

DEPARTMENT OF VETERANS AFFAIRS



# Welcome to Department of Veterans Affairs Industry Day Conference



February 15, 2018

**For Acquisition Support of  
Leasing and Land  
Services**



# Introductions



## Office of Construction and Facilities Management

### Contracting Office:

Office of Facilities Acquisition

### Contracting Officers:

Zebulon Fox

Derek Underwood

David Reich

Andrea Morris

### Contracts Specialist:

Johnathan Taylor



### Program Office:

Office of Real Property

### Executive Director of Office of

### Real Property:

Darren Blue

### Program Management Staff:

Tim Ethier

Patrice Williams

Paul Rau

Garland Gill

One cohesive acquisition team moving towards one procurement solution.



# Agenda



10:00 AM to 10:10 AM – Meet and Greet (Industry Attendees)

10:10 AM to 10:15 AM – Industry Day Start/Introductions/ Review Agenda

10:15 AM to 10:30 AM – Opening Remarks (Darren Blue, Executive Director of Office of Real Property)

10:30 AM to 11:30 AM – Contract and Timeline (Questions and Answers Included)

11:30 AM to 12:30 PM – Break Lunch

12:30 PM to 1:00 PM – Meet and Greet (Facilitated between VA staff and Attendees)

1:00 PM to 2:30 PM – Program Requirements (Questions and Answers Included)

2:30 PM to 2:45 PM – Industry Recommendations (White Board Exercise)

2:45 PM to 3:00 PM – Networking (Industry Attendees)



# Opening Remarks



# **Contract and Timeline**



# Timeline



- February 15, 2018- Industry Day
- February 21, 2018 - Capabilities Statements due
- Late Spring 2018 - estimated solicitation date
- Late Summer- Early Fall 2018 - estimated award date



# Contract Data



- CFM Contract(s) with Nationwide Coverage for Office of Real Property Projects
  - Covers VA's lease, land, due diligence, and administrative services Office of Real Property
- One base year, four (4) one-year options
- Minimum: \$1,000
- Maximum: \$15,000,000 per contract
- Multiple Award Indefinite Quantity Indefinite Delivery (IDIQ) Contract
- Multiple Contract Line Item Structures



# Potential Procurement Considerations



Submission Requirements	Evaluation Factors
<ul style="list-style-type: none"><li>• Proposals shall be in writing</li><li>• VA will not accept telephonic, telegraphic, facsimile, or internet offer submissions</li><li>• VA will not pay any costs incurred by offerors for developing and submitting proposals</li><li>• Initial proposal should contain the offeror's best terms for technical and price</li><li>• Responsive Offerors will submit proposals in two (2) severable parts:<ul style="list-style-type: none"><li>• Price Proposal on SF1449,<ul style="list-style-type: none"><li>• Signed SF1449 RFP</li><li>• Signed SF30 Amendments</li></ul></li><li>• Technical Proposal (shall not include cost or price information)</li></ul></li><li>• Past Performance Questionnaires/ CPARS</li></ul> <p>Note: This slide is not all inclusive.</p>	<ul style="list-style-type: none"><li>• Best value</li><li>• Technical non-priced factors when combined are approximately equal to price,</li><li>• The Government may make trade-offs</li><li>• The evaluation will be conducted on the factors specified in the Solicitation which are listed in descending order of importance</li><li>• All sub-factors will be listed in descending order of importance</li></ul> <ul style="list-style-type: none"><li>(i) Technical Evaluation Factors<ul style="list-style-type: none"><li>1) Capability to Perform<ul style="list-style-type: none"><li>A. Experience (Projects by Type)</li><li>B. Key Personnel (Resumes/CV)</li></ul></li><li>2) Organizational Structure/Management<ul style="list-style-type: none"><li>A. Organizational Team Structure</li><li>B. Management Plan</li></ul></li><li>3) Past Performance</li></ul></li><li>(ii) Price</li></ul>



# Fair Opportunity Procedures



## Fair opportunity per FAR 16.505(b)(1)

The contracting officer shall—

- (1) Provide a fair notice of the intent to make a purchase, including a clear description of the supplies to be delivered or the services to be performed and the basis upon which the selection will be made to all contractors offering the required supplies or services under the multiple-award contract; and
- (2) Afford all contractors responding to the notice a fair opportunity to submit an offer and have that offer fairly considered.



# Industry Feedback



What are your concerns with the contract data?

What are your concerns with submission requirements?

- Is it reasonable to request email submissions with 5MB size limits?

What are your concerns with Evaluation?



# Performance and Pricing



- Performance Standards and Feedback
- Pricing and Payment (Commissionable and fee-based)



# Performance



- Quarterly Meetings; preferably in-person, group meetings with all contractors
- Contractor Performance Assessment Reports System (CPARS) on a contract basis
- eSRS (Subcontract Reporting System)
- Service Contract Inventory reporting through SAM.gov



# Post Award Performance Evaluation



Evaluation factors for each assessment shall include, at a minimum, the following:

- (i) Technical (quality of product or service).
- (ii) Cost control (not applicable for firm-fixed-price or fixed-price with economic price adjustment arrangements).
- (iii) Schedule/timeliness.
- (iv) Management or business relations.
- (v) Small business subcontracting, including reduced or untimely payments to small business subcontractors when FAR 19.702(a) requires a subcontracting plan (as applicable, see Table 42-2).
- (vi) Other (as applicable) (e.g., trafficking violations, tax delinquency, failure to report in accordance with contract terms and conditions, defective cost or pricing data, terminations, suspension and debarments).



# Post Award Performance Evaluation (cont.)



- Evaluation factors may include subfactors.
- Each factor and subfactor used shall be evaluated and a supporting narrative provided. Each evaluation factor, as listed in paragraph (b)(2) of this section, shall be rated in accordance with a five scale rating system (i.e., exceptional, very good, satisfactory, marginal, and unsatisfactory). The ratings and narratives must reflect the definitions in the tables 42-1 or 42-2 of this section.
- When the contract provides for incentive fees, the incentive-fee contract performance evaluation shall be entered into CPARS.



# Contract Pricing





# Payment Terms



<b>CLIN 0001</b>	<b>Lease Acquisition Services Firm Fixed Price Commission</b>	Commission-based, paid in accordance with industry standards (by the successful offeror or seller).
<b>CLIN 0002</b>	<b>Lease Acquisition Services Fixed Price Incentive Commission</b>	
<b>CLIN 0003</b>	<b>Land Search and Transactional Support</b>	
<b>CLINs 0004-SLINs for individual order items</b>	<b>Due Diligence, Post-Award Support, Solicitation Development</b>	Fee-based, fixed-price. Invoices are paid as work is completed.
<b>CLIN 0005</b>	<b>Administrative Support</b>	Firm fixed price



# Contract Commissions



- **Lease commissions may be paid on Aggregate Lease Value**  
**Each Task Order RLP will specify the methodology for that project.**
  - Aggregate Lease Value: Fully serviced annual rent to be paid by VA for the firm term of the lease for purposes of calculating the Contractor's commission. The Aggregate Lease Value shall include-
    - (i) the initial fully serviced annual rent to be paid by VA on all space leased by VA, including base rent, base operating costs, and base real estate taxes, and
    - (ii) any fixed annual or other periodic annual rent step changes (either increases or decreases) and/or fixed annual or other periodic rent escalations.
  - The Aggregate Lease Value shall not include-
    - (iii) any rental abatement provided to VA pursuant to the Lease;
    - (iv) any annual rental escalations covering operating expense and/or real estate tax increases during the lease term,
    - (v) any additional amounts paid by VA for services over and above those furnished by Lessor as a part of the Lease (i.e., any amounts paid by VA in lump sum),
    - (vi) lump sum payments to pay for tenant improvements, and
    - (vii) Commissions will not be collected on option periods or for lease terms beyond the firm term of the lease.



# Firm Fixed Price



A firm-fixed-price contract provides for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract. This contract type places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss. It provides maximum incentive for the contractor to control costs and perform effectively and imposes a minimum administrative burden upon the contracting parties. FAR 16.202-1



# Fixed-Price Incentive (FPI)



	Description	Elements	Application	Limitations
<p><b>Fixed-Price Incentive (FPI)</b> <b>FAR 16.403</b></p>	<p><u>Fixed Target:</u> Government pays fixed price that is sum of final negotiated cost and final profit. Final profit is determined by comparing final negotiated cost to target cost and adjusting the target profit in accordance with share ratio. <b>Final price cannot exceed the ceiling price.</b></p> <p><u>Successive Targets:</u> At a predetermined production point, firm target cost is negotiated and firm target profit is determined in accordance with the adjustment formula. Then either a FFP or FPI (F) can be negotiated.</p>	<p><u>Firm Target:</u> Target Cost, Target Profit, Ceiling Price, Share, Ratio</p> <p><u>Successive Targets:</u> Initial Cost, Initial Target Profit, Ceiling Price, Initial Profit Adjustment Formula</p>	<p>May be used when the parties can negotiate elements that will provide for a fair and reasonable incentive and a ceiling that makes the contractor assume an appropriate share of the risks.</p>	<p>Adequate accounting system.</p> <p>Adequate cost or pricing data to set targets.</p>



# Fixed Price Incentive



## GRADUATED COMMISSION INCENTIVE (CLIN 0002)

- Task Orders using this CLIN will be priced based on fixed price incentive. Specific incentive amounts, percentages, graduated incentive rates, and thresholds will be defined at the task order level; however will follow the incentive framework stated in this PWS.
- The performance incentive(s) that may be awarded to the broker in the form of a Graduated Commission Incentive shall be tied to a leases' ability to score as an operating lease in accordance with OMB A-11 Appendix B, a target rental price set prior to project commencement, and the contractor's overall performance.



# Fixed Price Incentive (cont.)



Lease scores under XX% and a rental rate X% lower than market.

Market Rate Reduction	OMB Score	Incentive %	Performance Based Award-Fee Pool Available To Be Earned Portion of Incentive % (for Excellent)	Performance Based Award-Fee Pool Available To Be Earned Portion of Incentive (for Very Good)
3%	<90%	0.15	100% of 0.15% Commission	80% of 0.15% Commission
3.5%	<90%	0.20	100% of 0.20% Commission	80% of 0.20% Commission
4%	<90%	0.25	100% of 0.25% Commission	80% of 0.25% Commission
4.5%	<90%	0.3	100% of 0.3% Commission	80% of 0.3% Commission
5.5%	<90%	0.35	100% of 0.35% Commission	80% of 0.35% Commission
6%	<90%	0.4	100% of 0.4% Commission	80% of 0.4% Commission
6.5%	<90%	0.5	100% of 0.5% Commission	80% of 0.5% Commission
7%	<90%	0.75	100% of 0.75% Commission	80% of 0.75% Commission
7.5%	<90%	0.85	100% of 0.85 % Commission	80% of 0.85% Commission
8%	<90%	1	100% of 1% Commission	80% of 1% Commission
8.5%	<90%	1.05	100% of 1.05% Commission	80% of 1.05% Commission
9%	<90%	1.1	100% of 1.1% Commission	80% of 1.1% Commission
>9.5%	<90%	1.15	100% of 1.15% Commission	80% of 1.15% Commission
<b>*Max Incentive 1.15%</b>				



# Industry Feedback



What are your concerns with performance requirement?

What are your concerns with Pricing and Payment?

***Socioeconomic Considerations***  
**and the**  
**“Rule of Two”**



# Market Research Planning Strategy



- During the acquisition planning process, contracting officers, in cooperation with program offices, should survey the market to determine capabilities (lead-times, production, delivery, and estimated cost).
- In developing the acquisition strategy for any contract, the contracting officer shall take into consideration the impact of the Veterans First Contracting Program and the best method of successfully implementing that requirement.



# Market Research Planning Strategy, cont.



- On June 16, 2016, the U.S. Supreme Court reversed a lower court decision impacting the Department's original implementation of the Veterans First Contracting Program. This is known as the "Rule of Two." Supreme Court ruling in June of 2016.
- **Rule of Two is mandatory**, not discretionary and its text requires the Department to apply the Rule of Two to all contracting determinations, *including the issuance of each Task Order under an IDIQ contract.*



# Rule of Two



## What is the “Rule of Two”?

Provides that a contracting officer of the Department **shall award contracts** by restricting competition to Service Disabled Veteran-Owned Small Businesses and then Veteran Owned Small Business if the officer **reasonably expects** that at least two such businesses “... **will submit offers** and that the award can be made at a **fair and reasonable price** that offers **best value** to the United States.” 38 U. S. C. § 8127(d)



# SAM and VETBiz



- It is vital that Contractors be registered in the [www.sam.gov](http://www.sam.gov) web page
- It is vital that SDVOSB Contractors and VOSB Contractors be registered in both [www.sam.gov](http://www.sam.gov) and [www.VetBiz.gov](http://www.VetBiz.gov)



# Joint Ventures



VAAR 819.7003

A joint venture may be considered an SDVOSB/VOSB concern if–

- (1) At least one member of the joint venture is a verified SDVOSB or VOSB and makes the representations in paragraph (b) of this section;
- (2) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement;
- (3) The joint venture meets the requirements of paragraph 7 of the size standard explanation of affiliates in FAR 19.101; and
- (4) The joint venture meets the requirements of 13 CFR 125.15(b), modified to include VOSBs where this CFR section refers to SDVOSBs.

We encourage firms to network and consider strategic partnerships so they can submit their best possible and most competitive proposal in response to the solicitation.



# Capabilities Statement



- Firms are not required to submit a capabilities statement, but they are strongly encouraged to do so.
- Capabilities statements are not proposals and are not evaluated for award. Rather, they are used as part of VA's market research to determine an acquisition strategy
- Acquisition strategy includes the decision of whether there is a sufficient number of capable firms to justify a procurement be set-aside.
- Firms may provide an attachment to ask or answer questions and provide suggestions
- Due February 21, 2018 See [FBO.gov](http://FBO.gov)



# Industry Feedback



- How many SDVOSBs are present in person, on the phone or online?
- How many VOSBs are present in person, on the phone or online?
- What other small business categories are in attendance today?
- How many other than small businesses are in attendance today?



# Contact for Small Business



## VA Office of Small & Disadvantaged Business Utilization

Tom Leney, Executive Director  
John Fedkenheuer, Team Lead

[www.va.gov/osdbu](http://www.va.gov/osdbu)

1-800-949-8387

## VA Center for Veterans Enterprise

1-866-584-2344

[www.VetBiz.gov](http://www.VetBiz.gov)





***Networking Lunch***



**Meet and Greet  
(Facilitated between VA staff and  
Attendees)**



# Program Requirements



# Macro-Level Objectives



ORP has reviewed our existing business practices, procurement processes, and requirements in the context of the following objectives:

- **Increasing Speed to Market**
- **Increasing Competition**
- **Receiving Better Pricing**

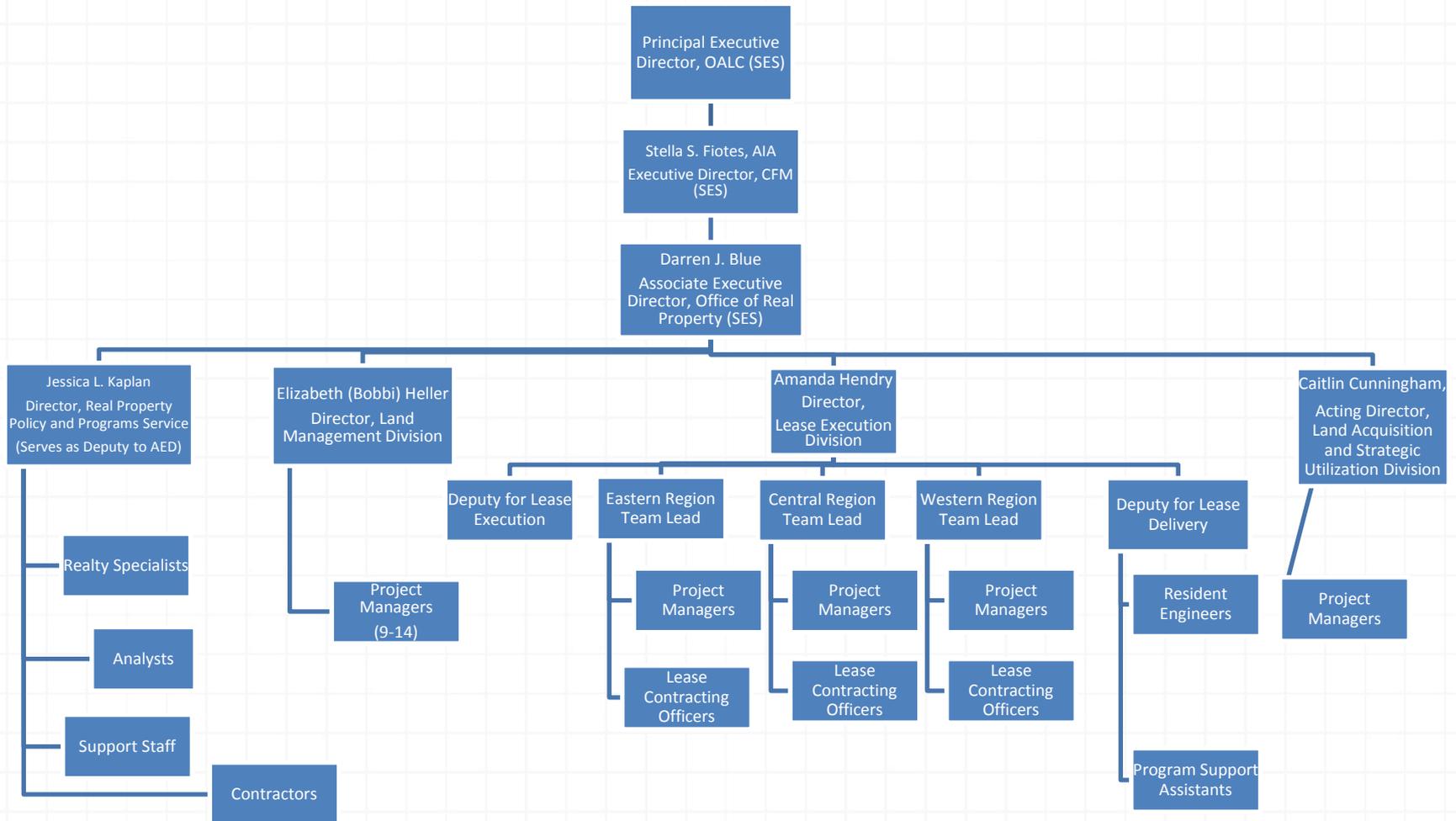


# Broker Partner Expectations

Current Practice	Result	New Practice	Anticipated Result
Use brokers in an administrative capacity on each major lease	Brokers bring VA deals that sometimes score as operating but are not based on realistic or market costs.	VA Brokers are incentivized to deliver better deals aligned with market rates	More cost effective leases that are closer to market rates



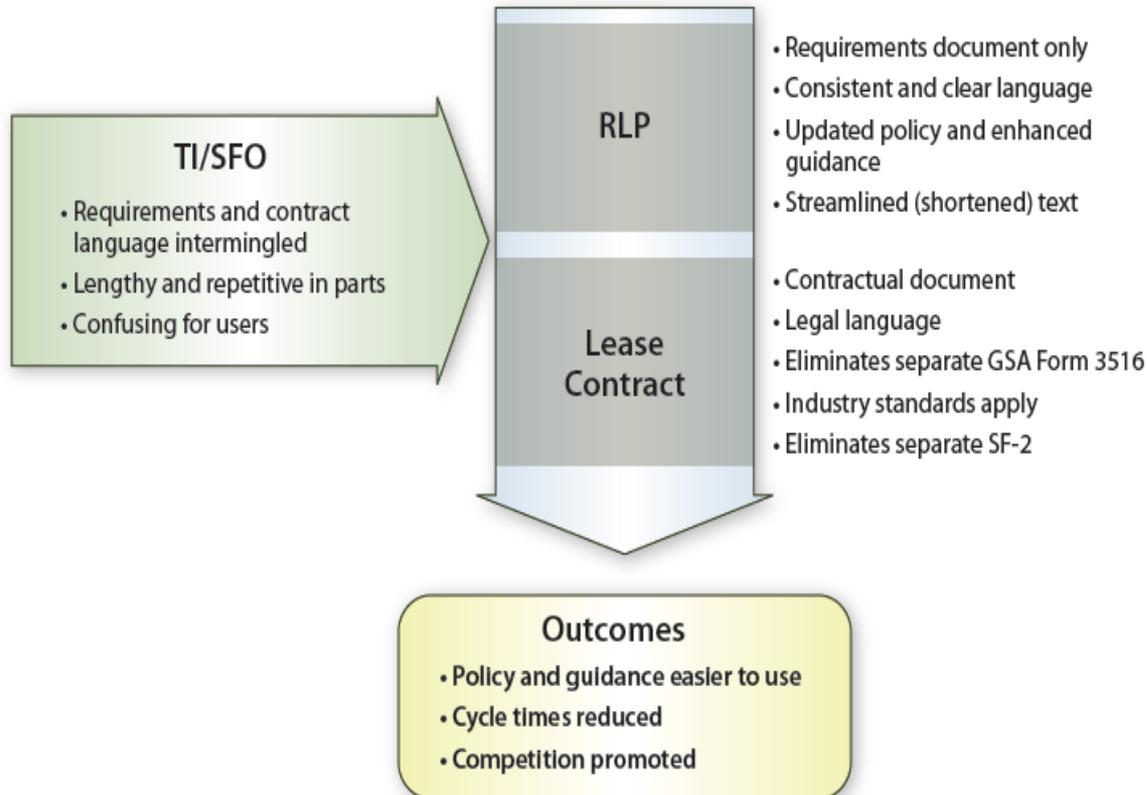
# Realignment of Staff to Increase Timeliness and Efficiency





# Streamlining Documents with GSA to Promote Competition

## Separating the Solicitation and Lease Contract





# Result: Better Pricing for Choice Act 2 Leases



Location	Type	Size (nurf)	Prospectus Annual Unserviced Rent	Prospectus Lump Sum
<b>Boston, MA</b>	R&D	40,604	\$ 2,041,000.00	\$ 4,183,000.00
<b>Portland, ME</b>	OPC	56,637	\$ 2,107,000.00	\$ 4,701,000.00
<b>Rochester, NY</b>	OPC	31,064	\$ 1,066,000.00	\$ 2,579,000.00
<b>Pittsburgh, PA</b>	OPC	53,466	\$ 1,809,000.00	\$ 4,438,000.00
<b>Fredericksburg, VA</b>	OPC	378,461	\$ 13,602,000.00	\$ 31,413,000.00
<b>Hampton Roads, VA</b>	OPC	155,169	\$ 5,261,000.00	\$ 12,880,000.00
<b>Raleigh, NC</b>	OPC	185,271	\$ 6,492,000.00	\$ 15,378,000.00
<b>Birmingham, AL</b>	MHC	59,744	\$ 1,690,000.00	\$ 4,959,000.00
<b>Charleston, SC</b>	R&D	48,000	\$ 2,330,000.00	\$ 4,944,000.00
<b>Pike County, GA</b>	OPC	49,175	\$ 1,483,000.00	\$ 4,082,000.00
<b>Daytona Beach, FL</b>	OPC	106,826	\$ 3,331,000.00	\$ 8,867,000.00
<b>Gainesville, FL</b>	OPC	70,849	\$ 2,010,000.00	\$ 5,881,000.00
<b>Gainesville, FL</b>	MHC	39,932	\$ 1,005,000.00	\$ 3,315,000.00
<b>Jacksonville, FL</b>	OPC	164,054	\$ 5,006,000.00	\$ 13,617,000.00

Location	Type	Size (nurf)	Prospectus Annual Unserviced Rent	Prospectus Lump Sum
<b>Ocala, FL</b>	OPC	45,499	\$ 1,249,000.00	\$ 3,777,000.00
<b>Tampa - Lakeland, FL</b>	OPC	92,681	\$ 3,067,000.00	\$ 7,693,000.00
<b>Tampa, FL</b>	MHC	114,098	\$ 3,916,000.00	\$ 9,471,000.00
<b>West Indianapolis, IN</b>	OPC	67,721	\$ 2,255,000.00	\$ 5,621,000.00
<b>Ann Arbor, MI</b>	OPC	36,453	\$ 1,221,000.00	\$ 3,026,000.00
<b>Terre Haute, IN</b>	OPC	36,827	\$ 1,045,000.00	\$ 3,057,000.00
<b>Corpus Christi, TX</b>	OPC	58,254	\$ 1,720,000.00	\$ 4,836,000.00
<b>Denver, CO</b>	CBO	184,718	\$ 4,622,000.00	\$ 10,160,000.00
<b>Missoula, MT</b>	OPC	59,990	\$ 1,962,000.00	\$ 4,980,000.00
<b>Northern Colorado, CO</b>	OPC	75,645	\$ 2,625,000.00	\$ 6,279,000.00
<b>Santa Rosa, CA</b>	OPC	53,870	\$ 2,450,000.00	\$ 4,472,000.00
<b>Oxnard, CA</b>	OPC	41,027	\$ 1,868,000.00	\$ 3,406,000.00
<b>San Diego, CA</b>	R&D	27,923	\$ 1,975,000.00	\$ 2,877,000.00
<b>Rapid City, SD</b>	OPC	62,916	\$ 1,904,000.00	\$ 5,223,000.00

Red text indicate projects slated for the pilot with GSA



# Training Requirements



- In order to receive RFPs for Task Orders for lease acquisition work, at least 2 broker staff members from each firm must complete the following courses:
  - Cost and Price Analysis of Lease
  - Real Property Lease Law
  - Lease Acquisition Training ( formerly Federal Real Property Leasing or Basic Lease Contracting)
  - Techniques of Negotiating Federal Real Property Leases
  - Real Estate Appraisal Principles
  - **Best Value Source Selection**
- \*Or equivalent courses through certified academic or training institutions-
- Within 90 days of award, all staff members who will be working on the contract must have completed specified courses in VA's Talent Management System.
- During the term of the contract, VA may hold "In-house" training on various subjects related to Federal real property work that the Contractor may be invited to attend. There is no charge for the training. If Contractor personnel attend, it shall be at their own cost.



# Lease Commissions



- In no event will any task order exceed \$1.5 million
- All commissions are paid by the lessor or seller unless otherwise negotiated.
- In the event a lease is awarded and the broker is unable to collect the commission due pursuant to the solicitation for offers for that project, VA will abate the rent in order to reimburse the Contractor for any payment unduly withheld by the lessor.



# Leasing (Commission-based)



- Lease Acquisition Services from the time a TO is awarded through substantial acceptance of space.
- Leases are procured in accordance with the GSAM, GSAR 570, applicable FAR provisions, and all laws and executive orders pertaining to leases.
- Support: Market Research, Protests, Claims, etc.
- All services and items necessary to satisfy laws and policies, including but not limited to due diligence, appraisals, court reporters, and conference space, are included in commission and will not be fee-based.



# Solicitation Development – (Fee-based)



- Will be added to the RLP
- ORP is restructuring the way it will undertake solicitation development in concert with project authorization
  - Past: wait for authorization, then start project
  - Future: start conceptual design, solicitation development, and working with an AE on a fee basis\*
    - Pre-authorization work: Fee-based solicitation work
    - Post-authorization work: Commission-based market survey, solicitation release, and procurement through acceptance

\*Based on the bona fide need defined in the PWS and/or acquisition plan, subject to availability of funding, undertaken as a part of acquisition planning



# Post-Award Support – (Fee-based)



- Resident Engineer support may not be available as needed for upcoming projects
- We are looking to our brokers to assist with some of the hands-on functions that our REs undertake
- Some services may require the broker to station one or more individuals on-site from post-award through acceptance



# Support for Disputes, Protests, etc. – (Fee-based)



- This work is included in CLIN 0001, but VA may need these services separate from a lease procurement.
- Typically will involve the collection and analysis of data and documentation from various sources, burning CDs, data collection and assemblage.
- VA would use this service when it is unable to obtain services from the original contractor who worked on the project.



# Fixed Price Fees



- Fees must be all-inclusive (administrative fees, profit, and overhead)
- VA pays upon receipt and acceptance of final deliverable
- **Broker Fee does not include: cost of the deliverable**
- Broker is responsible for providing subcontractors capable of performance; broker is responsible for the timelines and scope of work set forth in the Task Order, regardless of the performance of any subcontractor.



# Land Contract Commissions



- For land search and transactional support, the commission will be a required disbursement at closing.
- **Purchase Price**, as described in the Section 3, consists of the purchase price of the property paid at closing by VA. It does not include any closing costs, such as recordation fees, attorney's fees, or any other fees paid by VA to the landowner or another party, at, before, or following closing. In the event the land is a donation, the land value will be determined by a current fair market value appraisal, commissioned on behalf of the Government, as confirmed by a review appraisal.



# Land Search and Transactional Support (Commission-based)



- Search for suitable land sites for VA's use, and assist in negotiations and drafting of transactional documents (offer to sell, etc.)
- Assist in clearing title and other issues associated with selected site
- Compliance with Uniform Relocation Act, DOJ Title Standards and Regulations, and VA policy



# Due Diligence Studies – (Fee-based)



- Undertake due diligence studies as necessary to ensure suitability of land or facilities for VA's intended use, and to satisfy laws, regulations, and policy (NEPA, CERCLA, DOJ Title Regulations, etc.)
- Broker may subcontract for any or all services, but broker is ultimately responsible for timely submission of deliverables and adherence of the deliverables to the scope of work

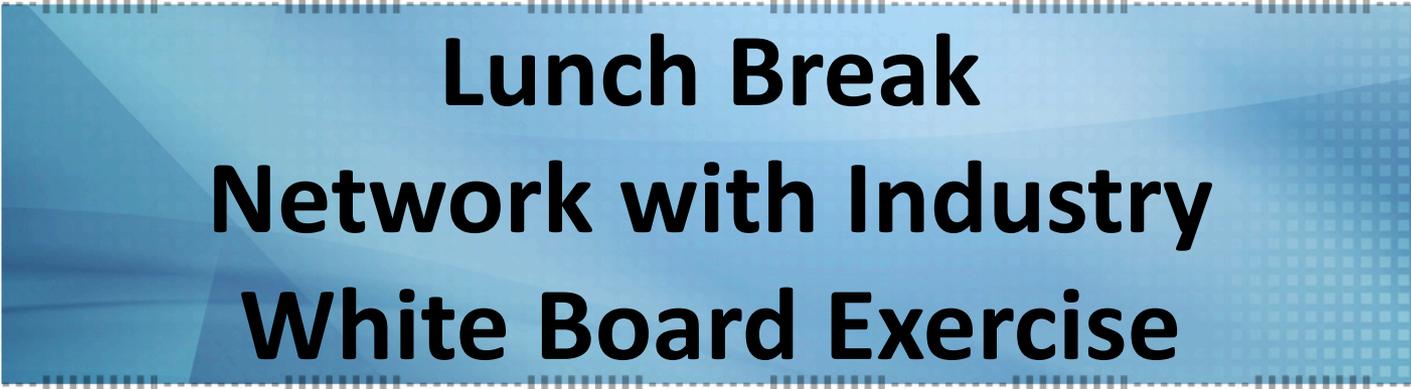


# Historic Reuse Support – (Fee-based)



- Supports our new Strategic Utilization program in the leasing out of historic properties
- Will include a market analysis and feasibility study component so VA can determine the likelihood of a successful historic outlease (market factors, developer costs, remediation, available tax incentives, etc.)
- Also supports the competitive procurement of a developer/lessee

# Industry Recommendations



**Lunch Break**  
**Network with Industry**  
**White Board Exercise**



**THANK YOU FOR YOUR  
INTEREST WITH THE VA!**