment/Disposal*	√		√	√
5. Chicago, IL	Westside Parking	√	√	√	√
	Westside Collocation			√	
	Westside Energy See note 2				
6. Durham, NC	Mixed Use/Research	√		√	√
7. Hines, IL	*Assisted Living, Bldg# 53*			√	√
8. Hines, IL	*Mission Homeless*	√	See note 3	√	√
9. Minneapolis, MN	Single Room Occupancy	√	N/A	√	√
10. North Chicago, IL	Energy (Phases I and II)	√	√	√	√
11. St. Cloud, MN	Golf Course	√	N/A	√	√
12. Syracuse, NY	*Research*	See note 4		N/A	√

Source: OIG Analysis

Notes:

1. Information in the project file indicated competition, but competition documents were missing.

2. Key decisions were not documented for all three parts of the project.

3. Per OAEM personnel, VA received one response to the RFP so they decided to forego the technical evaluation. This decision was not documented in project files.

4. Program guidance in effect in 2001 did not require documented sole-source justification. The potential lessee was selected sole-source; however, the project file lacked documentation on how or why the potential lessee was selected.

A lack of documentation for over half of the projects in our sample was significant. Although judgmentally selected, we ensured our sample of 12 projects reflected all phases of the EUL process (formulation, execution, steady state, and disposal), all types of benefits provided (direct service to veterans, improved VA operations, or community benefits), and both monetary and in-kind considerations. Further, even though some of the active EULs reviewed dated back as far as July 1997, we believe sound business practices would entail retaining documentation after lease execution to substantiate project decisions.

CAMS Data Not Current

OAEM personnel did not consistently update CAMS to include documentation on major project decisions. VA's EUL documentation requirements are defined in VA Handbook 7415, "Enhanced-Use Leasing Program Policies and Procedures," June 17, 2008. The handbook provides extensive guidance on the EUL solicitation process and requires that supporting evidence be stored in the CAMS.

As of July 18, 2011, 5 (83 percent) of the 6 leases covered by the 2008 handbook did not include all documentation maintained in CAMS on key project decisions as required. Table 2 depicts the CAMS documentation found vs. missing for the 6 EUL projects.

Table 2

Documentation on Key Project Decisions in CAMS

Project		Sole-Source Justification or RFP	Technical Evaluation Board Review	Congressional Notice of Intent To Execute	Evidence Public Hearing Occurred
1. Albany, NY	Parking				
2. Batavia, NY*	Transitional Housing				
3. Battle Creek, MI	Transitional Housing				
4. Chillicothe, OH	Mixed-Use/Stadium				
5. Cleveland, OH	Campus Realignment/Mixed-Use	√		√	√
6. Dayton, OH	Transitional Housing Facility, Building 400	√	N/A	√	√

Source: OIG Analysis

*Although previously reported as having all documentation, documentation was not centrally maintained in CAMS as required by VA policy.

After we discussed the lack of documentation in CAMS, OAEM officials located and uploaded the required documentation into the system for each questioned project, except for the Technical Evaluation Board Review results for the Cleveland, OH Mixed-Use/Stadium project. As such, we are unable to determine whether the selection decision for this project was appropriately justified.

Effect of Missing Documentation

Without supporting documentation, we are unable to determine how some major project decisions were made and whether the deliberation process was appropriate and fair. We could not determine if Congress or the public were notified of the EUL projects when they were in development. Further, storing major project decision documents in one centralized location such as CAMS would ensure key decisions are transparent, readily accessible, and supported. For example,

- In July 2003, VA notified Congress of its intent to enter into an EUL with a specific lessee for a Syracuse, NY, research project. We found evidence in the file that the lessee was seeking financing for the EUL and OAEM had obtained a property appraisal. However, the EUL has not been executed because the intended lessee withdrew from consideration in October 2007. The potential lessee had been selected sole-source; however, the project file did not contain documentation as to how or why the potential lessee was selected. Program guidance in effect in 2001 during the development of this project did not require documented sole-source justification.

- We were unable to locate VA's notification to Congress of its intent to execute a lease for an energy center as part of the Chicago, IL, Westside Parking/Collocation/Energy EUL project. In January 2002, the Secretary advised Congress of plans to award the lease for a parking garage and collocated office building; however, the notification did not mention the energy center. OAEM managers stated they did not have to advise Congress of the energy center because the center would provide power and utilities to the parking garage and collocated building. Managers also stated that the broad language in the RFP regarding the parking garage gave them the latitude to include a supporting energy element within the project. However, Title 38 United States Code §§ 8161-8169, "Enhanced-Use Leases of Real Property," does not provide for such exceptions to the congressional notification requirement. Since the energy center also provided utilities to the Jesse Brown VA Medical Center collocated with the EUL, VA should have notified Congress about the energy center.

- Documentation of competing bids and Technical Evaluation Board reviews were not available for the Chicago, IL, Lakeside

Realignment/Disposal EUL project. In August 2004, VA rejected a hospital's initial bid for this project. Approximately two months later, the same hospital submitted a new, unsolicited proposal that was readily accepted. However, the project file did not include documentation supporting the decision to allow the hospital to submit a new proposal after its initial one had been rejected.

Not Executed Timely

EULs frequently were not executed in a timely manner. Criteria was not established for timeliness in lease development and execution. Because of the extensive time OAEM takes to put leases in place, some projects may no longer be viable as conditions change. For example, economic conditions, lessee financing, and other factors not under OAEM's control can have adverse impacts on timeliness in establishing EULs. VA must continue to pay to maintain underutilized buildings while project development is delayed. As of August 2011, no EULs had been executed for about 22 months.

Delays in Executing Leases

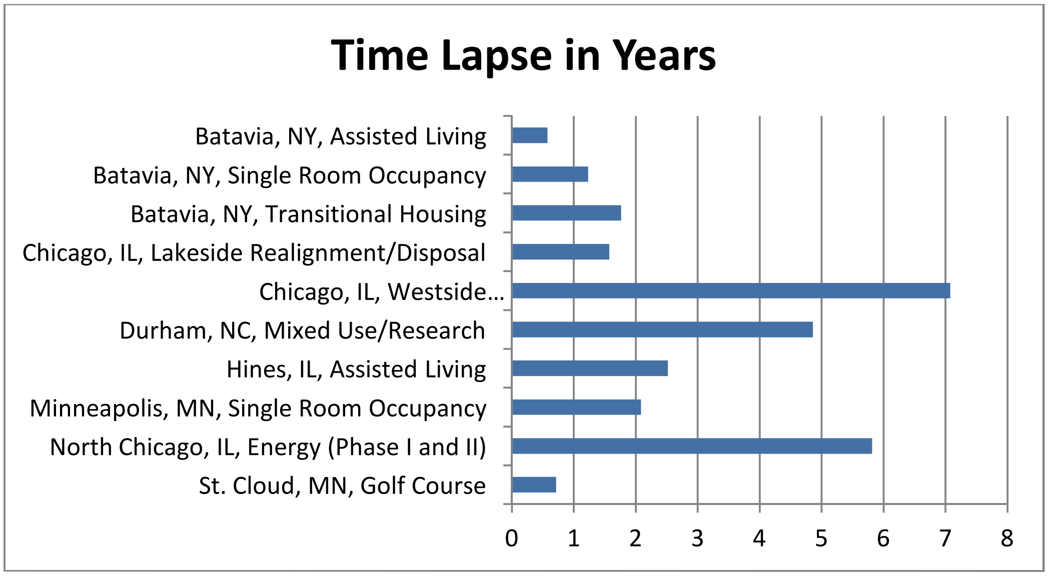
During our audit, the Deputy Director for OAEM stated it takes approximately 18 months to execute an EUL. We used this 18-month target as criteria for our analysis. However, available documentation showed that 7 (70 percent) of the 10 executed EUL projects we reviewed had exceeded that time frame. OAEM attributed such delays to potential lessee difficulties in obtaining EUL financing in the current market. In the most egregious cases, the Chicago, IL, Westside Parking/Collocation/Energy and the North Chicago, IL, Energy Phase I and II projects took about 7 and 6 years, respectively, to progress from concept plan approval to lease agreement.

In September 2011, OAEM officials clarified that the 18-month timeframe was actually the minimum time necessary to accomplish a hypothetical project of low complexity with no unforeseen legal, political, community, environmental, historic preservation, funding, or other extraneous factors. Given this explanation, the 18-month timeframe was not a realistic target for EUL development and execution. OAEM would benefit from conducting an analysis to establish a realistic measure of the time needed to address requirements within its span of control in order to execute an EUL. Requirements that VA can control include concept development and approval, public hearings, congressional notifications, RFP release and review, and lease negotiations.

The figure illustrates the amount of time OAEM took to execute the 10 leases we reviewed.

Figure

Timeline From Concept Plan Approval to Lease Execution



Source: OIG Analysis

Delays in Developing Approved Projects

Additionally, VA did not timely develop projects to become EULs. As of August 2011, the VA Secretary had approved 85 projects for development; of these, 66 were actively being developed. Based on our review, 18 (21 percent) of the 85 projects had been in development for over 5 years and had not reached lease agreement. As worse case examples, four of the projects had been in development for approximately 9 years.

In August 2011, OAEM officials clarified that 8 of the 18 projects were on hold and 1 was being removed from the EUL program. OAEM officials reiterated that because they do not control all of the requirements for EUL development, they could not establish a cutoff point for EUL projects remaining in development. These officials said that periodically they reviewed the list of pending projects to determine continued viability, but they could not provide documentation attesting to this process and the decisions made.

Table 3 illustrates the approximate number of years the 18 projects have been in development since initial Secretary approval.

Table 3

Projects in Development Without Lease Execution Over 5 Years

Location	Project Type	Date Approved	Years in Development *(Approximate)*
1. Los Angeles, CA	Collocation	August 2, 2002	9
2. Milwaukee, WI	Mixed-Use	August 2, 2002	9
3. San Francisco, CA	Research	August 2, 2002	9
4. Syracuse, NY	Research	December 23, 2002	9
5. St. Louis, MS	Parking	August 7, 2003	8
6. Albuquerque, NM	Assisted Living	October 7, 2003	8
7. Newington, CN	Assisted Living	October 7, 2003	8
8. Sacramento, CA	Assisted Living	October 7, 2003	8
9. Viera, FL	Assisted Living	October 7, 2003	8
10. Butler, PA	Hospital	August 24, 2004	7
11. Lebanon, PA	Golf Course	August 24, 2004	7
12. Montrose, NY	Assisted Living	August 24, 2004	7
13. Riverside, CA	Transitional Housing	August 24, 2004	7
14. White City, OR	Community College	August 24, 2004	7
15. Nashville, TN	Research	September 23, 2004	7
16. Marion, IL	Hotel	March 1, 2005	6
17. Dayton, OH	Senior Housing	July 20, 2006	5
18. Lincoln, NE	Outpatient Clinic	September 6, 2006	5

Source: OIG Analysis

Projects No Longer Viable as EULs

At times, some projects in development may no longer be viable candidates for EULs. To illustrate:

- The Syracuse, NY, Research project was approved in December 2002. However, at the time of our audit the project had not progressed past an appraisal completed in February 2005. According to the Director of the Syracuse, NY, VA Medical Center, this project was no longer viable because the selected developer was unable to obtain financing and the property was land-locked and inaccessible to other potential developers.

- The Hines, IL, Mission Homeless project experienced significant delays after OAEM selected a potential lessee. The project was approved in October 2008 and progressed to the point of lessee conditional selection in July 2009; however, the lessee was unable to obtain financing. Two years later, in April 2011, after receiving a request from Edward Hines, Jr. VA Hospital personnel, OAEM notified the potential lessee that VA had revoked its selection and intended to solicit proposals for the project once again.

Effect of Lack of Timeliness

As a result of extensive delays developing EUL projects, VA continued to expend funds maintaining underutilized or excess properties. For example, according to the Director of the Syracuse, NY, VA Medical Center, maintenance of and utilities for property included in the planned Syracuse, NY, Research project costs about $120,000 per year, or $600,000 since 2006. Through more timely execution of EULs, VA could have avoided some or all of the maintenance costs due to lessees assuming responsibility for the property and buildings per lease agreement. Further, routinely identifying projects no longer feasible as potential EULs could timely free them up for alternate uses of benefit to VA and the veteran community, or ultimate disposal as appropriate.

Lack of Controls To Ensure Effective Program Management

The EUL program lacked an effective project management structure. Volume I, Chapter 5 of VA's "Management Accountability and Responsibility for Internal Controls" and Office of Management and Budget Circular A-123, "Management's Responsibility for Internal Control," require management to develop and maintain effective internal controls to ensure programs operate efficiently and effectively to achieve desired objectives and comply with applicable laws and regulations. As previously stated, OAEM has responsibility for EUL program implementation, which includes establishing and implementing policies and procedures for selecting and awarding leases, and managing projects throughout the life cycle. Adequate project documentation, timely project development and execution, effective monitoring, and accurate cost accounting are inherent in this responsibility.

Despite these requirements and responsibilities, the needed controls were not instituted in three key areas.

<u>Adequate Policies and Procedures</u>: In 2008, VA issued a handbook providing basic instruction on managing EUL projects. However, guidance was still lacking for activities such as monitoring EUL projects, including how to communicate and share initial and revised lease requirements, validate that lease provisions are met, and follow up to ensure complete and accurate status information. Standard guidance is needed on all the provisions that should be covered in EUL agreements—especially those provisions integral to accomplishing VA's mission of providing services to veterans. Further, instructions on calculating and classifying EUL benefits

and expenses are essential to accurate financial reporting in the annual Consideration Report. In September 2011, VA officials stated they were preparing an additional handbook which would address our concerns.

Compliance Oversight Mechanisms: Additional oversight is needed to ensure project decisions are documented as required and EUL benefits and expenses are calculated correctly in accordance with established guidance.

Performance Metrics: Standards for timely project execution need to be established and used to measure program performance. VA should also establish criteria to remove from the EUL program any projects that have been unduly delayed and are no longer viable.

Conclusion

Challenges such as building location, age, high repair costs, adverse market conditions, and opposing stakeholder interests hinder VA in managing its inventory of underutilized capital assets. The EUL program is a valuable tool for VA to maximize the potential benefits of these properties and free up limited resources that could be applied to other veterans programs and services. However, given practices such as ineffectively monitoring projects, untimely executing leases, and inaccurately calculating program costs and savings, VA may not be fully realizing the potential benefits of the EUL program. Further, inadequately documenting EUL projects hinders verification that lease executions were appropriate. Improved policies and procedures, oversight, and performance measures are needed to not only remedy these practices, but also ensure EUL program transparency and execution in the best interest of the Department.

Recommendations

1. We recommend the Executive in Charge for the Office of Management establish standards to ensure complete lease agreements are negotiated in line with the Department's strategic goals.

2. We recommend the Executive in Charge for the Office of Management institute adequate policies and procedures to govern activities such as monitoring Enhanced-Use Lease projects and calculating, classifying, and reporting on Enhanced-Use Lease benefits and expenses.

3. We recommend the Executive in Charge for the Office of Management recalculate and update Enhanced-Use Lease expenses and benefits previously reported in the Annual Consideration Report.

4. We recommend the Executive in Charge for the Office of Management establish oversight mechanisms to ensure major Enhanced-Use Lease project decisions are documented and maintained in accordance with policy.

5. We recommend the Executive in Charge for the Office of Management establish criteria to measure timeliness and performance in Enhanced-Use Lease project development and execution.

6. We recommend the Executive in Charge for the Office of Management establish criteria and guidelines for assessing projects to determine whether they remain viable candidates for the Enhanced-Use Lease program.

Management Comments

The Executive in Charge responded that they are preparing an implementation plan to address the audit recommendations. The implementation plan will address in detail how OM will implement each recommendation in the audit report.

OIG Response

We will assess the effectiveness of VA's proposed implementation plan and follow up as required on all actions. Appendix C provides the complete text of the comments from the Executive in Charge, Office of Management.

Appendix A Background

Managing Underutilized Properties

VA faces significant challenges in reducing its underutilized property inventory because of building location, age, high repair costs, market conditions, and competing stakeholder interests. The EUL program is one mechanism VA uses to manage and decrease the inventory, as well as maximize value and decrease costs of maintaining underutilized capital assets. VA Directive 7415, "Enhanced-Use Leasing Program Policies and Procedures," dated June 17, 2008, requires OAEM to administer and manage the EUL program, including tracking lease requirements and identifying benefits and expenses for EUL projects once leases are executed.

Under the EUL authority, VA must obtain fair monetary and/or in-kind consideration from each lessee. After covering the expenses associated with the EULs, VA may use the remaining proceeds to develop additional EULs, provide medical care, or at the Secretary's discretion, construct, alter, or improve any VA medical facility. According to the FY 2011 Congressional Budget Submission, VA reportedly disposed of 140 assets (3,112,887 gross square footage or 384 acres) through the EUL program between 2003 and 2009. As of FY 2010, VA plans to use EULs to dispose of an additional 134 assets (2,273,782 gross square footage or 381 acres) between 2010 and 2014.

According to OAEM's FY 2010 Annual Consideration Report, the EUL program has cumulatively generated $261.7 million in total consideration since 2006. This includes $30.4 million in revenue, $148.7 million in cost avoidance, $26.8 million in cost savings, $56.8 million in enhanced services, and $1.0 million in expenses paid by VA. Projects generating revenue, avoiding or saving costs, or generating expenses directly impact VA's budget while enhanced services benefit VA employees or local communities.

Four Phases in the EUL Process

The EUL process consists of four project life-cycle phases: formulation, execution, steady state, and disposal. The formulation phase includes project development activities such as preparatory planning, concept paper development, public hearing, environmental and historic analysis, solicitation, appraisal, and congressional notification. The execution phase entails lease finalization and the steady state phase entails lease administration and monitoring. The disposal phase involves lease termination and may involve removal of the asset from VA's property inventory.

EUL Program Guidance

Overall guidance for the EUL program can be found in VA Directive 7415, "Enhanced-Use Leasing Program Policies and Procedures," June 17, 2008. The Directive gives OAEM oversight responsibility for the EUL program, as well as management responsibility for projects identified as Departmental initiatives. The Directive mandates that all project milestones, approvals, and supporting documents from the formulation, execution, steady state, and termination and disposal phases of EUL projects must be reported and uploaded to CAMS. The Directive does not require the retroactive addition of projects begun before 2008. Finally, the Directive requires that all EUL projects comply with VA Handbook 7415.

Appendix B Scope and Methodology

Audit Scope

Our review focused on the policies and procedures in place to formulate, execute, administer, and dispose or terminate approved EUL projects. We did not assess the effectiveness of VA's process for identifying and prioritizing projects for inclusion in the EUL program because policies describing the process did not exist.

Audit Methodology

We identified and reviewed applicable Federal laws, Federal regulations, prior OIG and Government Accountability Office audit reports, and VA policies related to the EUL program. We interviewed VA employees to determine the process for developing, executing, monitoring, and terminating leases. We also interviewed lessee representatives to gain an understanding of their interaction with VA employees and the administration of leases. We obtained relevant documentation at VA Central Office and seven VA medical facilities. At the locations we visited, we examined EUL facilities to determine the use of the facilities, as well as their overall condition. We evaluated the policies and procedures used to guide the EUL program related to selection of lessees, timeliness, lease requirements, lease administration, and evaluation of benefits derived from the program. We reviewed files in CAMS, on OAEM's internal shared drive, in hard copy files located in OAEM offices, and in archives to determine whether key project decisions were documented.

For our audit, we non-statistically selected a sample of 12 projects (2 projects in formulation, 1 in execution at the start of the audit, 7 operational leases, and 2 projects disposed or terminated). Although OAEM reported the Chicago, IL, Westside Parking/Collocation/Energy and the North Chicago, IL, Energy (Phase I and II) projects as five separate EULs, we counted them as two projects. Only one lease had been signed for the Chicago, IL, Westside Parking/Collocation/Energy project and the original lease for North Chicago, IL, Energy Phase I had been amended for Phase II of the project. We made this distinction to more clearly illustrate the process for each project.

We ensured our sample covered all phases of the EUL process, all types of benefits provided (direct service to veterans, improved VA operations, or community benefits), and both monetary and in-kind considerations. We requested that OAEM provide for our analysis complete documentation on the selected projects, from concept to disposal, as appropriate. Our review was limited to 12 projects due to difficulties in timely locating EUL project documentation because OAEM files were not centrally maintained and were housed in multiple locations. Additionally, files often contained misplaced documentation for other projects.

Table 4 lists the EUL projects included in our sample.

Table 4

Projects Included in Audit Sample

Project		Phase	Lease Executed	Types of Considerations Received
1. Batavia, NY	Assisted Living	Steady State	August 24, 2004	Monetary and In-Kind
2. Batavia, NY	Single Room Occupancy	Disposal	May 24, 2002	N/A
3. Batavia, NY	Transitional Housing	Execution*	December 22, 2008	In-Kind
4. Chicago, IL	Lakeside Realignment/ Disposal	Disposal	January 18, 2005	Monetary and In-Kind
5. Chicago, IL	Westside Parking/ Collocation/Energy	Steady State	April 18, 2002	In-Kind
6. Durham, NC	Mixed-Use/Research	Steady State	January 3, 2002	In-Kind
7. Hines, IL	Assisted Living	Steady State	July 30, 2004	Monetary and In-Kind
8. Hines, IL	Mission Homeless	Formulation	N/A	
9. Minneapolis, MN	Single Room Occupancy	Steady State	September 7, 2005	In-Kind
10. North Chicago, IL	Energy (Phase I and II)	Steady State	May 1, 2002	In-Kind
11. St. Cloud, MN	Golf Course	Steady State	July 28, 1997	Monetary and In-Kind
12. Syracuse, NY	Research	Formulation	N/A	

Source: OIG Analysis

* The Batavia, NY, Transitional Housing EUL project became operational and entered the steady state phase during the audit.

In addition, we reviewed the six projects for which VA executed leases since issuing new policies and procedures in June 2008, identifying requirements for documenting major project decisions. We wanted to determine whether the issues we initially identified with project documentation were ongoing. One of the projects, the Batavia, NY, Transitional Housing EUL, was originally included in our audit sample. Although we were able to locate major project decisions for this EUL in hard copy files and on OAEM's internal shared drive, these decisions were not documented in CAMS as required by the new policies and procedures. As such, we accepted documentation found outside of CAMS to conduct our analysis in Table 1. We did not find required documentation in CAMS to support our analysis in Table 2.

Reliability of Data

We reviewed computer-processed data in CAMS, the Capital Asset Management System, and in the Post Transaction Oversight Tool. However, we did not rely on any computer-processed data to support our analysis or conclusions.

Government Audit Standards

We conducted this performance audit from October 2010 through November 2011 in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix C Executive in Charge for the Office of Management Comments

Department of Veterans Affairs

Memorandum

Date: February 27, 2012

From: Executive in Charge, Office of Management, and Chief Financial Officer (004)

Subj: Draft Report - Audit of the Enhanced-Use lease Program

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

Thank you for the opportunity to review the subject Office of Inspector General (OIG) draft report. I appreciate the work that your staff has done, and the contribution that their work and this report make to the continued success of the Enhanced-Use Lease (EUL) program. The Office of Management concurs with the OIG's findings and submits the attached written comments for each of the recommendations.

As you are aware, the EUL program allows VA to lease land or buildings to public, private and/or non-profit partners, provided the use of the property is consistent with VA's mission. As a result of the EUL program, Veterans have enjoyed access to an expanded range of services - services that would not otherwise be available on medical center campuses. VA has used its EUL authority to develop housing projects that included both transitional and permanent supportive housing for Veterans who are homeless or at risk of homelessness, and independent and assisted living for senior and disabled Veterans. Other services available to Veterans as a result of EUL projects included hospice centers, mental health facilities, expanded parking, and child-care facilities, among others.

The EUL program has allowed VA to realize cost savings by repurposing underutilized capital assets and/or transferring the cost to construct and/or renovate, operate and maintain these properties to third-party private sector partners. VA's EUL program encouraged innovative public/private partnerships. In return for the lease, VA was required to obtain fair consideration (monetary and/or in-kind) in various forms including but not limited to revenue, facilities, space, or services. We appreciate your assistance in helping define how VA's EUL program can be improved.

If you have any questions, please contact me at (202) 461-6703, or have a member of your staff contact James M. Sullivan at (202) 461-6671.

W. Todd Grams

Attachement

OIG DRAFT REPORT

Audit of the Enhanced-Use lease Program

(Project 2011-00002-02-00(1)

OIG Recommendations

1. We recommend the Executive in Charge for the Office of Management establish standards to ensure complete lease agreements are negotiated in line with the Department's strategic goals.

CONCUR. The Office of Management is preparing an implementation plan to address the audit recommendations. The implementation plan will address in detail how OM will implement each OIG recommendation in the audit report.

TARGET COMPLETION DATE: The plan will be completed 60 days after the final report is issued.

2. We recommend the Executive in Charge for the Office of Management institute adequate policies and procedures to govern activities such as monitoring Enhanced-Use Lease projects and calculating, classifying, and reporting on Enhanced-Use Lease benefits and expenses.

CONCUR. The Office of Management is preparing an implementation plan to address the audit recommendations. The implementation plan will address in detail how OM will implement each OIG recommendation in the audit report.

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TARGET COMPLETION DATE: The plan will be completed 60 days after the final report is issued.

6. We recommend the Executive in Charge for the Office of Management establish criteria and guidelines for assessing projects to determine whether they remain viable candidates for the Enhanced-Use Lease program.

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TARGET COMPLETION DATE: The plan will be completed 60 days after the final report is issued.

Appendix D Office of Inspector General Contact and Staff Acknowledgments

OIG Contact	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
Acknowledgments	Paul M. Sondel, Director Donna Beatty Sheila Brown Nicole Frish Theresa Lospinoso William Morris Harinder Singh Brandon Thompson William Woods

Appendix E Report Distribution

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This report will be available in the near future on the OIG's Web site at http://www.va.gov/oig/publications/reports-list.asp. This report will remain on the OIG Web site for at least 2 fiscal years.