

SHARING USE OF SPACE

1. REASONS FOR ISSUE: This Veterans Health Administration (VHA) Handbook establishes new application and review requirements for the Sharing Use of Space Program as authorized under Title 38 United States Code (U.S.C.) Section 8153. It discusses the new changes to policy regarding use of shared space as differing from other sharing as described in VHA Handbook 1660.1.

2. SUMMARY OF MAJOR CHANGES:

a. Recent VHA organizational changes necessitate clarifying the application and review requirements of sharing use of space proposals. VA medical center Directors and Veterans Integrated Service Network (VISN) Directors are responsible for complying with the requirements outlined in this Handbook and meeting all requirements of law, including Public Law 104-262, codified under Title 38 U.S.C. Section 8153.

b. This Handbook identifies the Capital Asset Management and Planning Service (182C), in the Office of Facilities Management (18), as the primary coordinating and review office for field-based sharing use of space proposals. In addition, sharing proposals between VA medical centers and homeless veterans' service providers for use of space for supportive housing programs or service centers are to be given high priority consideration at all levels of VHA.

3. RELATED ISSUES: VHA Handbook 1660.1.

4. RESPONSIBLE OFFICE: Office of Facilities Management, Capital Asset Management and Planning Service (182C), is responsible for the contents of this Handbook. Questions may be referred to 202-565-8516.

5. RESCISSIONS: None.

6. RECERTIFICATION: This VHA Handbook is scheduled for re-certification on or before the last working day of March 2010.

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SHARING USE OF SPACE

1. PURPOSE: This Veterans Health Administration (VHA) Handbook establishes new concept proposal application and certification requirements, review and routing procedures, and data entry for sharing the use of VHA space as authorized by Title 38 United States Code (U.S.C.) Section 8153. *NOTE: This Handbook also discusses new changes to policy regarding sharing use of space as differing from those described in VHA Handbook 1660.4 for sharing all other health care resources.*

2. BACKGROUND:

a. This Handbook augments and clarifies sections of VHA Directive 1660.1, and VHA Handbook 1660.4. This Handbook transfers the VHA authority to establish application requirements for field-based sharing of space concept proposals to the Capital Asset Management and Planning Service (CAMPS) (182C). In addition, this Handbook transfers Department of Veterans Affairs (VA) Central Office review and coordination authority for sharing use of space proposals from the Medical Sharing Office (MSO) (176) to the CAMPS Office, (182C), in the Office of Facilities Management (18).

b. Proposals and agreements to share the use of VHA space (including parking, outdoor recreational facilities, and vacant land) are authorized under 38 U.S.C. Section 8153. Sharing use of space agreements do not include revocable licenses or permits. If these are sought in lieu of a sharing agreement, then all revenues from such locally-initiated licenses and permits (i.e., authorized by VA medical center Directors) will accrue exclusively to the United States (U.S.) Department of the Treasury.

3. DEFINITIONS:

a. **Full Cost.** The Federal Accounting Standards Advisory Board in the Statement of Federal Financial Accounting Standards No. 4, Managerial Cost Accounting Concepts and Standards for the Federal Government, defines the term “full cost” as “The sum of the costs of:

(1) Resources consumed by the segment that directly or indirectly contribute to the output; and

(2) Identifiable supporting services provided by other responsibility segments within the reporting entity, and by other entities.”

NOTE: The Managerial Cost Accounting Implementation Guide, issued jointly by the Government Chief Financial Officer (CFO) Council and Joint Financial Management Implementation Program (JFMIP) in February 1998, is a technical practice aid intended to assist Federal entities in implementing cost accounting. The Guide elaborates on the definition of full cost by indicating that “Full cost is the sum of all costs required by a cost object, including the costs of activities performed by other entities regardless of funding sources. It includes direct costs (costs specifically identified with the output) and indirect costs (costs used to produce multiple outputs). The direct and indirect costs can be funded, reimbursed, unfunded, or non-reimbursed.”

- b. **Local Direct Cost.** Local Direct Cost includes the Decision Support System's (DSS)'s fixed direct, variable labor, and variable supply.
- c. **Variable Overhead.** Variable Overhead is the portion of total overhead that varies directly with changes in volume. Examples are supplies and power.
- d. **Fixed.** Fixed is the portion of total overhead that remains constant over a given time period without regard to changes in the volume of activity. Examples include depreciation and rent.
- e. **Concept Proposals or Concept Papers (CPs).** All field-based CPs must contain answers to the questions required by Appendix A or Appendix B. Required certifications to be made by senior level VA medical center, Veterans Integrated Service Network (VISN) staff, or line managers must be either attached and accompany submitted CPs, or must be filed in VA medical center sharing agreement files, as noted in Appendix A and Appendix B.
- f. **Federal Management Regulation (FMR).** FMR replaced the Federal Property Management Regulation (FPMR). It is the authority for how to manage and dispose of property (including equipment and supplies).
- g. **Authority to Share or Sell Space.** Pre-certified contracting officers are the only persons with authority to commit VHA to a binding sale, i.e., sharing agreement. In accordance with VA Handbook 7401.3, only the Deputy Assistant Secretary for Acquisition and Materiel Management (the Procurement Executive) is authorized to appoint or to terminate individuals as VA selling officials for sharing use of space agreements. Only certified contracting officers are vested with the authority to execute selling agreements on behalf of the Government.
- h. **Financial Analyst.** A Financial Analyst is a person with the ability to determine the financial feasibility of the proposed sharing opportunity.

4. SCOPE:

- a. Based on a current market assessment, VHA space may be offered to a sharing partner for the benefit of veterans or non-veterans. If the former, high-priority needs to be given to partners who are offering to provide supportive housing or service centers for homeless veterans. If the latter, then this type of agreement must ensure that the service or space is within the scope of VHA's authority, and in no way will it negatively affect the care of veterans. It must actually benefit veterans, recoup operating expenses, represent the best deal possible, and be authorized by law for Veterans.
- b. The Sharing Authority under 38 U.S.C. Section 8153 is not to be used to acquire space, unless the term is less than 6 months and the space is required while a conventional lease is being finalized. Sharing authority does not provide VHA sufficient property protection and should only be used as a temporary solution.
- c. In sharing VHA space under this authority, VA medical centers and VISNs must consider the use to which the potential partner to the agreement would put the space. Potentially controversial uses are to be avoided. For example, VA medical centers will neither share nor sell

the use of space for abortion services, the sale of alcohol or firearms, fireworks, gambling activities, partisan political activities, correctional-system activity, storage or processing of hazardous materials, billboards, or purposes which would violate community standards.

d. VA medical centers may use medical care appropriation funds only under the non-recurring maintenance (NRM) program to make improvements to VHA space for use by a sharing partner.

e. Sharing partners may use their own resources to make capital improvements to existing VHA space. However, VA Central Office must approve the proposed VA medical center-sponsored (NRM) or partner-sponsored capital improvements in advance.

f. VA medical centers must require that the sharing partner comply with the minimum wage requirements of the Davis-Bacon Act (40 U.S.C. Section 276a) when renovating or improving VHA space, even though Federal appropriated dollars will not be directly spent on the construction project.

g. Neither major nor minor construction program funds may be used to renovate or improve space solely for the purpose of use by a sharing partner.

h. Proposals involving new construction, not just renovation of existing space, must be submitted under the Enhanced Use Lease Program, and not under the sharing authority, in order to share the use of space, as defined by 38 U.S.C. Section 8153.

i. Sharing use of space proposals usually cannot entail providing the sharing partner with supplies. However, providing supplies may be considered only if the supply component is a minor portion of the total cost to the sharing partner.

(1) It is important to note that a VA medical center must be sharing or selling the use of space, not the related supplies under the guise of selling or sharing the use of space. For example, agreements for use of VHA space by a sharing partner to provide inpatient hospital care to their own patients may be developed under this authority, if the space in question is discrete from VHA inpatient beds, the space is staffed by the sharing partner's physicians and nurses, and the partner operates its own admission and discharge system.

(2) Agreements for the use of space cannot include provisions to furnish any supplies directly to the sharing partner (e.g., agreements can provide for furnishing prepared meals, but not for furnishing unprepared subsistence supplies).

(3) Agreements of this nature are considered to be use of space, equipment, and support services, not as agreements for VHA to provide inpatient care. This kind of proposal, i.e., one which involves sharing both space and services, must be reviewed by the CAMPS Office and VHA's Medical Sharing Office (176) as well as VA Central Office's Rapid Response Team (RRT).

i. Under no circumstances may a sharing partner sublet the use of VHA space obtained through a use of space sharing agreement.

j. Historically, use of space sharing agreements for up to 20 years total have been executed under this Authority. However, it is now required that the initial or base period covered by a sharing agreement for the use of space is not to exceed 5 years, with VHA retaining options to renew the original agreement in 1 to 5 year increments after the first 5-year (base) period, for a total time period not to exceed 10 years. *NOTE: For base periods envisioned beyond 5 years or total time periods exceeding 10 years, VA medical centers and VISNs are required to utilize the Enhanced Use Lease Program.*

k. Use of space proposals that exceed \$700,000 annually, \$7 million over the life or term of the agreement, or \$1 million in capital investment (i.e., Non-recurring Maintenance (NRM) program funds) are subject to initial CAMPS review, followed by a VA Central Office technical and legal review of the draft sharing agreement, a VHA Capital Asset Board (CAB) review, as well as a review by the VA Capital Investment Board (CIB). Since this requires additional review time, VA medical centers and VISNs must submit such proposals at least 8 months in advance of desired agreement execution.

l. VA medical centers may not enter into commercial loans for any purpose. VHA may not make capital investments in either facility improvements or in the purchase of additional equipment to accommodate unknown future requirements solely for the purpose of obtaining remuneration for use of VHA space.

m. VA medical centers may respond with proposals and bids to solicitations for sharing space issued by any appropriate potential sharing partner. Such proposals must first receive concept approval from the CAMPS Office and RRT. Regional General Counsel must review any resulting draft agreement with projected revenues up to \$700,000 annually prior to submittal to the potential sharing partner for signature. After VA Central Office concept approval, draft agreements with projected revenues totaling over \$700,000 annually, or with NRM outlays in excess of \$1 million, must be submitted to all appropriate parties, including VA Central Office for technical and legal review, before any parties sign a use of space sharing agreement.

n. All use of space sharing proposals or CPs must contain the required information, and be accompanied by required certifications as outlined in Appendix A and Appendix B.

o. All proposals approved by VA Central Office proceed to the agreement stage, where they must comply with all VA and applicable other governmental regulations.

5. RESPONSIBILITIES OF THE VA MEDICAL CENTER DIRECTOR: Each VA medical center Director is responsible for:

a. Ensuring that if sharing agreements for VHA space with any health care provider (or virtually any other appropriate entity; group of individuals; corporations; associations; partnerships; Federal, State, or local governments; or individuals) are planned, they are not with VA or other government agency employees for their personal use or the use of companies owned by them.

b. Giving high-priority consideration to sharing space with homeless veteran service providers that are planning to develop supportive housing programs or service centers, either

through funding that can be made available through VA's Homeless Providers Grant and Per Diem Program, or through other Federal, State or local funding sources (see Appendix G).

c. Submitting completed and correctly formatted sharing of space CPs (see Appendix A and Appendix B) to the CAMPS Office by electronic mail at least 2 weeks prior to planned execution of the sharing agreement. At the time of electronic submission to the CAMPS Office,

p. VA medical centers are required to send a simultaneous copy to the attention of the Office of the Assistant Deputy Under Secretary for Health for Operations and Management (10N). Sharing of space CPs that propose sharing space with homeless veteran service providers must also be forwarded simultaneously to the Associate Chief Consultant, Health Care for Homeless Veterans (116E). **NOTE:** *Proposals to share space with Child Care Contractors must be sent simultaneously to the National Child Care Program Manager (10A2).*

(1) **Exception 1** (to the submittal timing). Proposed use of space CPs that entail less than 1 week in duration and/or gross less than \$2,500 in total revenues may be submitted 1 week prior to planned execution. Examples include: 1 or 2-day rental of a parking lot for a community charity walk and/or run, or a one-time use of conference room or similar type of non-medical or technical space.

(2) **Exception 2.** Use of space proposals and resulting draft agreements with projected high revenues or high capital investment cost, as outlined in subparagraph 4l, need to be submitted with results of a formal market survey and cost benefit analysis, in addition to the requirements outlined in Appendix A and Appendix B for VA Central Office technical and legal review.

d. Ensuring that all proposals other than those of the type noted in subparagraph 5c(1) must be based upon an assessment of the current market and must utilize a business team approach employing the following individuals and skills: contracting officer with the authority to share or sell; financial analyst or business manager; Regional General Counsel; local human resources specialist, and as advisable, union representation; and an applicable program official, as appropriate. When a use of space proposal involves a homeless veteran service provider who intends to develop a supportive housing program or a service center, the VA business team considering the proposal needs to include the VA medical center's Health Care for Homeless Veterans (HCHV) Program Coordinator. **NOTE:** *The responsibilities and determinations to be made during the course of the business teamwork are outlined in Appendix E.*

e. Obtaining needed certifications and filing locally and/or submitting to VA Central Office (see App. A and App. B) with electronic submission of the concept proposal to the CAMPS Office within specified time frames (see paragraph 5a).

f. If the duration to share space exceeds 30 days, obtaining approval to submit the proposal from the VISN Director, or designee, prior to emailing to VHA's CAMPS Office. **NOTE:** *Any previously granted blanket pre-approval or permission to proceed to agreement stage without prior CAMPS Office approval is rescinded.*

g. If the duration to share space is less than 30 days, notifying the respective VISN as they are about to electronically submit a proposal to share space to the CAMPS Office. **NOTE:**

Including the VISN Office in the electronic mail simultaneously may be permitted if the VISN has pre-authorized such procedure.

h. Securing Regional General Counsel review prior to all parties signing the agreement, following VA Central Office concept approval, for agreements totaling less than \$700,000 annually. For proposals projecting high revenue or high capital investment costs, VA medical centers must submit both the proposal and subsequent draft agreement to the CAMPS Office for VA Central Office technical and legal review prior to any party signing the agreement.

i. Incorporating any changes to proposed agreements as required by VA Central Office legal and technical review, if the agreement's projected revenues total more than \$700,000 annually, before the sharing agreement is signed and executed. If the proposal has projected revenues totaling less than \$700,000 annually, any changes required by the CAMPS Office, or Rapid Response Team (RRT), must be incorporated before the sharing agreement is signed and executed.

j. Surface mailing a copy of the signed sharing of space agreement to the CAMPS Office, within 5 business days of all parties signing the agreement.

k. Monitoring performance at least every quarter and taking appropriate action to correct problems promptly. This involves the ongoing collection and maintenance of data in the sharing agreement file at the VA medical center level and entering quarterly and year-end data into the database described in following paragraph 5l.

l. Entering required data into the Office of Facilities Management Space and Functional database at: <http://vaww.vhacowebapps.cio.med.va.gov/cis/> when submitting an electronic copy of a CP, and again within 5 business days of VA medical centers receiving CP approval from VA Central Office, as well as at the time the agreement is signed by all parties and quarterly thereafter until its conclusion. It is essential to VHA's credibility that its Space and Functional database is accurately and timely maintained in order to demonstrate VHA's commitment to responsible capital asset portfolio management, and provide needed information in response to short turn around Congressional, Government Accountability Office, and other information requests.

6. RESPONSIBILITIES OF VISN DIRECTORS: VISN Directors are responsible for ensuring that:

a. VA medical center proposals to share space comply with known or anticipated mission analyses and preferred or approved Capital Asset Realignment for Enhanced Service (CARES) related options.

b. VA medical center proposals represent the best deal for VA and America's veterans and taxpayers.

c. VA medical center proposals to share space are given priority consideration to homeless veteran service providers who are planning to develop supportive housing programs or service centers for homeless veterans. Proposals to share space with homeless veteran service providers must identify modest prices for use of space that reflect the VA medical center's consideration of

the value and cost effectiveness of community-based service organizations partnering with VA medical centers to jointly serve homeless Veterans.

d. All information required by VA Central Office must be submitted in the proper format at least 2 weeks or 9 months (the latter for high revenue and/or capital investment proposals) prior to the desired agreement execution date by any VA medical center within that VISN's jurisdiction. *NOTE: For exceptions see subparagraph 5c.*

e. VA medical centers under the VISN's jurisdiction must adequately maintain VHA's Office of Facilities Management Space and Functional database.

f. VA medical centers under the VISN's jurisdiction must provide appropriate monitoring to ensure an acceptable level of performance for sharing use of space agreements.

7. RESPONSIBILITIES OF VA CENTRAL OFFICE:

a. The CAMPS Office (182) is responsible for reviewing and notifying VA medical centers of the status of their proposal by electronic mail within 3 business days of receipt of their proposal. The CAMPS Office reviews concept proposals to verify all required information and certifications are present and acceptable. *NOTE: Typically a CAMPS Office review takes no more than 3 business days.* The CAMPS Office then forwards the proposal to the VA Central Office RRT.

b. The VA Central Office RRT is responsible for reviewing and approving or disapproving the sharing use of space concept proposals generally within 5 working days of receipt of such proposals. The RRT is comprised of a representative of the CAMPS Office, VA's Office of General Counsel (025C) and VA's Office of Acquisition and Materiel Management (049A5A). When concept papers involve sharing space to accommodate research activities, the VA Central Office RRT review process must include the VHA Office of Medical Research Service (121D). When concept papers involve sharing space to accommodate homeless veterans, the VA Central Office RRT review process must include the VHA Office of Mental Health and Behavioral Science (116E). *NOTE: Proposals to share space with Child Care Contractors must be sent simultaneously to the National Child Care Program Manager (10A2).*

c. The CAMPS Office notifies the proposal initiator by electronic mail of the decision reached by the RRT, CAB, and/or CIB within 2 business days of the VA Central Office decision.

8. POST VA CENTRAL OFFICE APPROVAL: PREPARING THE SHARING AGREEMENT DOCUMENT:

a. Before it is signed by the VA medical center's designated contracting authority and the sharing partner, Regional General Counsel must have a final review of any proposed sharing agreement projecting revenues under \$700,000 annually, following CAMPS and RRT approval of the concept paper.

b. It may be appropriate for VA medical centers to pay prorated damages to a sharing partner in the event that VHA must terminate a use of space agreement before the time specified for the agreement, particularly if the sharing partner has made a significant capital investment in

the space, but only if provisions for damages are included in the terms of the initial agreement.

NOTE: See Appendix C for the provisions that must be included in any sharing agreement involving liability payments from a VA medical center.

c. If a VA medical center chooses to utilize NRM funds to render the space acceptable to the sharing partner, after VA Central Office approval of the concept, the sharing agreement revenues need to reflect a prorata reimbursement of expended NRM funds over the term of occupancy.

d. A hard copy of certification(s) must be placed in the sharing agreement file maintained at the VA medical center, and in identified instances, must be submitted with the proposal, as indicated in Appendix A and/or Appendix B. In addition, a hard copy of the executed sharing of space agreement must be sent to the CAMPS Office (182C), within 5 workdays of the agreement award date.

e. All agreements for sharing space must be in writing.

f. Terms to be included in the agreement must include:

(1) The ability to cancel the agreement if unforeseen future circumstances result in VHA failing to meet the requirements of 38 U.S.C. 8153, i.e., particularly in regard to the unforeseen reduction of services to veterans, or as a result of mission analysis, among other extenuating conditions;

(2) The time period covered by the agreement;

(3) Any mechanisms for adjusting prices;

(4) What, if any, liability is to be assumed by VHA for failure to perform;

(5) Holding the sharing partner harmless and indemnifying VHA from claims, losses, damages, liabilities, costs, expenses or obligations arising out of or resulting from the sharing partner's wrongful or negligent conduct in the performance of this agreement; and

(6) Other items as: quantities, billing and payment terms, deadlines, quality, environmental issues, security, hours of operation, manpower commitments, ability to deliver services as required, performance management, reporting, and others as appropriate.

NOTE: With very few exceptions, all terms and conditions are negotiable.

9. POST VA CENTRAL OFFICE APPROVAL: AGREEMENT STAGE:

a. All proceeds from agreements for the use of VA space under the use of space Sharing Authority must be deposited into the correct medical care appropriation account at the VA medical center in order to benefit veterans. These proceeds need to be coded as directed by VHA's Financial Management System (FMS), or any subsequent system developed and promulgated by VHA's Office of Financial Management (17).

b. Reimbursement Rates (e.g., prices or costs plus inflation, as applicable) must be negotiated in the best interest of VHA, America's veterans, and taxpayers.

c. VA medical centers must enter required data into the Office of Facilities Management Space and Functional database, at the Sharing Use of Space tab, found at: <http://vaww.vhacowebapps.cio.med.va.gov/cis/>, upon submittal of the proposal, 5 days after the agreement is signed, and at the end of each quarter thereafter for the life of the agreement.

10. REFERENCES:

- a. Title 38 U.S.C. Section 8153.
- b. VA Acquisition Regulations (VAAR) at [VAAR 801.602](#) and [801.690](#).
- c. [VA Directive 7401.3](#).
- d. [VA Handbook 7401.3](#).
- e. VA Directive 8500.
- f. [VA Directive 4560](#).
- g. [VA Handbook 4560.1](#).
- h. VA Handbook 8500.
- i. [The Managerial Cost Accounting Implementation Guide](#).
- j. [M-1, Part VII, Chapter 6](#).
- k. [VHA Directive 1660.1](#).
- l. VHA Handbook 1660.4.
- m. VHA Handbook 1006.1.
- n. General Services Administration (GSA) Bulletin FPMR D-242: "Placement of Commercial Antennas on Federal Property."
- o. Title 38 Code of Federal Regulations (CFR) 61.0: "VA's Homeless Providers Grant and Per Diem Program."
- p. VA Handbook 7545.

**GENERAL FORMAT FOR SUBMITTING AND EXECUTION OF CONCEPT PAPERS
TO SHARE SPACE****1. Requirements**

a. Department of Veterans Affairs (VA) medical centers proposing to share the use of space entailing less than 30 days in duration and/or only grossing less than \$2,500 in total revenues, need to complete items in subparagraphs 2a through 2k, then electronically submit the concept paper to 182C, 1 week prior to the planned execution date.

b. For proposals with durations greater than 30 days, or grossing revenues less than \$700,000 annually, complete this Appendix. Electronically submit the concept paper to 182C, and file and/or mail certifications at least 2 weeks prior to planned execution date.

c. For proposals grossing greater than \$700,000, or needing greater than \$1.0 million in non-recurring maintenance (NRM) funds, submit Appendix A together with formal market survey results and cost benefit analysis at least 9 months prior to planned execution.

d. VA medical centers must enter required data into the Office of Facilities Management Space and Functional database, at the Sharing Use of Space tab, found at: <http://vaww.vhacowebapps.cio.med.va.gov/cis/>. The required data must be entered at the following times:

- (1) At the time the proposal is submitted;
- (2) Five days after the agreement is signed; and
- (3) At the end of each quarter thereafter for the life of the agreement.

2. Submittal of Concept Paper. In submitting a Concept Paper (CP), the VA medical center's sharing coordinator, or designee, must provide or identify the following:

- a. The VA medical center name and facility number requesting the concept approval.
- b. The Veterans Integrated Service Network (VISN) name and number endorsing the concept.
- c. The VA medical center and VISN contact persons and telephone numbers.
- d. The resource, gross square footage, and location of the asset to be sold or shared.
- e. The name and address of the sharing partner.
- f. The term of the agreement (base period and length of options in years). *NOTE: Sharing use of space proposals entails 1 to 5 years as the base period, and 1 to 5 year optional terms, as appropriate, up to a total of 10 years. The time frame for notifying the sharing partner of VA's discretion to terminate the agreement can be 30, 60, or 90 days or, at maximum, 180 days.*

- g. The costing methodology or basis of reimbursement rate.
- h. The market rate in the private sector for comparable space (e.g., dollars per net usable square feet).
- i. The dollar and/or other Veterans Health Administration (VHA) outlays (e.g., construction and/or renovation, utilities, telephones, etc.) that are involved in this proposal. In addition, proposals must identify what, if any, capital improvements and cost will be incurred by the VA medical center and in which fiscal year.
- j. An estimate of the annual operating costs (e.g., utilities, security and maintenance).
- k. An estimate of the total gross revenues, by year, and for the life of the proposal (provide table) with inflation factor built into the charge for the space, if term exceeds 1 year.
- l. Identify sharing partner's proposed capital expenditure (if any) by year.
- m. Certify in the proposal and retain the evidence in the VA medical center's sharing agreement file if this proposal is:
 - (1) Recovering, at a minimum, all operating costs (utilities, space maintenance, security, etc.).
 - (2) Charging market rate for the space.
 - (3) Benefiting Veterans.
 - (4) Ensuring that the partner complies with all applicable VHA and VA codes and regulations, including handicapped accessibility and historic preservation. **NOTE:** *VA medical centers may choose to make this part of the actual agreement, after VA Central Office approval of proposal.*
- n. Generally, all sharing agreements must be offered to the public, in order to obtain an outcome in the best interest of VHA, America's veterans, and taxpayers. If the sharing agreement is not offered to the public (competed), then proper justification must be provided.
 - (1) Simply stating that the proposed sharing agreement is with an affiliate or a homeless Veteran service provider is adequate justification in this instance.
 - (2) In all other cases when the sharing agreement was not offered to the public, full justification must be provided.
- o. Describe and quantify how current, not potential future, veterans will benefit from this proposed agreement. **NOTE:** *A narrative alone is not sufficient.*
- p. Identify how patient privacy, VA computer systems, overall security of the space and those using it, will be handled if the public present potentially harmful or disruptive behavior, or if a participant becomes sick or injured and needs immediate attention.

q. Obtain VISN concurrence with the proposal. The proposal the VISN concurrence, and the VISN certification that this proposal conforms to mission analyses and preferred planning options must be submitted at the same time, either electronically or by surface mail, to the Capital Asset Management and Planning Service (182C) Office.

3. Execution of Sharing Agreement. Following VA Central Office's approval of the CP, the VA medical center's sharing coordinator, or designee, must:

a. Mail a copy of the signed sharing agreement to (182C), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420.

b. Retain in the sharing agreement file at VA medical center, the required established system of monitoring, evaluation, and correction (if needed) of the sharing partner's and the VA medical center's performance at least biannually.

c. Enter the required data into the Office of Facilities Management's Space and Functional Database, found at: <http://vaww.vhacowebapps.cio.med.va.gov/cis/>, at the following times:

- (1) At the time the proposal is submitted;
- (2) Five days after the agreement is signed; and
- (3) At the end of each quarter thereafter for the life of the agreement.

REQUIREMENTS FOR SUBMITTING PROPOSALS TO SHARE SPACE FOR ANTENNAS, WHETHER GROUND-BASED OR TO BE PLACED ON ROOFTOPS

Department of Veterans Affairs (VA) medical centers proposing to share use of space for antennas, with durations greater than 30 days and, if projected revenues or non-recurring maintenance (NRM) expenditures do not exceed the limits noted in Appendix A subparagraph 1c, must submit the information needed in Appendix A and Appendix B, at least 2 weeks prior to the desired execution of the sharing agreement. For antenna-related proposals grossing revenues greater than \$700,000 per year or generating over \$7 million in total revenues over the life of the proposed sharing agreement and/or needing greater than \$1 million in NRM funds, VA medical centers must complete and email the information needed in Appendix A and Appendix B at least 8 months prior to anticipated signing of the agreement. At the same time file and/or mail applicable certifications described in Appendix A and Appendix B.

1. License. If this is a concept paper (CP) for a license, medical centers are to follow Veterans Health Administration policy. *NOTE: Use of licenses results in revenues being paid to the United States Treasury, and not to the VA medical center.*

2. Proposed Sharing Agreement. If this is a proposed sharing agreement, the VA medical center sharing coordinator, or designee, must, through or with concurrent notification of the respective Veterans Integrated Service Network (VISN), complete the following:

a. Provide the information required in Appendix A.

b. Electronically or surface mail VA medical center statements certifying that the simultaneously mailed proposal complies with:

(1) Federal, State, and local ordinances. *NOTE: To facilitate each local agreement, VA medical centers must document that they have conferred with the county planning agency (concurrence with the VHA plan or proposal is recommended, but it is not required), and that they have placed a public notice in the main local newspaper advising the community of their intent, with a 30-day window for public comment.*

(2) Environmental Protection Agency guidelines and regulations governing such usage.

(3) General Services Agency (GSA) guidelines and regulations per GSA Bulletin Federal Property Management Regulation (FPMR) D-242, "Placement of Commercial Antennas on Federal Property."

(4) VA and Federal Historic Preservation Law and regulations. *NOTE: All monopoles or rooftop antennas must go through the Historic Preservation process outlined at Appendix F.*

d. If the projected revenues are greater than \$700,000 annually, and/or require NRM capital investment by the VA medical center totaling more than \$1 million, a cost benefit analysis and formal market survey results must be submitted and attached to the CP,

e. Obtain the VISN Director's, or designee's, concurrence with the proposal and VISN certification that this proposal conforms to mission analyses and to preferred planning options.

Email this with the concept paper (App. A and App. B) to (182C), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420.

f. Enter the required data into the Office of Facilities Management's Space and Functional Database, found at: <http://vaww.vhacowebapps.cio.med.va.gov/cis/>, at the following times: at the time the proposal is submitted; 5 days after the agreement is signed; and at the end of each quarter thereafter for the life of the agreement.

**SHARING AGREEMENT PROCEDURES AND REQUIREMENTS FOR LIMITING
VA'S LIABILITY IN THE EVENT OF EARLY TERMINATION**

1. Department of Veterans Affairs (VA) medical center contracting officers must:
 - a. Prorate the amount of damages that the VA medical center will pay if the agreement is terminated earlier than agreed upon;
 - b. Limit the Veterans Health Administration's (VHA) liability to the amount of appropriated funds available to the VA medical center at the time payment is made; and
 - c. State that VHA does not promise that Congress will appropriate additional funds to meet any deficiency in the event that damages must be paid.
2. In the event that damages are to be paid in accordance with the terms of an agreement, the VA medical center is responsible for the payment of the damages from the Medical Care Account.

REIMBURSEMENT RATES

1. Department of Veterans Affairs (VA) medical centers must consider local commercial market rates for similar space, as well as the full cost as defined by the Federal Accounting Standards Advisory Board, for providing the service when negotiating reimbursement rates. VA medical centers must incorporate an annual inflation adjustment to multiple year agreements to ensure maintenance and operating costs, including utilities' future costs, continue to be at least recouped if not exceeded. VA medical centers are encouraged to maximize revenue generated from the sharing of space under this authority except when sharing space with homeless veterans service providers (see following par. 2). Prices may be established above full cost.
2. In setting reimbursement rates for homeless veteran service providers, VA medical centers are to be sensitive to the partner's ability to help VA meet its mission of providing assistance to this high priority patient population. In these cases, VA medical centers are not encouraged to maximize revenue generated from the sharing of space, but rather, are encouraged to recognize the value and cost effectiveness of the services that are being made available to homeless veterans. VA medical centers must take into consideration the potential costs that would be associated with residential services and support services that could be incurred by VA medical centers if these services were not made available by community-based partners. Local direct cost, associated with providing the services, needs to be the starting point for negotiating reimbursement rates.
3. In setting any reimbursement rates, VA medical centers must be sensitive to private sector perceptions that Federal funds are being used to subsidize operation costs, that the Veterans Health Administration (VHA) pays no State, local, or Federal taxes, that VHA is not borrowing money at interest to finance construction and new equipment purchases, and that VHA is able to set an artificially low price for services.
4. The rationale and justification for all price determinations must be fully explained, documented, and maintained in the agreement file. This must be sent, with a hard copy of the executed agreement, to either the Capital Asset Management and Planning Service Office (for sharing of space) or to the Medical Sharing Office (176) for sharing or selling health care resources other than space.

**DETERMINATIONS REQUIRED PRIOR TO SIGNING SHARING OF SPACE
AGREEMENTS**

- 1. Determination of Capacity.** The Department of Veterans Affairs (VA) medical center team must determine that sufficient capacity exists, or can be generated, to handle the work associated with the sharing or selling opportunity. This includes a determination that the proposed activity will not diminish existing levels of services to veterans, and that the agreement is necessary either to maintain an acceptable level or quality of care or to improve services to veterans. Any revenue generated from the agreement must be used to benefit veterans. Decisions to share space need to be based on sound business principles. The team must be able to document how VA benefits from the sale of the resource.
- 2. Determination of Costs.** Both local direct costs and full costs must be determined. There is no single costing methodology that fits all circumstances. Good judgment must be exercised in choosing the methodology most appropriate to the resource in question. The methodology chosen for determining costs must be documented and the cost worksheets maintained in the agreement file.
- 3. Determination of a Fair Price.** In establishing a price for the resource, the team must take into account local direct costs, full costs, and local market prices for the same resource. Local market prices can be obtained through market surveys and third-party rates. In most instances, prices need to be set comparable to prices in the commercial market. VA is not limited to recovering full cost in setting a price. The team must determine a price that is in the best interest of the Federal Government. If, and only if, the agreement is necessary to maintain an acceptable level or quality of care, such as supportive housing and services available for homeless veterans in service centers, it may be determined to be in the best interest of the Federal Government to establish a price that is below full cost. Otherwise, the price must be established at, or above, full cost. The team must document the rationale used in determining a price.
- 4. Determination of a Negotiating Range.** The team must develop a range of prices to be used in negotiations and in developing a negotiating strategy. The range may include considerations, such as: volume discounts or a multi-tiered pricing structure, community needs, and effects on relationships with potential sharing partners. It may be necessary to identify a break-even point and establish a price floor below which VA will not negotiate, even if the end result is failure to reach agreement. In no instance will any agreement be executed if the revenues to be received do not recover local direct costs.
- 5. Determination of Space.** Determination that the space available has first been considered as a possible site for making supportive housing or service centers available to homeless Veterans.
- 6. Determination of Marketing Approach.** Market research may be a critical step involving an assessment of the existence of potential partners, or an assessment of community needs or potential niche markets as examples. Any market research needs to be documented. When VA chooses to offer services on the open market, reasonable competition occurs.
 - a. Potential buyers are afforded the opportunity to offer bids for a VA resource. Notice may be made to the public through the Commerce Business Daily (CBD), or other media as

appropriate. In other circumstances where a potential partner approaches VA, VA may decide to sell the resource directly to the soliciting buyer. Factors to be considered in making these decisions may include: the relationship with the potential buyer, the market demand for the resource, the political sensitivity of the potential agreement, community needs, the value and effectiveness of on-site community-based supportive housing or service centers for homeless veterans or other factors that may make the offer in the best interest of the Federal Government based on criteria other than price.

b. VA medical centers may prepare and submit bids in response to solicitations announced and open to the public for response.

7. Determination of the Impact of the Proposed Sale on Accreditation. The team must make an assessment of any potential impact of the proposed sale on accreditation, such as: the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists (CAP); facility licensing; licensing of employees; credentialing and privileging; risk management; etc.

8. Determination of Conflict of Interest. Government business must be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust, and an impeccable standard of conduct. The general rule is to strictly avoid any conflict of interest or even the appearance of a conflict of interest. While many Federal laws and regulations place restrictions on the actions of Government personnel, their official conduct must be such that they would have no reluctance to make a full public disclosure of their actions. With regard specifically to sharing of space, buying and selling to the same entity violates this provision.

9. Determination of Impact. The team must make a determination of impact of the proposed sale on other programs or elements in the facility. In addition, VA medical centers and Veterans Integrated Service Networks (VISNs) must assess and base decisions upon the likely outcome of mission studies.

10. Determination of Potential Liability. The team must make a determination of the potential liability for failure to perform under the terms of the agreement as well as other liability issues. Contingency plans need to be developed to allow the facility to meet performance requirements under foreseeable circumstances, or the agreement needs to detail circumstances under which VA would not be expected to perform.

NOTES AND REFERENCES REGARDING HISTORIC PRESERVATION

1. Department of Veterans Affairs (VA) medical centers and Veterans Integrated Service Networks (VISNs) are advised that when any visual change is being considered at a historic property, the Veterans Health Administration (VHA) must, by law, go through the National Historic Preservation Act Section 106 (codified at Title 36 Code of Federal Regulations Part 800) compliance process prior to any approvals for that change. For example, any monopole or rooftop antenna (past, present, future) must go through the process. Approving Officials in VA Central Office must see evidence that this compliance process has been completed by the requesting facility or by the VISN prior to granting approval.
2. National Historic Preservation Act Section 106 compliance information can be found in the Cultural Resource Management Directive and accompanying Handbook 7545. These can be accessed at: <http://www.va.gov/facmgt/historic/Requirements.asp>. This set of VA information and policy clearly places responsibility for ensuring historic preservation compliance on the VA medical center program official overseeing the action that affects the historic property.
3. The VA medical center program manager or approving official is responsible for documenting evidence of compliance and maintaining such documentation in the sharing agreement file. ***NOTE:** The requesting field officials are the ones in the best place to actually accomplish the compliance and start the paperwork and discussions with the preservation reviewers, beginning with the State Historic Preservation Officers.*
4. VHA's Historic Preservation Program Manager can be reached at 202-565-5680 for further information or guidance.

SUPPORTIVE HOUSING AND SERVICE CENTERS FOR HOMELESS VETERANS

1. Homelessness among veterans in the United States (U.S.) has been, and continues to be, a significant problem. Current estimates indicate that on any given night approximately 200,000 veterans are homeless and more than twice that number experience an episode of homelessness over the course of a year. Over 80 percent of homeless veterans suffer from serious mental illnesses or substance abuse disorders.
2. Among homeless veterans, approximately 35,000 veterans are estimated to be chronically homeless. The U.S. Interagency Council on Homelessness (ICH) defines a chronically homeless person as an unaccompanied homeless individual with a disabling condition who has either been continuously homeless for 1 year or more or has experienced four or more episodes of homelessness over the course of 3 years. The President's Management Agenda has identified ending chronic homelessness by 2012 as a high priority. This priority is supported by a legislative goal for the Department of Veterans Affairs (VA) to assist in ending chronic homelessness among veterans within the same time frame.
3. Each year VA medical centers host a strategic planning meeting or series of meetings with representatives from other Federal agencies, state and local governments and community-based service providers to identify the unmet needs of homeless veterans and to develop action plans to meet those needs. This planning process, known as VA's Community Homelessness Assessment Local Education and Networking Groups (CHALENG) for Veterans, has identified access to supportive housing and service centers as two of the top unmet needs of homeless veterans for the past decade.
4. Making under utilized space available at a modest price to community-based homeless veterans service providers for supportive housing and service centers through sharing agreements supports the President's Management Agenda, VA's legislated goal, and VA-community planning strategies to address the needs of homeless veterans. VA medical centers and Veterans Integrated Service Networks' (VISNs') must give high priority for sharing use of space agreements with organizations that are planning to develop supportive housing or service centers for homeless Veterans.
5. In determining charges to homeless veteran service providers who are planning to develop supportive housing programs or service centers, VA medical centers need to consider the therapeutic value of these services and the cost-effectiveness of partnering with community-based organizations to jointly address the needs of homeless veterans. Homeless veterans' access to supportive housing and service centers offers an alternative to prolonged and unnecessary hospitalizations. VA medical centers need to recognize that community-based service providers are most likely to be funded through Federal, State, or local grants and/or donations from charitable foundations. Many of these organizations may be seeking funds to establish and maintain programs through VA's Homeless Providers Grant and Per Diem Program. While these organizations may have multiple funding sources, they typically function with only minimal resources available to cover the cost of basic operating expenses. VA medical centers must make every effort to charge modest prices to allow for reimbursement of the VA medical center's local direct cost associated with the sharing of space agreement. Modest

charges for use of VA space allows community-based service providers to commit more of their resources to staffing and other direct support for homeless Veterans.