VA Office of Inspector General

VA's Management of Land Use under the West Los Angeles Leasing Act of 2016

OIG Reports Issued

1. VA's Management of Land Use under the West Los Angeles Leasing Act of 2016 (Published September 28, 2018)

2. VA's Management of Land Use under the West Los Angeles Leasing Act of 2016: Five Year Report (Published September 29, 2021)

Background

Why Did the OIG Do These Audits?

The West Los Angeles Leasing Act of 2016 required the following:

> "Not later than each of two years and five years after the date of the enactment of this Act…the Inspector General shall submit…a report on all leases carried out at the Campus and the management by the Department of the use of land at the Campus, including an assessment of the efforts of the Department to implement the master plan"

What Did the OIG Review?

The Management of Land Use at the Campus

==========

2018 Report:

The OIG reviewed all land use agreements (not just leases) that were:

- In place or planned between September 29, 2016, and May 1, 2018, and
- Of a duration of one year or longer.

The OIG also reviewed land use arrangements where:

- An entity was operating on the WLA campus under an expired land use agreement, or
- An entity was operating on the campus without an agreement.

==========

What Did the OIG Review?

The Management of Land Use at the Campus

==========

2018 Report:

The OIG identified **40 land-use agreements** that met these criteria. These land-use agreements included:

- Enhanced Use Leases,
- Real Property Leases,
- Real Property Leases to the University of California Regents,
- Land Sharing Agreements,
- And other land use instruments not specifically named in the WLA Leasing Act, such as Revocable Licenses

==========

What Did the OIG Review?

The Management of Land Use at the Campus

2021 Report:

The OIG reviewed all **41 land-use agreements**. These land use agreements included:

- Leases,
- Enhanced-use leases,
- And revocable licenses created or amended from September 28, 2018, through May 31, 2021, (the period since the prior 2018 OIG report)

Of the 41 land-use agreements, **28** were new agreements or amendments since the prior audit

Land Use Criteria

Land Use Agreements covered by the Act

1. **Enhanced Use Leases Sec. 2 (b)(1):** to provide supportive housing that principally benefits veterans and their families.
2. **Real Property Leases 2 (b)(2):** for a term not to exceed 50 years, to a third party that provides services to principally benefit veterans and their families and are limited to one of the following purposes:
   a. Health and wellness, including nutrition and spiritual wellness
   b. Education
   c. Vocational training, skills building, or other training related to employment
   d. Peer activities, socialization, or physical recreation
   e. Assistance with legal issues and Federal benefits
   f. Volunteerism
   g. Family support services, including childcare
   h. Transportation
   i. Services in support of one or more of the preceding list of purposes

Land Use Criteria Cont.

Land Use Agreements covered by the Act

==========

3. **Real Property Leases to the regents of the University of California Sec. 2 (b)(3)**, for a period not to exceed ten years, which is consistent with the DMP. While providing services to veterans is the predominant focus of the activities of the Regents at the campus during the term of the lease, additional services will be provided at no cost to VA and not compensated through an existing medical affiliation agreement; the services may relate to medical, clinical, therapeutic, recreational, and legal activities and must principally benefit veterans and their families.

4. **Land Sharing Agreements Sec. 2 (c)** that provide additional health care resources and benefit veterans and their families beyond producing revenue for VA.

5. **Easements Sec. 2 (e)** pursuant to requirements found in 38 U.S.C §8124, easements or rights-of-way on, above, or under lands at WLA campus to (A) any local or regional public transportation authority…and (B) the State of California, County of Los Angeles…or any agency or political subdivision thereof, or any public utility company…

==========

Land Use Criteria Cont.

The law defined "**principally benefit**" as services provided by a person or an entity under a lease or Land Sharing Agreement that are:

- ✓ Provided exclusively to veterans and their families; or
- ✓ Designed for the needs of veterans or their families as opposed to the general public; and
- ✓ Excludes services in which the only derived benefit to veterans is revenue to the VA.

Land Use Criteria Cont.

Real Property Leases to the Regents of the University of California have different requirements:

- ✓ The lease must be consistent with the Draft Master Plan
- ✓ The provision of services to veterans is the predominant focus of the activities of the Regents at the campus during the term of lease.
- ✓ The Regents must agree to provide additional services and support that the VA Secretary considers appropriate and that are not compensated or through an existing medical affiliation agreement that:
  - Principally benefits veterans and their families
  - Consist of activities relating to medical, clinical, therapeutic, dietary, rehabilitative, legal, mental, spiritual, physical, recreational, research, and counseling needs of veterans and their families or
  - Any of the purposes specified in 2(b)(2)(A)-(I)

Land Use Criteria Cont.

Land use instruments not specifically named in the WLA Leasing Act

- The OIG did not limit its review to the five types of land use agreements specified in the WLA Leasing Act because the act requires the OIG to report on how VA is managing the use of land at the WLA campus.
- Therefore, the OIG reviewed all types of land use agreements found on the WLA campus and land use where no agreement existed. This included:
  - 22 Revocable Licenses
  - 1 Memorandum of Understanding (MOU)
  - 1 VA Service Contract,
  - 4 instances where there was no documented land use agreement in place.

Land Use Criteria Cont.

Land use instruments not specifically named in the WLA Leasing Act

The OIG's approach to determining whether these instruments were consistent with the Draft Master Plan, and other federal law consisted of the following assessments:

- ✓ Whether the instrument was veteran-focused
- ✓ Whether land use agreements were consistent with the Draft Master Plan objective to revitalize the campus and provide not only health care and benefits, but education, socialization, recreation, culture/arts, and interaction opportunities with the community
- ✓ Whether the land use agreements violated any federal law besides the WLA Leasing Act.

Agreements were considered veteran-focused if they resulted in additional healthcare, benefits, services, or resources being provided directly to veterans and/or their families on the WLA campus.

Monetary proceeds paid to VA alone would not have constituted an acceptable agreement, nor would agreements that only benefited the public at large

Land Use Audit Methodology

- ✓ Reviewed the land use agreement documents and supporting files
- ✓ Researched other applicable federal laws and authorities to determine compliance these laws and authorities
- ✓ Posed questions to VA when clarification was needed
- ✓ Reviewed VA responses to OIG questions
- ✓ Performed Site Visits to confirm land use complied with the Act (e.g. principally benefit veterans and their families and consistent with Draft Master Plan requirements)

Implementation of Draft Master Plan Criteria

Implementation of Draft Master Plan

- Timeline to develop housing found in the Draft Master Plan

***Figure 1**. Original Potential Phasing Timeline*
Source: Draft Master Plan, January 28, 2016.

What Did The OIG Find?

2018 Report found:

- ✓ **11 of 40** land-use agreements did not comply with the West Los Angeles Leasing Act, the draft master plan, or other federal laws.
- ✓ 14 non-VA entities were operating on the campus with either an expired agreement or no documented land-use agreement.
- ✓ Additional veteran input would have helped the healthcare system ensure land-use agreements comply with the act.
- ✓ VA lacked clear policies and procedures to make certain that land-use agreements are compliant.
- ✓ The healthcare system did not keep an accurate inventory of land-use agreements.
    - **28 of the 40** land-use agreement reviewed by the OIG were not documented in GLVAHS's Capital Asset Inventory
- ✓ VA was behind on draft master plan implementation milestones for permanent supportive housing.

What Did The OIG Find?

2021 Report found:

- ✓ As of September 2021, VA had only completed **55 out of 1200** permanent supportive housing units. Reasons for the delayed housing development included
  - Environment Impact Study Requirements
  - Unfinished Infrastructure Upgrades – Lack of Wet Utility Plans
  - Delay in acquiring a Principal Developer – Acceptance of Community Plan
- ✓ The OIG identified five new land use agreements and two carry-over agreements from the first report that did not comply with the West LA Leasing Act or the Draft Master Plan.

What Did The OIG Recommend?

2018 Report:

1. Implement a plan that puts the West Los Angeles campus in compliance with the West Los Angeles Leasing Act of 2016, other applicable federal laws, and the Draft Master Plan.
2. Ensure all non-VA entities operating on the West Los Angeles campus with expired or undocumented land use agreements establish new agreements compliant with the West Los Angeles Leasing Act.
3. Create a process to allow the Veterans and Community Oversight and Engagement Board an opportunity to provide input to the executive leadership on West Los Angeles campus land use.
4. Create documented policies and procedures for Leases and Revocable Licenses to govern their use, management, and pricing to ensure fair value is received and negotiations are documented.
5. Ensure VA's Capital Asset Inventory accurately reflects all land use agreements six months or longer on West Los Angeles campus.

What Did The OIG Recommend?

2021 Report:

1. Implement a plan that brings the five new noncompliant land-use agreements into compliance with the West Los Angeles Leasing Act of 2016, the draft master plan, and other federal laws.
2. Ensure VA's capital asset inventory accurately reflects all land-use agreements lasting six months or longer on the West Los Angeles campus.

QUESTIONS?